



**MOREE PLAINS SHIRE COUNCIL**

**24 OCTOBER 2013**

**ORDINARY COUNCIL MEETING**

**ADOPTED PUBLIC BUSINESS  
PAPER AND MINUTES**

Tuesday, 15 October 2013

TO:

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

Notice is hereby given that the **Ordinary Meeting of Council** will be held in the Council Chamber, the Max Centre, Balo Street, Moree, on **Thursday, 14 October 2013** commencing at **4pm**.

Please note that all Council meetings are recorded.

Yours sincerely

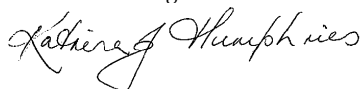


David Aber  
GENERAL MANAGER

### Agenda

1. Open Meeting
2. Apologies
3. Confirmation of Minutes
4. Declarations of Interest
5. Leave of Absence requests
6. Public Forum
7. Reports

This is Page No.2 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



MAYOR

24 October 2013

PUBLIC PAPER



GENERAL MANAGER

# Ordinary Council Meeting Adopted Public Business Paper and Minutes

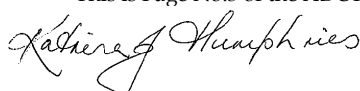
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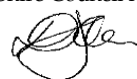
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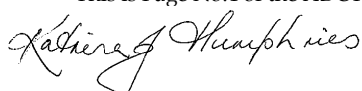
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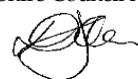
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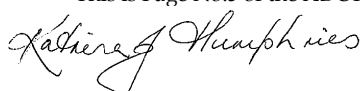
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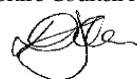
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MINUTES OF THE ORDINARY MEETING OF THE MOREE PLAINS SHIRE COUNCIL HELD  
IN THE COUNCIL CHAMBER, BALO STREET, MOREE ON THURSDAY, 24 OCTOBER 2013,  
COMMENCING AT 4.02PM.

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**PRESENT:**

Councillors K Humphries (Mayor), S Price (Deputy-Mayor), B Munn (arrived 4.09pm), M Cikota,  
J Tramby, R Brazel, J von Drehnen and C Gall.

**IN ATTENDANCE:**

Mr D Aber (General Manager), Mr D Boyce (Acting Director, Planning and Development), Mr I  
Dinham (Director, Engineering Services), Mr M Johnson (Director, Corporate Services), Ms K  
Hare (Communications Manager), Mr D Wolfenden (Water and Waste Manager), Mr J Carleton  
(Executive Projects Manager), Mr M Amos (Senior Strategic Development Officer), Mr C Amos  
(Casual Planning Officer), Mrs L Ivanov (Assistant Planning Officer), Mrs B Olsen  
(Environmental Health/Fast-Track Assessment Officer), Mrs A Colbran (Executive Assistant) and  
Miss L Colley (Executive Coordinator).

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**APOLOGIES:**

Nil

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**LEAVE OF ABSENCE:**

Councillor T Tzannes

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**LEAVE OF ABSENCE REQUESTS:**

Councillor S Price for Thursday, 14 November 2013.

Councillor K Humphries for Thursday, 14 November 2013.

Councillor R Brazel for Thursday, 28 November 2013.

Councillor M Cikota from Thursday, 14 November 2013 – Monday, 18 November 2013  
(inclusive).

Councillor M Cikota for Wednesday, 1 January 2014 – Saturday, 1 February 2014 (inclusive).

Councillor C Gall for Wednesday, 30 October 2013 – Monday, 4 November 2013 (inclusive).

**13/10/27 RESOLVED (MUNN/VON DREHNEN):**

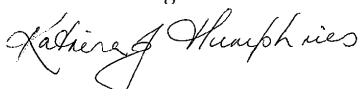
**That the following leave of absence requests for:**

**Councillor S Price for Thursday, 14 November 2013.**

**Councillor K Humphries for Thursday, 14 November 2013.**

**Councillor R Brazel for Thursday, 28 November 2013.**

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Councillor M Cikota from Thursday, 14 November 2013 – Monday, 18 November 2013 (inclusive).

Councillor M Cikota for Wednesday, 1 January 2014 – Saturday, 1 February 2014 (inclusive).

Councillor C Gall for Wednesday, 30 October 2013 – Monday, 4 November 2013 (inclusive).

be granted by Council.

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## MINUTES:

Minutes from the Ordinary Council Meeting held 10 October 2013.

### **13/10/28 RESOLVED (GALL/TRAMBY):**

That the Minutes of the Ordinary Council Meeting held on 10 October 2013 be adopted with the below additional changes:

- That it be noted that the start date to action Councillor John Tramby's Notice of Motion regarding crime prevention be 30 June 2013.
- That the recommendation to Report 10 "Annual financial reports for the financial year ended 30 June 2013" be amended to change the date from the 21 November 2013 to 14 November 2013 to ensure it is on an Ordinary Council Meeting day.

Minutes from the Extraordinary Council Meeting held 17 October 2013.

### **13/10/29 RESOLVED (GALL/PRICE):**

That the Minutes of the Extraordinary Council Meeting held on 17 October 2013 be adopted.

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## DECLARATIONS OF INTEREST:

There were no declarations of interest from any of the Councillors.

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## PUBLIC FORUM:

1. NAME: Lorraine Bartel

SUBJECT: Report A – Mayoral Minute – Moree and District Pensioners Welfare Fund

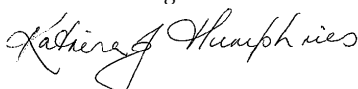
DETAILS: *Hi my name is Lorraine Bartel and I am the President of the Moree Pensioners Units.*

*We have had a large increase in water rates and we're just finding it hard to come up with the money. We were told that there may be another solution to maybe decrease the number of water meters if someone from Council could tell us their idea.*

**Councillor Tramby – The residents, do they pay a set fee or pay individually?**

*The residents pay a set rent; we pay for everything else including electricity and other services.*

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**Councillor Tramby - Do you need an individual water meter for each unit?**

*I'm not exactly certain but there are 31 units in five different blocks. To maintain pressure I think we would need all the meters.*

2. **NAME:** Jay McNamara

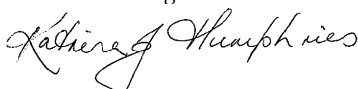
**SUBJECT:** Report A – Mayoral Minute – Moree and District Pensioners Welfare Fund

**DETAILS:** *There are five blocks of units with 31 units in the whole complex. There are four water meters that serve five blocks. In the past we've only paid one meter. Now that we have to pay for each meter we are finding it a challenge to find the funds. Each block needs a meter as there are six units so it is like having 31 families living there. I am just asking if Council could give an annual donation to help with the costs we are now incurring. Thank you.*

3. **NAME:** Paul Covell

**SUBJECT:** Report 1 – Section 96 A to modify DA2012/76

**DETAILS:** *Thank you. I wish to address the Section 96A variation on Kamilaroi drive. The condition in the consent given by Council in relation to pool type fencing around stock dams is the issue. We've costed this at \$21,000 per lot with ten lots. That cost is quite considerable in relation to the total cost of the subdivision, it is more than the road works to build 700m of road and more than the water and sewerage costs. It would be a considerable impost on the subdivision to the point where it is a question on the economic viability of the project. The cost would be added to sale price and it is questionable whether the prospective purchasers would still be interested. The economic cost doesn't have to be considered when assessing a DA, but I hope that it is under consideration. In assessing the development I understand the risk involved to children's lives that has been raised before. When assessing the risk the likelihood and the severity should also be taken into account. The borrow pits will be shallow and 1m from edge will be 200ml deep. Small child would easily be able to recover if they fall over near the pits. Pool fences are designed for sharp edges where it is difficult for children to recover themselves. The will be fencing around the property could be of the barbed variety which could prevent child or even adults getting in. The other thing that concerns me is that Council is setting a precedent on water bodies in rural situations where they need to be inspected by Council. Usually there will be a water body close and they will be caught up in that DA process and it concerns me the cost to the community if found that there is to be a precedent.*



|               |                                                                                                                                                                         |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | A. MAYORAL MINUTE - APPLICATIONS FOR FINANCIAL ASSISTANCE - SECOND FINANCIAL QUARTER 2013/2014 YEAR - ADDITIONAL INFORMATION MOREE AND DISTRICT PENSIONERS WELFARE FUND |
| REPORT FROM:  | GENERAL MANAGER                                                                                                                                                         |
| FILE NUMBER:  | FILE 13/1113                                                                                                                                                            |

**SUMMARY:**

Under section 356 of the *Local Government Act (1993)*, the Council is able to, in accordance with a resolution of the Council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

The purpose of this report is to allow the Council to consider the various applications for financial assistance received in relation to the first financial quarter of the 2013/2014 year being October 2013 to December 2013, having regard to the requirements for such applications under its Public Donations Policy. Details in relation to each application can be found in the background of the report.

Upon request of the Council, additional information has been sought regarding the request from the Moree and District Pensioners Welfare Fund to assist in the payment of water meter fees. The report was originally brought to Council at the Ordinary Meeting held 10 October 2013. The consideration of the request was deferred until discussions were held with Mrs Jay McNamara on behalf of the Moree and District Pensioners Welfare Fund.

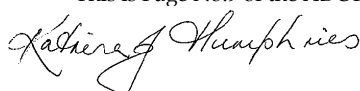
**RECOMMENDATION:**

1. That, subject to the terms and conditions set out in the Council's Public Donations Policy and any additional noted terms and conditions, the Council consider providing financial assistance from the Unallocated Community Funding Budget to the following applicant in respect of the amount listed in the below point:
  - a) Moree and District Pensioners Welfare Fund for the amount of \$3,000 to assist in the payment of water meter fees for the 2013/2014 financial year.
2. That Council consider allocating an annual donation in the budget to assist the Moree and District Pensioners Welfare Fund in the payment of water meter fees.

**13/10/30 RESOLVED (HUMPHRIES/TRAMBY):**

**That, subject to the terms and conditions set out in the Council's Public Donations Policy and any additional noted terms and conditions, the Council provide financial assistance from the Unallocated Community Funding Budget to the following applicant in respect of the amounts listed in the below points:**

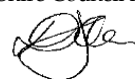
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- a) Moree and District Pensioners Welfare Fund for the amount of \$3,000 to assist in the payment of water meter fees for the 2013/2014 financial year.
- b) Moree and District Pensioners Welfare Fund for the amount of \$2,000 to assist in the payment of water meter fees for the 2014/2015 financial year.
- c) Moree and District Pensioners Welfare Fund for the amount of \$1,000 to assist in the payment of water meter fees for the 2015/2016 financial year.

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Councillor Brazel requested that his vote be recorded against the motion.

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#### AMENDMENT (BRAZEL/ ):

- 1. That, subject to the terms and conditions set out in the Council's Public Donations Policy and any additional noted terms and conditions, the Council provide financial assistance from the Unallocated Community Funding Budget to the following applicant in respect of the amount listed in the below point:
  - a) Moree and District Pensioners Welfare Fund for the amount of \$3,000 to assist in the payment of water meter fees for the 2013/2014 financial year.
- 2. That Council consider allocating an annual donation in the budget to assist the Moree and District Pensioners Welfare Fund in the payment of water meter fees.

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The AMENDMENT LAPSED due to want of a SECONDER.

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## REPORT

### BACKGROUND:

The Council has adopted a Public Donations Policy ("Policy") which provides guidelines, conditions and information on the Council's provision of financial assistance under section 356 of the *Local Government Act (1993)*.

Due to limited funding available within the Council's budget, this Policy seeks to provide funding to only those individuals or organisations that provide the most benefit to the community and the funding is utilised for purposes which support, and are consistent with, the Council's Community Strategic Plan ("CSP").

The Policy includes the Sponsorship Calculator which sets out criteria to assess each application for financial assistance. Under the Policy, the Council can consider each application received, regardless of the score attained on the Sponsorship Calculator. However, if financial assistance is

provided in relation to an application which has not attained a score of at least 100 points on the Sponsorship Calculator, the Council must provide reasoning for its decision.

For the second quarter of the 2013/2014 year, the Council has received applications for financial assistance from two applicants. The request from the Moree Junior Cricket Club has already been considered at the Ordinary Council Meeting held 10 October 2013. Details in relation to the application from the Moree and District Pensioners Welfare Fund are set out in the table below, including the applicant's score on the Sponsorship Calculator.

### Table of applicants

| APPLICANT                                  | EVENT/PROJECT                  | AMOUNT REQUESTED<br>\$\$\$ | CSP OUTCOMES              | POINTS SCORED<br>ON SPONSORSHIP<br>CALCULATOR |
|--------------------------------------------|--------------------------------|----------------------------|---------------------------|-----------------------------------------------|
| Moree and District Pensioners Welfare Fund | Moreena Units water meter fees | \$3,000                    | S2., S4., Ec2., Ec3., L4. | 125                                           |

#### 1. Moree and District Pensioners Welfare Fund

The Moree and District Pensioners Welfare Fund is a not for profit organisation that supports the Moreena Units in Alice Street, Moree. The Moreena Units are self-contained units for pensioners whose fees for rent barely cover the increasing costs such as electricity, insurances, water supply and other charges required to maintain the facility.

The organisation are requesting Council assist in the payment of three additional water meter fees which they have not been charged until the 2013/2014 financial year. They are currently required to pay \$3,655.09 for four water meter fees with the additional three amounting to \$3,234. It is proposed that Council assist to the amount of \$3,000 with the remaining \$655.09 to be paid by the Moree and District Pensioners Welfare Fund. It is also proposed that this donation be allocated in the financial budget annually. The organisation has an exceptional payment history with Council for rates.

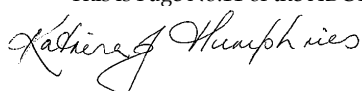
A question was raised at the Ordinary Council Meeting held 10 October 2013 if all water meters were required at the Moreena Units. Further research has shown that all four water meters use a substantial amount of water and that being a block of units, all water meters would be required to maintain pressure for all residents. Mrs McNamara has also confirmed that she does not wish to shut down any of the water meters.

The Moree and District Pensioners Welfare Fund have not received funding from Council previously. Mrs Jay McNamara will be available for questions at the Ordinary Council Meeting scheduled 24 October 2013.

### COMMUNITY IMPLICATIONS:

Allowing the Council to provide financial assistance to organisations and individuals within the Moree Plains Shire in accordance with its Public Donations Policy will have a positive impact on all Community Strategic Plan and Delivery Program/Operational Plan Outcomes:

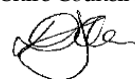
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GENERAL MANAGER

- S1. Our community is a safe place**
- S2. Our community is inclusive, connected and collaborative**
- S3. Our local history, culture and diversity is valued and celebrated**
- S4. Our health and wellbeing provide for a satisfying and productive life**

The provision of financial assistance to individuals and organisations based within the Moree Plains Shire who satisfy the requirements of the Public Donations Policy enables the Council to support events and projects and, in the case of an individual applicant, deserving community members in their pursuit of excellence. It also ensures that applications are considered consistently and the funding is utilised for purposes and programs that have a positive impact on these outcomes.

### **ECONOMIC IMPLICATIONS:**

Allowing the Council to provide financial assistance to organisations and individuals within the Moree Plains Shire in accordance with its Public Donations Policy will have a positive impact on all Community Strategic Plan and Delivery Program/Operational Plan Outcomes:

- 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**

Providing financial assistance for events, projects and individuals of the Moree Plains Shire demonstrates the Council's willingness to support the local community (including local businesses) and its members whilst also ensuring that initiatives of the recipients are utilising the funding for purposes and programs that have a positive impact on these outcomes.

### **ENVIRONMENT IMPLICATIONS:**

Allowing the Council to provide financial assistance to organisations and individuals within the Moree Plains Shire in accordance with its Public Donations Policy will have a positive impact on all Community Strategic Plan and Delivery Program/Operational Plan Outcomes:

- E1. The diversity of the natural environment is protected and supported**
- E2. We live sustainably and use our resources responsibly**
- E3. Our built environment – out town and villages – are desirable places to be**

Providing financial assistance for events, projects and individuals of the Moree Plains Shire will enable the Council to consider applications of organisations and individuals that have a positive impact on these outcomes.

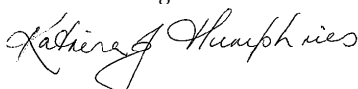
### **LEADERSHIP/LEGAL IMPLICATIONS:**

Under section 356 of the *Local Government Act (1993)*, Council is able to, in accordance with a resolution of Council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

Allowing the Council to provide financial assistance to organisations and individuals within the Moree Plains Shire in accordance with its Public Donations Policy will have a positive impact on all Community Strategic Plan and Delivery Program/Operational Plan Outcomes:

- L1. Our leaders speak out for the good of our community**
- L2. We demonstrate accountability, transparency and ethical conduct**

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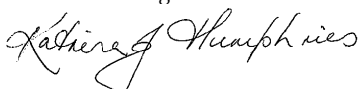
- L3. We are engaged and well informed**
- L4. We collaborate to achieve outcomes**
- L5. We manage our finances, assets and services effectively**
- L6. We demonstrate leadership in the face of natural disaster**

Providing financial assistance for events, projects and individuals of the Moree Plains Shire will enable the Council to consider applications of organisations and individuals that have a positive impact on these outcomes.

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

The amount available for distribution by the Council each quarter will be set out in the Council's annual budget and once this amount has been utilised in any quarter, the Council will not entertain any further applications for funding in that quarter.

The amount allocated for the second financial quarter for the 2013/2014 year is \$18,005 (\$20,005 minus \$2,000 donated to the Moree Junior Cricket Club).



**MAYOR**

24 October 2013

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**GENERAL MANAGER**

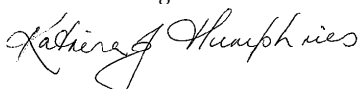
# APPENDIX A

## Report A

### SPONSORSHIP CALCULATOR FROM THE PUBLIC DONATIONS APPLICATION FORM:

- **MOREE AND DISTRICT PENSIONERS WELFARE FUND**

This is Page No.14 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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PUBLIC DONATIONS APPLICATION FORM



Part D: Sponsorship Calculator

Amount requested:

\$3,000

Applicant:

Moreena Units (water meter fees)

Is applicant

Please select the most relevant category only (ie. only one category)

- Individual?
- Community Organisation?
- Sporting Group ?
- School / Kindy etc?

| Enter y or n                         | Points Allocated | Score       |
|--------------------------------------|------------------|-------------|
|                                      |                  | 0           |
| Y                                    |                  | 0           |
|                                      |                  | 0           |
|                                      |                  | 0           |
| (Maximum potential score: 20 points) |                  | Sub Total 0 |

Is this sponsorship

- First time sponsorship?
- Previous sponsorship?

| Enter y or n                         | Points Allocated | Score       |
|--------------------------------------|------------------|-------------|
| Y                                    |                  | 0           |
|                                      |                  | 0           |
| (Maximum potential score: 25 points) |                  | Sub Total 0 |

Is this sponsorship

- For an ongoing annual event?
- A "one off" event?
- Minimum contract period?

| Enter y or n                         | Points Allocated | Score       |
|--------------------------------------|------------------|-------------|
| Y                                    |                  | 0           |
|                                      |                  | 0           |
|                                      |                  | 0           |
| (Maximum potential score: 20 points) |                  | Sub Total 0 |

Supporting the Community Strategic Plan

- Support one/two strategies
- Support three/four strategies
- Support five or more strategies

| Enter y or n                         | Points Allocated | Score       |
|--------------------------------------|------------------|-------------|
|                                      |                  | 0           |
|                                      |                  | 0           |
| Y                                    |                  | 0           |
| (Maximum potential score: 30 points) |                  | Sub Total 0 |

Is this sponsorship

- For a large donation (over \$1,000)
- For a small donation (up to \$1,000)
- Propose Council match other sponsorship (\$ for \$)
- Relate to an event where fees will not be charged

| Enter y or n                         | Points Allocated | Score       |
|--------------------------------------|------------------|-------------|
| Y                                    |                  | 0           |
|                                      |                  | 0           |
|                                      |                  |             |
|                                      |                  |             |
| (Maximum potential score: 45 points) |                  | Sub Total 0 |

*Katharine Humphries*

24 October 2013

*[Signature]*

# PUBLIC DONATIONS APPLICATION FORM



## In what form is the advertising for the event

Television advertising or coverage?  
 Newspaper advertising or editorial?  
 Radio advertising?  
 Banner displayed at event?  
 Advertising in event program?  
 Advertising on team shirts (etc)

Enter y or n

Points Allocated

Score

|   |
|---|
|   |
|   |
|   |
|   |
|   |
|   |
|   |
| y |

0

0

0

0

0

0

0

0

(Maximum potential score: 40 points)

Sub Total 0

## Does the event -

remain in our delivery area?  
 travel outside of our delivery area?

Enter y or n

Points Allocated

0

0

|   |
|---|
| y |
|   |

(Maximum potential score: 20 points)

Sub Total 0

Total 125 points

*Kathie Humphries*

24 October 2013

*[Signature]*

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Councillor Brazel left the meeting at the time being 5.08pm and did not return.

---

Appendix 1-2

|               |                                                                                                                                                                                                       |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 1. SECTION 96(1A) APPLICATION TO MODIFY DEVELOPMENT APPLICATION DA2012/76 FOR AN 11 LOT SUBDIVISION OF LOT 20 DP 1056083 AND LOT 105 DP 1001911, LOT 20 KAMILAROI DRIVE AND 9 ROBERTSON AVENUE, MOREE |
| REPORT FROM:  | DIRECTOR OF PLANNING AND DEVELOPMENT                                                                                                                                                                  |
| FILE NUMBER:  | DA2012/76                                                                                                                                                                                             |

**SUMMARY:**

The purpose of this report is to seek a decision from Council on a Section 96(1A) Development Application (DA2012/76/2) to modify the development consent (DA2012/76), for an 11 Lot subdivision of Lot 20 DP 1056083 and Lot 105 DP 1001911, Lot 20 Kamilaroi Drive and 9 Robertson Avenue, Moree. The development application was originally approved at the Ordinary Council Meeting held on 9 May 2013.

The land is zoned R5 (Large Lot Residential) under Moree Plains Local Environment Plan (LEP) 2011.

A locality plan is attached as **Appendix 1**, and the proposed subdivision layout plan as **Appendix 2**.

The applicant and owner of the land is Councillor Theo Tzannes.

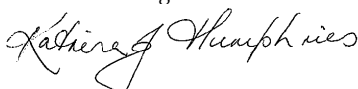
The Section 96(1A) application proposes to delete condition number 14 of the development consent.

- (14) *The dams associated with the construction of flood proofing mounds shall be fenced in accordance with the requirements of the Swimming Pools Regulation 2008 or alternatively be deleted from the proposed development. The applicant shall provide appropriate advice on this matter prior to the issue of a Construction Certificate.*

Reason: *To ensure that dams associated with the development do not create a hazard to children in the vicinity of the development.*

**RECOMMENDATION (VON DREHNEN/CIKOTA):**

That Council approve the Section 96(1A) application (DA2012/76/2) to modify DA2012/76, for an 11 Lot subdivision of Lot 20 DP 1056083 and Lot 105 DP 1001911, Lot 20 Kamilaroi Drive and 9 Robertson Avenue, Moree.



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---

FOR: Councillors von Drehnen, Cikota and Munn.

AGAINST: Councillors Humphries, Price, Tramby and Gall.

---

---

The MOTION upon being PUT was declared LOST.

---

### **MOTION (HUMPHRIES/PRICE):**

That Council approve the DA2012/76/2 Section 96(1A) application to modify DA2012/76, for an 11 Lot subdivision of Lot 20 DP 1056083 and Lot 105 DP 1001911, Lot 20 Kamilaroi Drive and 9 Robertson Avenue, Moree subject to the following conditions:

1. That Lots 200 and 208 shall not have the borrow pits built within 200m of the adjacent R1 residential area, and
2. Any borrow pits built within 200m of the R1 residential area shall be fenced in accordance with the requirements of the Swimming Pools Regulation 2008. That applicant shall provide appropriate advice on this matter prior to the issue of a Construction Certificate.

Reason: To ensure that dams associated with the development do not create a hazard to children in the vicinity of the development.

---

FOR: Councillors von Drehnen, Cikota and Munn.

AGAINST: Councillors Humphries, Price, Tramby and Gall.

---

---

The MOTION upon being PUT was declared LOST.

---

### **13/10/31 RESOLVED (HUMPHRIES/TRAMBY):**

That Council refuse DA2012/76/2 Section 96(1A) application to modify DA2012/76, for an 11 Lot subdivision of Lot 20 DP 1056083 and Lot 105 DP 1001911, Lot 20 Kamilaroi Drive and 9 Robertson Avenue, Moree.

---

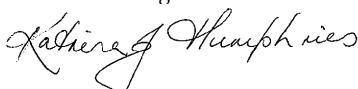
FOR: Councillor Humphries, Price, Tramby and Gall.

AGAINST: Councillor Munn, von Drehnen and Cikota.

---

## **REPORT**

This is Page No.18 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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## BACKGROUND:

The original development application proposed that each allotment would contain a flood proofing mound and an on-site detention pond. The excavation of the on-site detention ponds would provide fill for the mounds as well as on-site detention of stormwater. The applicant indicated that the proposed on-site detention ponds would occupy areas identified as natural low-points on the land.

At the Ordinary Council Meeting held 9 May 2013 Council resolved to include the following condition as part of the development consent for the proposed subdivision:

- (14) *The dams associated with the construction of flood proofing mounds shall be fenced in accordance with the requirements of the Swimming Pools Regulation 2008 or alternatively be deleted from the proposed development. The applicant shall provide appropriate advice on this matter prior to the issue of a Construction Certificate.*

Reason: *To ensure that dams associated with the development do not create a hazard to children in the vicinity of the development.*

## Assessment of the Application

The assessment of this Application has been undertaken in accordance with Section 79C (1) of the *Environmental Planning and Assessment Act 1979*, as amended. Under Section 79C (1), a Consent Authority is required to take into consideration various matters that are of relevance when assessing any Development Application, as discussed in turn below:

### Swimming Pools Act 1992

The applicant submits that farm dams and the like are not considered to be swimming pools under the *Swimming Pools Act 1992* (the Act) and consequently should not be required to be fenced in accordance with the requirements of the *Swimming Pools Regulation 2008*.

The Act defines a swimming pool as:

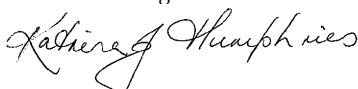
*Swimming pool* means an excavation, structure or vessel:

- (a) *that is capable of being filled with water to a depth greater than 300mm, and*
- (b) *that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,*

*and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.*

The applicant is correct in the assertion that a farm dam is not considered to be a swimming pool under the Act. However, it is noted that in its determination of the original application Council did not form the view that the dams were swimming pools, rather, Council determined that it was appropriate to require fencing to the same standard as that of swimming pools. In accordance with the reasons provided in the notice of determination for the original application this condition was imposed so that the dams did not create a hazard to children in the vicinity of the development.

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## **Cost of safety fencing**

The applicant submits that the cost of fencing each dam will be approximately \$21,000 which would render the entire development economically unviable.

Council is not compelled to consider the economic viability of development proposals under Section 79C of the *Environmental Planning and Assessment Act 1979*.

## **Precedential considerations**

The applicant submits that Council has set a precedent by requiring the dams to be fenced. It is argued that Council will now need to ensure that all dams on land adjoining residential zones are fenced to the same standard required for swimming pools.

Council is required to undertake a merit based assessment of each development application based on the unique circumstances of the individual development proposal.

## **Local Policies**

### ***Development Control Plan 2013***

#### Chapter 10 – Notification Policy

The application was notified to adjoining owners for a period of 14 days. A total of three (3) submissions by way of objection were received, with one late submission.

Outlined below is a summary of the issues raised in submissions. No specific commentary has been provided on the issues raised, as Council staff have addressed the salient points relevant to the proposed modification earlier in this report.

#### **1. Objector One Key Issues**

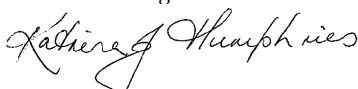
- There has already been significant number of deaths from 2011 to 2012 in Australian Waterways.
- The need to comply with safety standards and the removal of this condition negates this requirement.
- The potential cost to human lives through drowning.
- Condition 14 was a condition of approval from Council.
- The contrasting safety requirements given the minimal distinction between pools and dams.

#### **2. Objector Two Key Issues**

- Risk to the lives of children through drowning.
- Condition 14 was a condition of approval from Council.
- Proximity of a residential area to a number of water bodies.
- Insufficient consideration from the applicant regarding the potential effects stemming from the removal of Condition 14.

#### **3. Objector Three Key Issues**

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- Condition 14 was a Condition of approval from Council.
- Black soil in the area has a tendency for water to pool for extended periods.
- Safety of children and animals.
- Government regulation for bodies of water 30cm or greater.
- Risk to the lives of children due to drowning.

4. Objector Four (Late) Key Issues

- The contrasting safety requirements given the minimal distinction between pools and dams.
- Risk to the lives of children due to drowning.

**COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

**ECONOMIC IMPLICATIONS:**

No significant economic implications have been identified for Council, although the applicant has expressed concern at the cost of meeting the requirements of condition number 14.

**ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

**LEADERSHIP / LEGAL IMPLICATIONS:**

No significant legal/leadership implications have been identified.

**FINANCIAL / OPERATIONAL PLAN IMPLICATIONS:**

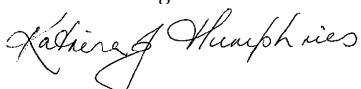
The development is not considered to have any negative impacts on Council's financial/operational plan.

# APPENDIX 1

## Report 1

### LOCALITY PLAN

This is Page No.22 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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*Kathie Humphries*

MAYOR

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*[Signature]*

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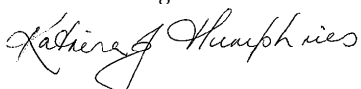
# APPENDIX 2

## Report 1

### PROPOSED SUBDIVISION

### LAYOUT PLAN

This is Page No.24 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



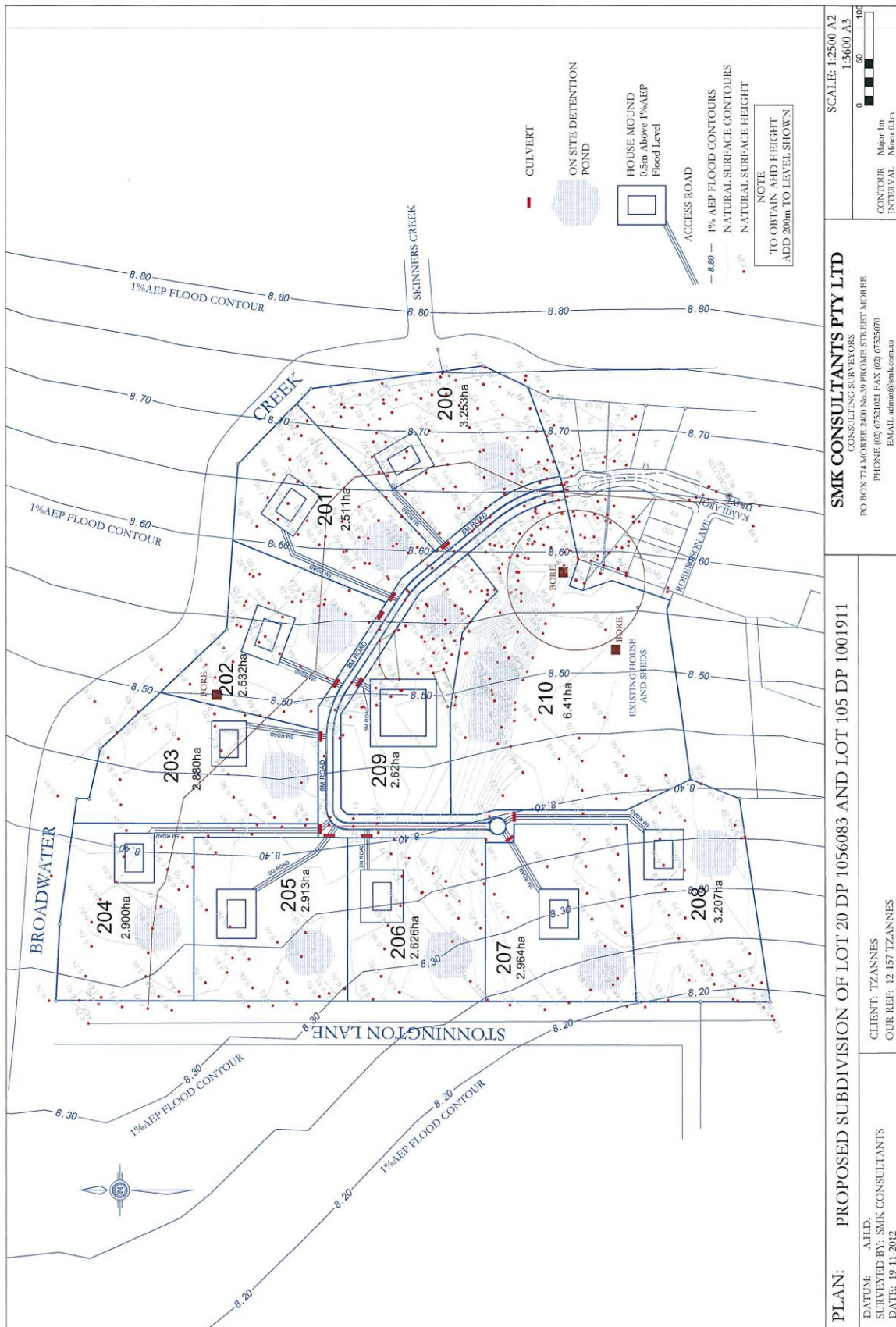
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This is Page No.25 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on

*Katharine Humphries*

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*[Signature]*

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## 13/10/32 RESOLVED (GALL/PRICE):

That there be a break in the Council meeting.

The break in the meeting began at the time being 5.40pm and resumed at the time being 5.49pm

Appendix 3-7

|               |                                                                                                                                                                                                                                                      |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 2. DA2013/23 - DEMOLITION OF EXISTING RETAIL PREMISES, ADDITION TO EXISTING VEHICLE SALES PREMISES AND ALTERATION TO EXISTING VEHICLE REPAIR STATION ON LOT 1 DP 1013869, LOTS A, B, AND C DP419585 AND LOT 1 DP 308166, 102 BALO STREET, MOREE 2400 |
| REPORT FROM:  | DIRECTOR OF PLANNING AND DEVELOPMENT                                                                                                                                                                                                                 |
| FILE NUMBER:  | DA2013/23                                                                                                                                                                                                                                            |

### SUMMARY:

Development Application DA2013/23 proposes the demolition of an existing Retail Premises, additions to an existing Vehicle Sales Premises and alteration to an existing Vehicle Repair Station at 102, 104 and 108 Balo Street and 1/53 Frome Street, Moree.

The applicants are Theo and James Tzannes and the owner is Charlie One Pty Ltd.

The Development Application (DA) has been assessed in accordance with Section 79C (1) of the *Environmental Planning and Assessment Act 1979*. The proposed development is permitted with consent under the *Moree Plains Local Environmental Plan 2011* ('the LEP') and complies with *Moree Plains Development Control Plan 2013* ('the DCP').

Two submissions were made during the advertising and notification periods. These submissions did not raise any objection to the proposed development.

The proposal has been referred to Council for determination due to the prominent location of the site within the Heritage conservation area.

The proposal is recommended for conditional approval.

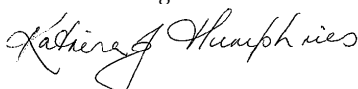
## 13/10/33 RESOLVED (HUMPHRIES/TRAMBY):

That Council approve DA2013/23 for the demolition of an existing Retail Premises, additions to an existing Vehicle Sales Premises and alteration to an existing Vehicle Repair Station subject to the following conditions:

### General Conditions

1. This consent will be void if not physically commenced within five years from the date of approval.

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**Reason:** To ensure that the development is commenced within a satisfactory time frame.

2. The development is to be undertaken to the satisfaction of Council and in conformity with the *Environmental Planning and Assessment Act 1979*, the *Local Government Act 1993*, appropriate Australian Standards, Environmental Planning Instruments where applicable, the application made, endorsements and markings of the identified plans listed in the table below and specification attached, except as modified by the following conditions:

| DRAWING NO'S | REVISION | DRAWN BY                | DATE       |
|--------------|----------|-------------------------|------------|
| Z7898 WD101  | G        | Hill Lockart Architects | 15/08/2013 |
| Z7898 WD102  | G        | Hill Lockart Architects | 15/08/2013 |
| Z7898 WD103  | G        | Hill Lockart Architects | 15/08/2013 |
| Z7898 WD105  | B        | Hill Lockart Architects | 15/08/2013 |
| Z7898 WD201  | G        | Hill Lockart Architects | 15/08/2013 |
| Z7898 WD202  | B        | Hill Lockart Architects | 15/08/2013 |

**Reason:** To confirm and clarify the terms of Council's approval.

3. All building and plumbing work must be carried out in accordance with the provisions of The National Construction Code Series (NCC) and any Australian Standards adopted thereunder.

**Reason:** To ensure compliance with the provisions of The National Construction Code Series (NCC) and associated Australian Standards.

4. The building work is to be certified by a structural engineer stating that it is able to withstand flood velocities for that area. All materials below the 1% AEP flood event are to comply with the NSW Flood Manual and Moree Plains Shire Council Development Control Plan.

**Reason:** To protect the occupants from the danger of flooding.

5. Prior to the pouring of any footings on site a peg out survey of the proposed building shall be supplied by a registered surveyor that confirms that the proposed building is being constructed in the position approved in the development consent.

**Reason:** To ensure that the building is correctly sited before construction begins.

6. All new hot water installations shall deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes, at a temperature not exceeding 50°C and is to comply with AS3500.4.

**Reason:** To prevent scalding of users of the fixtures.

7. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath.

**Reason:** To ensure that the development does not encroach on public land.

## Prior to Construction Certificate

8. Pursuant to section 94A(1) of the *Environmental Planning and Assessment Act 1979*, and the Moree Plains Development Contributions Plan, a levy of \$3055.50 shall be paid to Council in respect of the development being 1% of the cost of carrying out the development as determined by the Council in accordance with Act and Regulations.

The amount to be paid is to be adjusted at the time of payment, in accordance with the provisions of the Moree Plains Development Contributions Plan and the Regulation.

The contribution is to be paid prior to the issue of a Construction Certificate.

**Reason:** To ensure the provision of community facilities and services pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*.

9. Evidence is to be provided demonstrating payment of the prescribed Long Service Levy fee prior to the issue of a Construction Certificate.

**Reason:** To ensure that the requirements of the Long Service Levy Corporation are satisfied.

10. The applicant is to provide full details of the colour and character of all proposed external building materials and finishes. The details must be submitted to and approved of by Council prior to the issue of a Construction Certificate.

**Reason:** To ensure that the nature and colour of external materials and finishes meet Council's requirements.

11. The proposed building shall be provided with access and sanitary facilities for the disabled in accordance with the Building Code of Australia and AS1428 - Design for Access and Mobility. Details of such access shall be provided with the application for a Construction Certificate.

*Note: It is the developer's responsibility to ensure they are aware of their responsibilities under the "Disability Discrimination Act" when modifying or constructing premises and the provision of access and amenities for people with disabilities.*

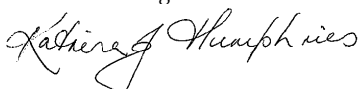
**Reason:** To ensure adequate access for the disabled.

12. Engineering details of hard stand areas including site plan drawn to scale showing the location and layout of the parking spaces designed in accordance with Chapter 2 - Parking of Council's Development Control Plan is to be submitted to and approved by Council's Engineering Department prior to the issue of a Construction Certificate.

**Reason:** To confirm and clarify Council's approval.

13. A low cream face brick retaining wall shall be retained and supplemented for the 11m in each direction from the Albert Street/Balo Street Corner and the Albert Street/Wesley Lane corner. No fencing shall be erected along the Balo Street and Albert Street frontages. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

**Reason:** To ensure that the development is sympathetic to the Heritage Conservation Area.



14. An open palisade-type fence and gate shall be erected on the Frome Street frontage of the Vehicle Repair Station in black, dark charcoal, or dark green. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

15. The external cladding (excluding the southern elevation) of the Vehicle Repair Station shall be a corrugated profile, and be in 'Windspray' colour. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

16. The external cladding of the southern elevation (facing the Moree Club) of the Vehicle Repair Station and any fencing adjacent to the Moree Club shall be a corrugated profile, plain galvanised steel. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

17. All signage attached to the Vehicle Repair Station shall be on a detachable panel with white background located above the three vehicle doors. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

18. All advertising structures associated with the development shall be a maximum height of 6m. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

19. A new boundary fence capable of resisting vehicle impact shall be erected between Lot 1, DP308166 and Lot 2, DP919580. Details shall be provided to and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure that the development is sympathetic to the Heritage Conservation Area.

### **Prior to Works Commencing**

20. Trees on the Moree Club site that are likely to be impacted by works to the Vehicle Repair Station shall be protected by:

- a) Protective fencing is to be installed around the tree in line with the outer edge of the canopy (where practical). This fencing is to be constructed of chainwire mesh 1.8m high, which is supported by steel stakes or piping and braced to resist impacts.

- b) No roots over 50mm in diameter are to be cut within the tree protection zone (canopy) without prior consultation with Council officers and the consulting Arborist or the like.
- c) Any necessary pruning work is to be carried out in accordance with Australian Standard 4373-1996 "Pruning of Amenity Trees".
- d) No roots over 50mm in diameter are to be cut within the tree protection zone without prior consultation with Council officers or the consulting arborist or the like.
- e) All roots over 50mm in diameter which are encountered outside the fenced tree protection zone/s are to be cleanly cut and not ripped.

- Reason:** To ensure that the trees on the Moree Club site are not damaged.
21. Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the development consent.

**Reason:** Statutory requirement.

22. A Construction Certificate issued by a Private Accredited Certifier is to be deposited with Council at least 48 hours prior to the commencement of any earthworks, engineering or building work on the site.

**Reason:** To confirm and clarify the terms of Council's approval.

23. Prior to the commencement of any earthworks on site the applicant is to ensure that appropriate erosion and sedimentation controls are in place in accordance with Land Com Soils and Construction - Managing Urban Stormwater Guidelines.

**Reason:** To protect the environment from possible erosion.

## **During Construction**

24. Prior to the pouring of any footings or construction of external walls adjacent to a boundary, a survey and report prepared by a Registered Surveyor must be submitted to the Principal Certifying Authority indicating the position of footings and/or external walls in relation to the boundaries of the allotment.

**Reason:** To ensure compliance with approved plans and reduce the potential for boundary encroachments.

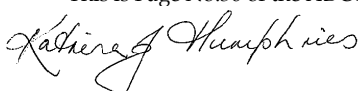
25. Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

**Reason:** Statutory requirement.

26. Should Aboriginal relics be discovered work shall cease immediately and application be made for consent for Destroy and Care and Control Permits under the provisions of the *NSW National Parks and Wildlife Act 1974*. Any applications for permits shall be supported by written documentation from the Local Aboriginal Land Council demonstrating appropriate consultation.

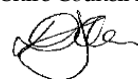
This is Page No.30 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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**Reason:** To ensure compliance with the *NSW National Parks and Wildlife Act 1974* and protection of Aboriginal relics.

27. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the form of the development undertaken is in accordance with the determination of Council.

28. Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.

Each toilet provided must:

- a) Be a standard flushing toilet, connected to a public sewer, or
- b) If connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
- c) A portable toilet.

The provision of toilet facilities must be completed before any other work is commenced.

**Reason:** To ensure the health and safety of the community and workers on the site.

29. If the work involved in the erection or demolition of a building:

- a) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- b) Building involves the enclosure of a public place:
  - (i) A hoarding and site fencing must be erected between the work site and the public place and be contained within the site boundary unless prior permission has been obtained in writing from Council.
  - (ii) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
  - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - (v) No access across public reserves or parks is permitted.

**Reason:** To ensure public safety and the proper management of public land.

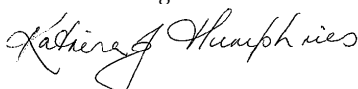
30. All building construction works are to be carried out during the following hours:

- a) Between Monday to Friday (inclusive) – 7am to 6pm,
- b) On a Saturday – 8am to 1pm.

Building construction must not be carried out on a Sunday or a public holiday.

**Reason:** To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

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## Prior to Occupation Certificate

31. A Survey Certificate prepared by a Registered Surveyor must be submitted to Council at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

Reason: To ensure compliance with approved plans and reduce the potential for boundary encroachments.

32. An Occupation Certificate must be issued by the principal certifying authority before the building is used or occupied. The Final Occupation Certificate shall not be issued until such time as all relevant conditions of the development consent have been complied with and the requirements of any BASIX certificate issued in relation to the development have been fully complied.

Reason: To ensure the requirements of the *Environmental Planning and Assessment Act 1979* are satisfied.

33. Builder's sheds, waste containers and building materials must be stored wholly within the site during the construction phase. All waste must be appropriately disposed of to Moree's Waste Management Facility and temporary building structures removed before the issuing of the Final Occupation Certificate.

Reason: To ensure that public places and road reserves are not obstructed.

34. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- a) Stating that unauthorised entry to the work site is prohibited,
- b) Showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours,
- c) Showing the name, address and telephone number of the Principal Certifying Authority for the work.

Reason: Statutory requirement.

35. All excess roof water is to be conveyed to Council's stormwater drainage infrastructure by means of storm water drainage piping which has been sized in accordance with AS3500. In instances where it is impractical to dispose of roof water to Council's stormwater drainage infrastructure an alternative design shall be submitted to and approved of by Council's Engineering Department prior to the issue of a Construction Certificate.

The applicant shall implement suitable means of storm water disposal in accordance with this condition prior to the issue of a Final Occupation Certificate.

Reason: To ensure disposal of roof water without causing a nuisance.

36. The licensed contractor who is responsible for all sanitary drainage works shall submit (on the required form) to Council a copy of the drainage diagram for all drains installed showing:

- a) The level of the drain in relation to the sewer main junction and the finished ground level; and

- b) The distances from the drains to the nearest boundaries of, and buildings on the premises.

The requirements of this condition shall be satisfied prior to the issue of a Final Occupation Certificate.

Reason: To ensure compliance with the *Local Government (General) Regulation 2005*.

37. A new concrete kerb and gutter must be constructed to replace the redundant layback at the applicant's cost.

All works shall be completed prior to the issue of a Final Occupation Certificate.

Reason: To ensure compliance with accepted standards.

38. Any necessary alterations to, or relocations of, utility services must be carried out at no cost to the council or the relevant public authority.

All works shall be completed prior to the issue of a Final Occupation Certificate.

Reason: To ensure costs associated with the development are not transferred to the public.

39. Prior to issuance of the Final Occupation Certificate, the owner of the building shall furnish the Principal Certifying Authority with a Final Fire Safety Certificate which states that each essential fire safety measure, specified in the fire safety schedule:

- a) Has been assessed by a properly qualified person, and  
b) Was found, when it was assessed, to be capable of performing to a standard not less than required by the current fire safety schedule.

Reason: To ensure compliance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations.

40. The vehicular entrance and exit driveways and the direction of traffic movement within the site shall be clearly indicated by means of suitable signs and pavement markings.

Directional signs shall be installed and pavement marking completed prior to the issue of a Final Occupation Certificate.

Reason: To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises.

### Ongoing Use

41. Artificial lighting which projects beyond the boundary of the land on which the development is situated shall comply with the provisions of AS 4282, 1997 - 'Control of the obtrusive effects of outdoor lighting'.

Reason: To protect the amenity of the area.

42. All vehicle movements to and within the site shall be in a forward direction under no circumstances shall vehicles be permitted to reverse on or off a public road.

Reason: To ensure safe entry and egress to and from the property.

43. A total of thirteen (13) car parking spaces shall be provided on the site, one of which shall be designated and signposted for use by disabled persons. The car parking spaces are to be maintained for the life of the development in accordance with the provisions of Council's Development Control Plan, Building Code of Australia and AS2890.6.

Reason: To ensure the provisions of adequate on-site parking.

44. The owner/manager of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application.

Reason: To ensure that graffiti is removed within a reasonable timeframe.

45. External Lighting shall comply with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Reason: To ensure neighbourhood amenity is maintained.

46. The delivery of vehicles to the Vehicles Sales Premises shall be restricted as follows:

- a) The delivery vehicles shall not exceed 19m in length,
- b) The delivery vehicle shall use the designated parking area on the southern end of Frome Street,
- c) Vehicles shall be unloaded and driven directly to the Vehicle Sales Premises,
- d) No deliveries shall occur between 8:00am and 9:30am and 2:30pm and 4:00pm, Mondays to Fridays inclusive,
- e) Appropriate traffic control measures shall be put in place to ensure safety of pedestrians, other drivers and delivery staff,
- f) Where necessary the applicant shall consult with the NSW Police regarding the deliveries to the Vehicle Sales Premises.

Reason: To ensure safe delivery of vehicles and amenity.

47. All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Reason: To ensure safe entry and exiting of vehicles.

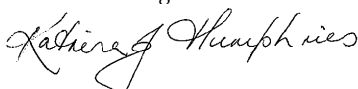
## DEMOLITION

### General Conditions

48. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the approved development.

49. Consent is granted for the demolition of the retail premises currently existing on the property, subject to strict compliance with the following conditions:
- a) The developer is to notify adjoining residents seven working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
  - b) Written notice is to be given to Council/Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by Council/Certifying Authority:
    - (i) A pre commencement inspection when all the site works are installed on the site and prior to demolition commencing.
    - (ii) A final inspection when the demolition works have been completed.
  - c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
  - d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
  - e) Demolition is to be carried out in accordance with the relevant provisions of AS 2601:2001: Demolition of structures.
  - f) The hours of demolition work are limited to between 7:00am and 5.30pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
  - g) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Department of Environment and Climate Change NSW.
  - h) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
  - i) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles.
  - j) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
  - k) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
  - l) Care must be taken during demolition to ensure that existing services on the site (ie sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.



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- m) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- n) Prior to demolition, a Work Plan must be prepared and submitted to Council/Certifying Authority in accordance with the relevant provisions of AS 2601:2001 Demolition of structures by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- o) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
  - (i) A WorkCover licensed contractor must undertake removal of all asbestos.
  - (ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a visible position on the site to the satisfaction of Council.
  - (iii) Waste disposal receipts must be provided to Council/Certifying Authority as proof of correct disposal of asbestos laden waste.
  - (iv) Removal and disposal of asbestos MUST be carried out in accordance with Council's asbestos policy and NSW WorkCover Legislation.
  - (v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

**Reason:** To ensure responsible disposal of waste material and to ensure the health and safety of the community and workers on the site.

50. A Waste Management Plan must be prepared using Council's prescribed format, is to be provided prior to the issue of a Construction Certificate. The Waste Management Plan must address all issues including but not limited to:

- a) Estimated quantities of materials that are reused, recycled, removed from site.
- b) On site material storage areas during construction.
- c) Materials and methods used during construction to minimise waste.
- d) Nomination of end location of all waste generated.

All requirements of the approved Waste Management Plan must be implemented during the construction of the development.

**Reason:** To ensure responsible disposal of waste material.

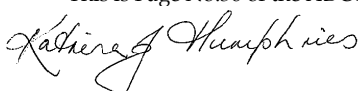
51. The applicant must ensure that the development will not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems that connect to Council's storm water system.

**Reason:** To ensure appropriate disposal of storm water from the site.

## **Prior to Construction Certificate**

52. A hydraulic evaluation of the entire development shall be prepared by a practising Hydraulic Engineer. The evaluation shall assess the hydraulic loading of the

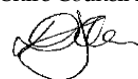
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development to ensure that the proposed water services are suitable for the additional loading. Should the evaluation reveal the need for an upgrade of water services it shall be at full cost to the applicant.

The evaluation shall be submitted to and approved of by Council's Engineering Department prior to the issue of a Construction Certificate.

**Reason:** To ensure adequate water supply for the development.

### **During Construction**

53. Council's standard Traffic Control Plan (TCP) relating to construction work in the Road Reserve shall be adopted at all times during construction work in the Road Reserve.

**Reason:** To ensure safe vehicular and pedestrian access around the site.

### **Prior to Occupation Certificate**

54. Upon completion of works and prior to occupation, the person entitled to act on this consent shall provide to Council the following information:

- a) The total tonnage of all waste and excavated material disposed of from the site;
- b) The disposal points and methods used; and
- c) A copy of all disposal receipts are to be provided.

**Reason:** To ensure responsible disposal of waste material.

55. The car parking areas shall be paved in a bitumen seal coat, asphaltic or bituminous concrete, cement concrete, or concrete paving blocks. The layout and dimension of car parking areas shall be in accordance with the standards of Moree Plains Shire Council's DCP and parking requirements of AS2890.1-2004 off-street car parking.

All parking areas shall be marked by lines or spaces indicated by other approved means. The works required by this condition shall be completed to the satisfaction of Council's Engineering Department prior to the issue of a Final Occupation Certificate.

**Reason:** To comply with Council's parking requirements.

56. Council shall approve a Trade Waste Agreement for the development prior to disposal of liquid waste to Council's sewer. The Trade Waste Agreement and all pre-treated equipment and processes shall be in place prior to the issue of a Final Occupation Certificate.

Alternatively, liquid waste shall be removed by a licensed liquid waste contractor.

**Reason:** To protect the sewerage infrastructure, workers and general public from the damaging effects of Liquid Trade Waste.

57. The applicant shall construct a lay back for the existing driveway on Albert Street. The work shall be constructed using concrete in accordance with Council's Vehicular Crossing (Driveway) Policy.

All works shall be completed prior to the issue of a Final Occupation Certificate.

**Reason:** To ensure compliance with accepted standards.

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**FOR: Councillors Humphries, Price, Gall, Tramby, Munn, von Drehnen and Cikota.**

**AGAINST: Nil.**

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## **REPORT**

### **BACKGROUND:**

Development Application DA2013/23 proposes the demolition of an existing Retail Premises, additions to an existing Vehicle Sales Premises and alteration to an existing Vehicle Repair Station at 102, 104 and 108 Balo Street and 1/53 Frome Street, Moree.

The applicants are Theo and James Tzannes and the owner is Charlie One Pty Ltd.

The Development Application (DA) has been assessed in accordance with Section 79C (1) of the *Environmental Planning and Assessment Act 1979*. The proposed development is permitted with consent under the *Moree Plains Local Environmental Plan 2011* ('the LEP') and complies with *Moree Plains Development Control Plan 2013* ('the DCP').

Two submissions were made during the advertising and notification periods. These submissions did not raise any objection to the proposed development.

The proposal has been referred to Council for determination due to the prominent location of the site within the Heritage conservation area.

### **ASSESSMENT OF THE APPLICATION**

The assessment of this Application has been undertaken in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, as amended. Under Section 79C(1), a Consent Authority is required to take into consideration various matters that are of relevance when assessing any Development Application, as discussed in turn below:

#### **State Environmental Planning Policies**

##### ***State Environmental Planning Policy No 64 – Advertising and Signage***

##### **1 Character of the area**

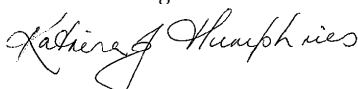
*Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

The proposed development represents an improvement in terms of the pattern and quality of the advertising signage associated with the existing Vehicle Sales Premises.

*Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The proposed development has been referred to Council's Heritage Advisor and heritage considerations included in the conditions of consent.

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## 2 Special areas

*Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The proposed development has been referred to Council's Heritage Advisor and heritage considerations included in the conditions of consent.

## 3 Views and vistas

*Does the proposal obscure or compromise important views?*

The signage does not obscure or compromise important views.

*Does the proposal dominate the skyline and reduce the quality of vistas?*

The signage does not dominate the skyline or reduce the quality of vistas.

*Does the proposal respect the viewing rights of other advertisers?*

The height restriction of 6m to the advertising signage will continue Council's efforts to moderate advertising signage in the Moree central business district (CBD) in order to be sympathetic to the Heritage Conservation Area.

## 4 Streetscape, setting or landscape

*Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

The height restriction of 6m to the advertising signage will continue Council's efforts to moderate advertising signage in the Moree CBD in order to be sympathetic to the Heritage Conservation Area.

*Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

The 6m height restriction will provide consistency with the existing locality.

*Does the proposal reduce clutter by rationalising and simplifying existing advertising?*

The proposal provides a more cohesive approach to advertising of the Vehicle Sales Premises.

*Does the proposal screen unsightliness?*

Not Applicable (N/A).

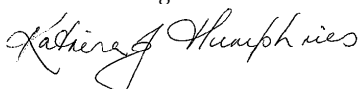
*Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

The 6m height restriction will provide consistency with the existing locality.

*Does the proposal require ongoing vegetation management?*

N/A.

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## 5 Site and building

*Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

The 6m height restriction will provide consistency with the existing locality.

*Does the proposal respect important features of the site or building, or both?*

The proposed development has been referred to Council's Heritage Advisor and heritage considerations included in the conditions of consent.

*Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The proposal is in keeping with the broader design of the Vehicle Sales Premises.

## 6 Associated devices and logos with advertisements and advertising structures

*Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

N/A.

## 7 Illumination

*Would illumination result in unacceptable glare?*

No illumination is proposed.

*Would illumination affect safety for pedestrians, vehicles or aircraft?*

N/A

*Would illumination detract from the amenity of any residence or other form of accommodation?*

N/A

*Can the intensity of the illumination be adjusted, if necessary?*

N/A

*Is the illumination subject to a curfew?*

N/A

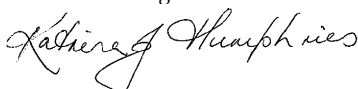
## 8 Safety

*Would the proposal reduce the safety for any public road?*

The proposal has been referred to the Roads and Maritime Services (RMS) and Council's Engineering Department who have raised no objections to the proposed advertising signage.

*Would the proposal reduce the safety for pedestrians or bicyclists?*

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The proposal has been referred to the RMS and Council's Engineering Department who have raised no objections to the proposed advertising signage.

*Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposal has been referred to the RMS and Council's Engineering Department who have raised no objections to the proposed advertising signage.

## **Local Environmental Plans**

### ***Moree Plains Local Environmental Plan 2011***

#### **Clause 2.7 Demolition requires development consent**

Consent is required for demolition work under the provisions of this clause. The proposed development includes demolition of existing Retail Premises which is local development rather than complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

#### **Land Use Table**

The land is zoned B3 (Commercial Core) under the LEP. The objective of the B3 (Commercial Core) zone are:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*

The proposal contributes to the range retail premises that serve the needs of the local and wider community in so far as it includes the expansion of an existing Vehicle Sales Premises and Vehicle Repair Station.

- *To encourage appropriate employment opportunities in accessible locations.*

The proposal would encourage employment opportunities in so far as it includes the expansion of an existing Vehicle Sales Premises and Vehicle Repair Station.

- *To maximise public transport patronage and encourage walking and cycling.*

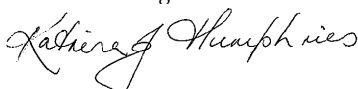
The proposal is located within the CBD of Moree and has appropriate connection to public transport facilities' and pedestrian access ways.

- *To maintain and enhance the role of the Moree town centre as the major centre for retail, commercial, administrative, service, cultural and professional services for the area.*

The proposal would further enhance the Moree town centre in so far as it includes the expansion of an existing Vehicle Sales Premises and Vehicle Repair Station.

- *To encourage core retail uses in the central business district and the facilitation of supporting land uses as close as practicable to the central business district.*

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The proposal involves the expansion and improvement of an existing Vehicle Sales Premises which has been a significant feature of the central business district for a number of years.

- *To provide for non-commercial development in conjunction with commercial and retail development where such development is compatible with the commercial and retail development and the character of the locality.*

N/A.

- *To recognise and protect the art deco character of the Moree central business district.*

The proposal has been assessed by Council's Heritage Advisor and the recommended conditions of consent provide appropriate protection to the art deco character of the CBD.

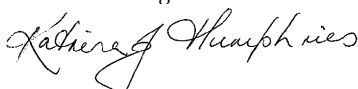
In summary, the proposal is permissible with the consent of Council and is considered consistent with the zone objectives.

#### Clause 7.6 Flood planning

- (1) *The objectives of this clause are as follows:*
  - (a) *to minimise the flood risk to life and property associated with the use of land,*
  - (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
  - (c) *to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) *This clause applies to land at or below the flood planning level.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
  - (a) *is compatible with the flood hazard of the land, and*
  - (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
  - (c) *incorporates appropriate measures to manage risk to life from flood, and*
  - (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
  - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*
- (4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.*
- (5) *In this clause, **flood planning level** means the level of a 1:100 average recurrent interval flood(ARI) event plus 0.5m freeboard.*

The applicants have provided information with respect to the flooding of the land as the land is affected by the flood planning level. With respect to the objectives of the clause:

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(a) *To minimise the flood risk to life and property associated with the use of land*

The finished floor level (FFL) of the existing Vehicle Sales Premises is 209.75AHD which is **0.6m** above minimum FFL required under the DCP. It is proposed to construct the FFL of the addition the existing Vehicle Sales Premises at the same level.

The FFL of the existing Vehicle Repair Station is 209.2AHD which is **0.05m** above minimum FFL required under the DCP. The alterations to the existing Vehicle Repair Station will not reduce the FFL.

The risk to life is somewhat less when considering commercial premises than the risk associated with residential premises. Overall, it is considered that the proposed development satisfactorily manages the flood risk to life and property.

(b) *To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change*

The application as proposed has not assessed the land's flood hazard category, however, given that the proposal comprises an extension and alteration of an existing commercial development, it is considered that the land is able to be developed.

(c) *To avoid significant adverse impacts on flood behaviour and the environment*

Given that the proposal comprises an extension and alteration of an existing commercial development, it is not expected to have a significant effect on flood behaviour.

Specific provisions relating to flooding are also contained within the DCP which applies to the land. This DCP is reviewed in a later section of this report.

## **Draft Local Environmental Plans**

No draft Local Environmental Plans apply to the land.

## **Development Control Plans**

### ***Moree Plains Development Control Plan 2013***

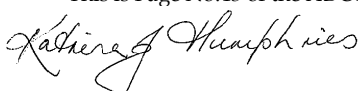
The relevant sections of the DCP are Chapter 2 – Parking, Chapter 4 – Moree and Environs Floodplain Development and Management and Chapter 7 – Heritage Conservation Area Shopfront and Façade Policy.

### **Chapter 2 – Parking**

*This chapter of the DCP has been prepared as a guide to Council's requirements in connection with the provision of car parking, access and loading facilities as part of development works within the Moree Plains Shire. The chapter supports desired growth while protecting traffic and pedestrian flows.*

| Acceptable Solutions:                                                                                                        | Comment:                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The provision of on-site car parking at the rate set out in Table 2.1 for any particular type or category of development. | <u>Vehicle Sales Premises</u><br>721m <sup>2</sup> of leasable floor area – 8 spaces<br>1300m <sup>2</sup> of open display area – 5 spaces |

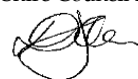
This is Page No.43 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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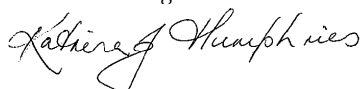
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><i>Motor vehicle showrooms and display areas</i><br/> 1 space per 100m<sup>2</sup> of gross leasable floor area of the building plus 1 space per 320m<sup>2</sup> of open display area – Note: this assumes one space is required per 16 cars displayed. One car display – equals 20m<sup>2</sup>.</p>                                                                                                                                                                                                                | <p>13 spaces required, 14 provided<br/> <b>Complies.</b></p> <p><u>Vehicle Repair Station</u><br/> Existing vehicle repair station – 10 spaces provided.<br/> <b>Complies.</b></p> |
| <p>2. Car parking is provided on the site of the development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> <b>Complies.</b></p>                                                                                              |
| <p>3. The layout and dimensions of car parking areas is in accordance with the design standards and principles as set out in Table 2.1 and Figure 2.1.</p>                                                                                                                                                                                                                                                                                                                                                               | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> <b>Complies.</b></p>                                                                                              |
| <p>4. All required car parking areas, driveways, turning areas and loading areas are paved in either a bitumen seal coat, asphaltic or bituminous concrete, cement concrete, concrete paving blocks, or brick paving blocks, except on industrial zoned land, where discretion shall be with the Director of Planning and Development. Note: The standard of paving required will be dependent upon the type of development proposed, with regard to traffic loadings including turning movements of heavy vehicles.</p> | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> See condition No. 55<br/> <b>Complies.</b></p>                                                                    |
| <p>5. In villages and rural areas paving to driveways, turning areas, loading areas and car parking areas are all weather. Note: with surface materials to be at the discretion of the Director of Planning and Development.</p>                                                                                                                                                                                                                                                                                         | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> <b>N/A.</b></p>                                                                                                   |
| <p>6. All parking spaces are suitably marked by lines or spaces indicated by other approved means.</p>                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> <b>Complies.</b></p>                                                                                              |
| <p>7. Free and interrupted access to car parking areas is maintained at all times.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><u>Vehicle Sales Premises and Vehicle Repair Station</u><br/> <b>Complies.</b></p>                                                                                              |

#### Chapter 4 – Moree and Environs Floodplain Development and Management

*The purpose of this Chapter is to implement and supplement provisions of the Moree Plains Local Environmental Plan 2011 in relation to flood prone land in Moree Plains Shire.*

| Acceptable Solutions:                                                                                                                                                                                                              | Comment:                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. New buildings or extensions to existing buildings (other than minor extensions).</p> <p><i>Table 4.2 of DCP 2013, Floor levels are to be not less than 350mm below the flood planning level or the building is to be</i></p> | <p><u>Vehicle Sales Premises</u><br/> The FFL of the existing Vehicle Sales Premises is 209.75AHD which is 0.6m above minimum FFL required under the DCP. It is proposed to construct the FFL of the addition the existing Vehicle Sales Premises</p> |

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|                                                                                           |                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| protected by flood barriers which are not less than 350mm below the flood planning level. | at the same level.<br><b>Complies.</b><br><br><u>Vehicle Repair Station</u><br>The FFL of the existing Vehicle Repair Station is 209.2AHD which is 0.05m above minimum FFL required under the DCP. The alterations to the existing Vehicle Repair Station will not reduce the FFL<br><b>Complies.</b> |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Chapter 7 – Heritage Conservation Area Shopfront and Façade Policy

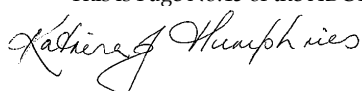
*This chapter provides conservation guidelines to ensure development is sympathetic to the cultural heritage significance of the conservation area and ensure the conservation of individual heritage items identified in the Moree Plains Local Environmental Plan 2011.*

| Acceptable Solutions:                                                                                                         | Comment:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. New building work uses the exterior treatments of the Federation and Inter-War periods, as seen in the original buildings. | <u>Vehicle Repair Station</u> <ul style="list-style-type: none"> <li>An open palisade-type fence and gate shall be erected on the Frome Street frontage.<br/>See condition No. 14<br/><b>Complies.</b></li> <li>External cladding should use a corrugate profile, and be in 'Windspray' colour.<br/>See condition No. 15<br/><b>Complies.</b></li> <li>The side elevation and boundary fence facing the Moree Club to be corrugated profile, plain galvanised steel.<br/>See condition No.16<br/><b>Complies.</b></li> </ul> <u>Vehicle Sales Premises</u> <ul style="list-style-type: none"> <li>A matching cream coloured retaining wall shall be erected on the Albert Street and Wesley Lane corners.<br/>See condition No. 13<br/><b>Complies.</b></li> <li>All advertising signage to be a maximum height of 6m.<br/>See condition No.18<br/><b>Complies.</b></li> </ul> |

## **Planning agreements or draft planning agreements**

No planning agreements or draft planning agreements apply to the land.

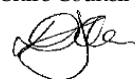
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## **Any matters prescribed by the regulations**

No provisions relevant to Section 79(C)(l)(a)(iv) specified in the *Environmental Planning and Assessment Regulation 2000* is applicable to this Application.

## **The likely impacts of the development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Given that the proposal is a modest redevelopment of and existing use, it is considered to have minimal impact on the natural and built environments.

The social and economic impacts will be positive.

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

While the location of the site provides some existing constraints to the operation of the Vehicle Sales Premises in terms of vehicle deliveries, the proposal will not further increase those constraints.

## **Any submissions made in accordance with the Act or Regulations**

The application was notified to adjoining and affect properties and advertised from 7 March 2013 to 22 March 2013. A total of two (2) submissions were received, neither of which objected to the proposed development. Outlined below is a summary of the issues raised in submissions, and a response to each of those issues:

| Issue:                                                                                                                                                                                 | Comment:                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The existing boundary fence between the Vehicle Repair Station and the adjoining property is constantly damaged by vehicles and should be replaced by a more a more suitable fence. | <u>Vehicle Repair Station</u> <ul style="list-style-type: none"><li>• A boundary fence capable of resisting vehicle impact shall be erected between Lot 1, DP308166 and Lot 2, DP919580. See condition No. 19</li></ul> |

## **The public interest**

Appropriate development is generally considered to be in the public interest where the benefits of that development outweigh costs. On balance, it is concluded that the development is in the public interest provided it is appropriately managed by way of conditions.

## **Other considerations**

Council's Engineering Department have requested a number of specific engineering conditions relating to the unloading and loading of vehicles associated with the operation of the Vehicle Sales Premises. These conditions have been incorporated within the recommended conditions of approval for the project.

## **COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

## **ECONOMIC IMPLICATIONS:**

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

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

**Ec3. Our Shire supports existing businesses**

The proposed development improves and expands an existing retail business. Improved infrastructure of local businesses improves the image of the Moree Plains Shire.

## **ENVIRONMENT IMPLICATIONS:**

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

**E3. Our built environment – our town and villages – are desirable places to be**

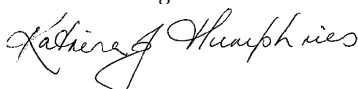
Improved infrastructure of local businesses improves the image of the Moree Plains Shire and encourages growth.

## **LEADERSHIP/LEGAL IMPLICATIONS:**

No significant leadership/legal implications have been identified.

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

No significant financial/operational plan implications have been identified.



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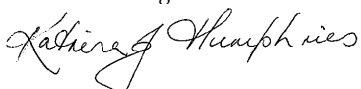
**GENERAL MANAGER**

# APPENDIX 3

## Report 2

### LOCATION PLAN

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# LOCATION PLAN

NOT TO SCALE



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*Katharine Humphries*

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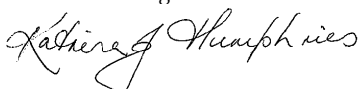
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# APPENDIX 4

## Report 2

### SITE PLAN

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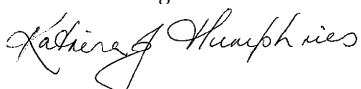
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# APPENDIX 5

## Report 2

### ELEVATIONS

This is Page No.52 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



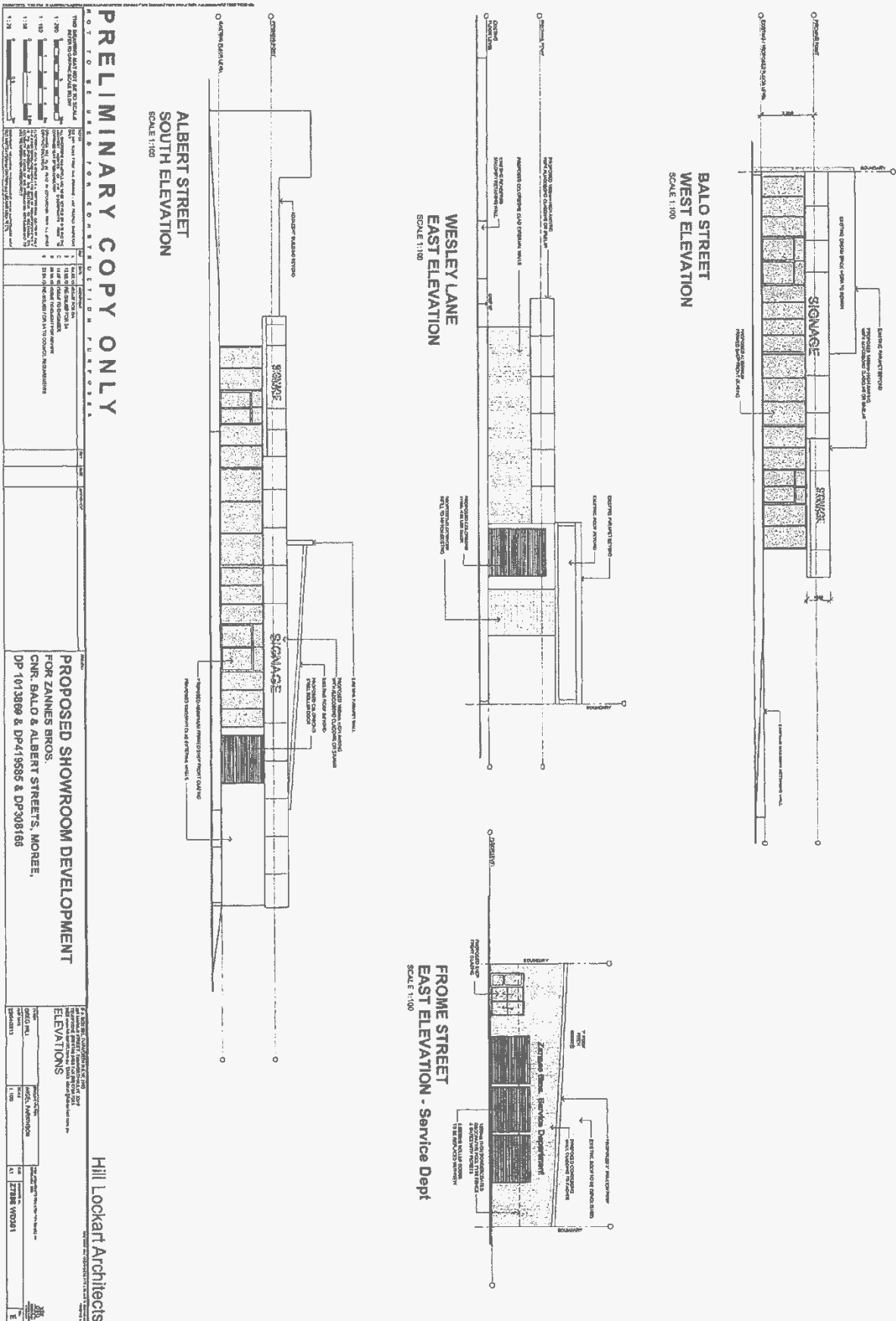
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*Kathryn Humphries*

24 October 2013

*[Signature]*

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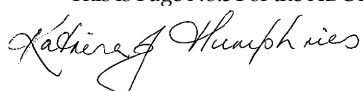
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# APPENDIX 6

## Report 2

### SHOWROOM PERSPECTIVE

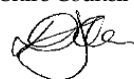
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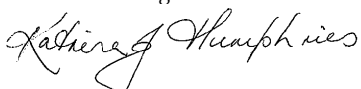
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# APPENDIX 7

## Report 2

### SERVICE WORKSHOP PERSPECTIVE

This is Page No.56 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



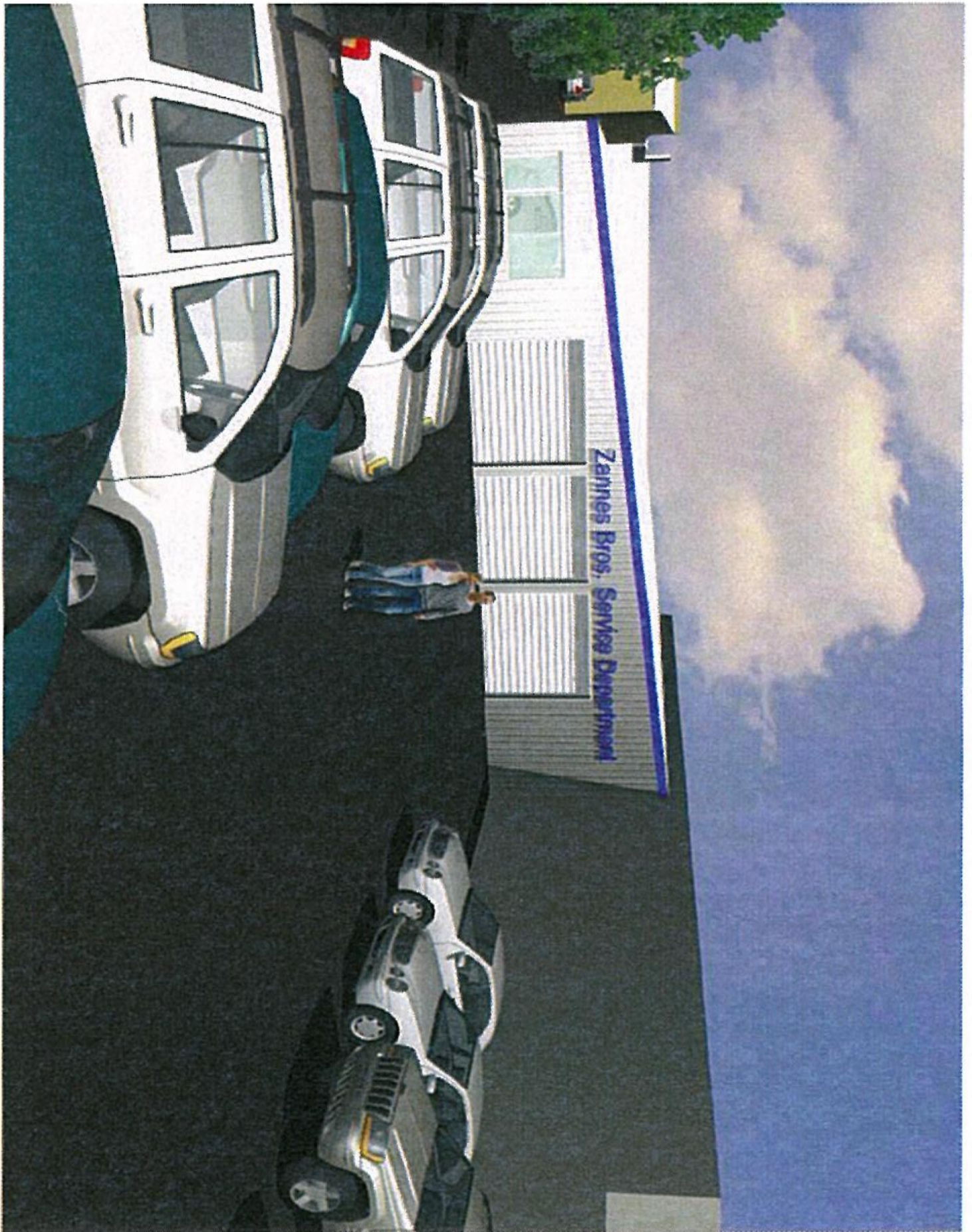
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|               |                                                                                                  |
|---------------|--------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 3. MOREE PLAINS LOCAL ENVIRONMENTAL PLAN 2011.<br>MINOR AMENDMENTS TO ADDRESS OPERATIONAL ISSUES |
| REPORT FROM:  | DIRECTOR OF PLANNING AND DEVELOPMENT                                                             |
| FILE NUMBER:  | FILE 12/1842                                                                                     |

**SUMMARY:**

This report recommends adoption of an amendment to the recently adopted Planning Proposal to address issues that have arisen during the initial period of operation of *Moree Plains Local Environmental Plan (LEP) 2011*. This additional item is the inclusion of land to the west of the Gateway Precinct. It is proposed that this land be included in a revised proposal, for rezoning from B6 (Enterprise Corridor) to R1 (General Residential).

The subject land is shown at **Appendix 8**, obstacle limitation surface plan at **Appendix 9**, approved Gateway subdivision plan at **Appendix 10**, existing zoning plan from *Moree Plains LEP 2011* at **Appendix 11** and proposed zoning plan at **Appendix 12**.

Key issues with the amendment to the Planning Proposal are:

- To facilitate additional residential development which is a logical extension of existing development in Amaroo
- To address acoustic issues associated with the Moree Airport.

The amendment to the Planning Proposal is recommended for adoption.

**13/10/34 RESOLVED (PRICE/VON DREHNEN):**

That Council:

1. Amend the adopted Planning Proposal for minor amendments to *Moree Plains LEP 2011* to include the land at Appendix 1 as Residential 1 land and forward the revised Proposal to the Department of Planning and Infrastructure with a request for a Gateway Determination.
2. Delegate to the General Manager any necessary amendments required to the Planning Proposal as a result of Council's resolution, considerations by the Department of Planning and Infrastructure or as a result of the Gateway Determination.

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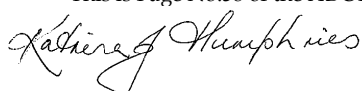
**FOR: Councillors Humphries, Price, Gall, Tramby, Munn, von Drehnen and Cikota.**

**AGAINST: Nil.**

---

**REPORT**

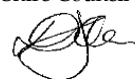
This is Page No.58 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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## **BACKGROUND:**

As part of development of the Gateway Precinct a Masterplan was prepared and an associated subdivision proposal approved by the Joint Regional Planning Panel (JRPP). As a consequence of this approval, a residual portion of B6 Enterprise Corridor land would be created. This residual portion adjoins land in the Residential 1 zoning. The proposal would effectively "fine tune" the boundary between residential and enterprise corridor land to accord with the recent subdivision boundaries.

The area is affected by the Australian Noise Exposure Forecast (ANEF) contour mapping surrounding Moree Airport. This is shown at **Appendix 9**. Revised ANEF contour mapping is currently in preparation reflecting more recent patterns of use of Moree Airport. These include the use of quieter aircraft than the model aircraft for the original ANEF contours. The land is, however, acceptable for residential development under the current contours. In this regard it should be noted that the contours are as a result of (predominantly) route services, which have a relatively low frequency of operation and are at predictable times. Experience has shown in a range of rural communities that these operations caused minimal issues for nearby residential areas.

Although there is a reasonable amount of general aviation associated with Moree Airport, this consists of lighter aircraft and again the frequency of use is such that little disturbance occurs.

It should also be noted that the land would have a lower exposure than some other residential zoned areas.

## **COMMUNITY IMPLICATIONS:**

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

### **S3. Sustainable services and facilities provided to residents, businesses, community groups and visitors**

The amended planning proposal would enable additional residential facilities.

## **ECONOMIC IMPLICATIONS:**

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

### **VE1. A resilient and diverse economy, with job availability for all resident requirements**

The proposal would have a positive outcome in that it would facilitate the development of a small additional flood-free residential area which would support the local economy.

## **ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

## **LEADERSHIP / LEGAL IMPLICATIONS:**

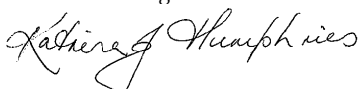
This proposal will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

### **L4. Provision of efficient and cost-effective services by Council to the Moree Plains Shire community**

The proposal would make effective use of existing urban infrastructure.

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

No significant financial/operational implications have been identified.



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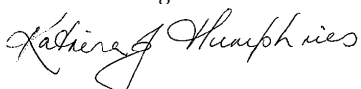
**GENERAL MANAGER**

# APPENDIX 8

## Report 3

### LOCALITY PLAN

This is Page No.61 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



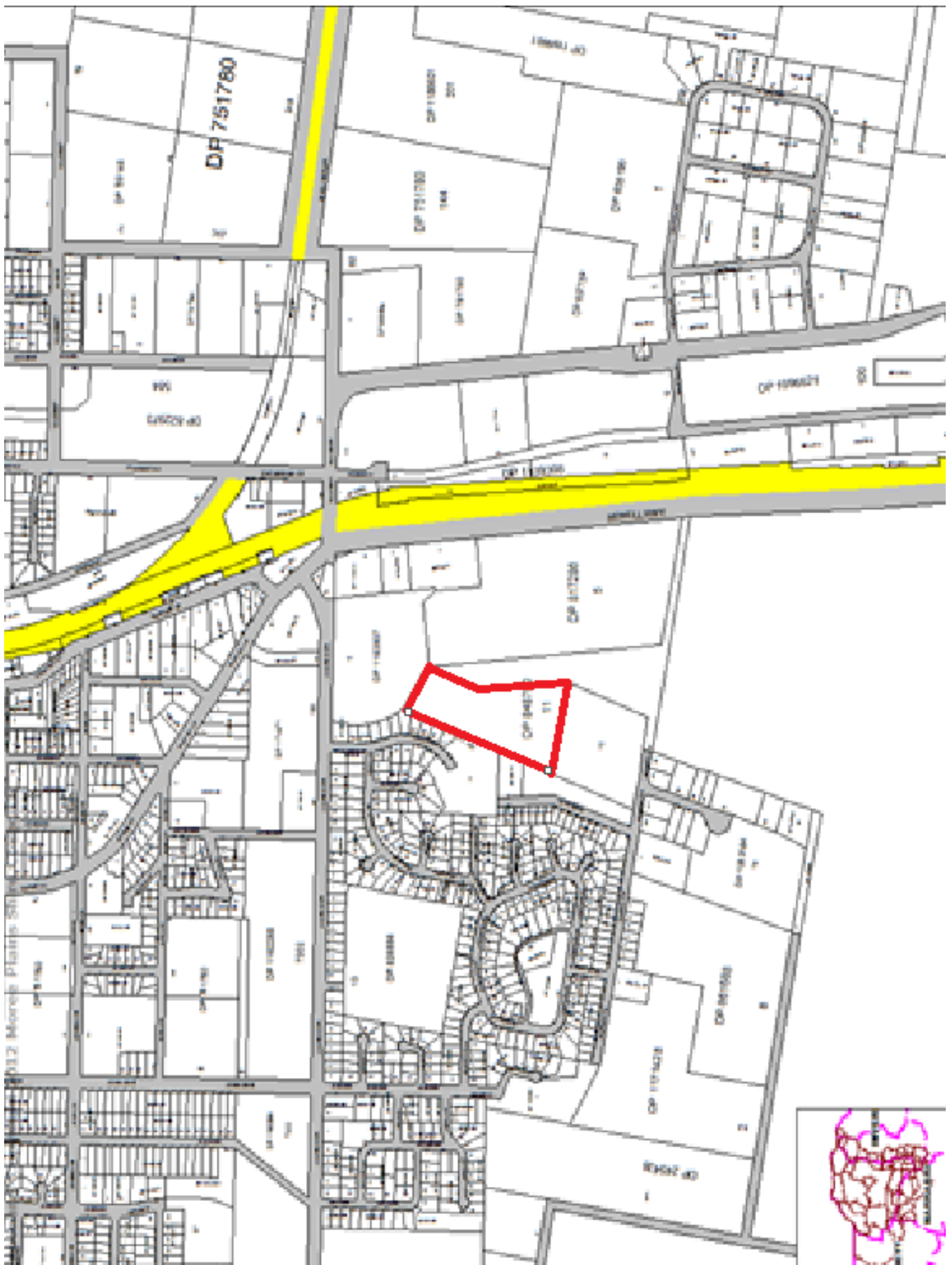
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*Katharine Humphries*

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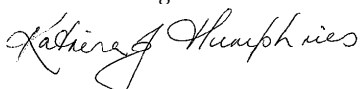
GENERAL MANAGER

# APPENDIX 9

## Report 3

### OBSTACLE LIMITATION SURFACE PLAN

This is Page No.63 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



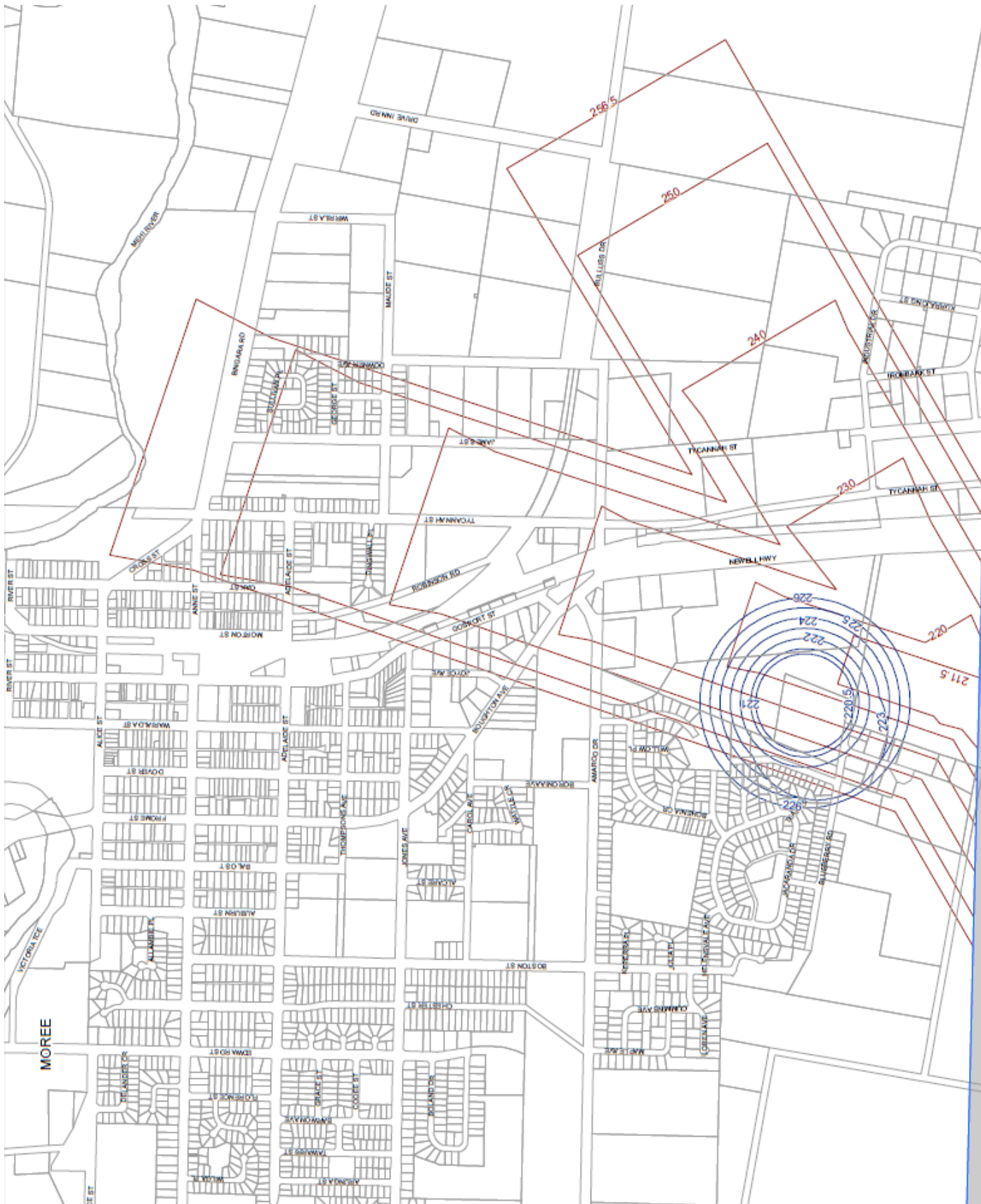
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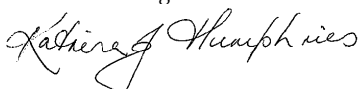
# APPENDIX 10

## Report 3

**APPROVED SUBDIVISION PLAN DA2013/3 (GATEWAY PROJECT)**

**LOT 25 IS THE RESIDUE ALLOTMENT**

This is Page No.65 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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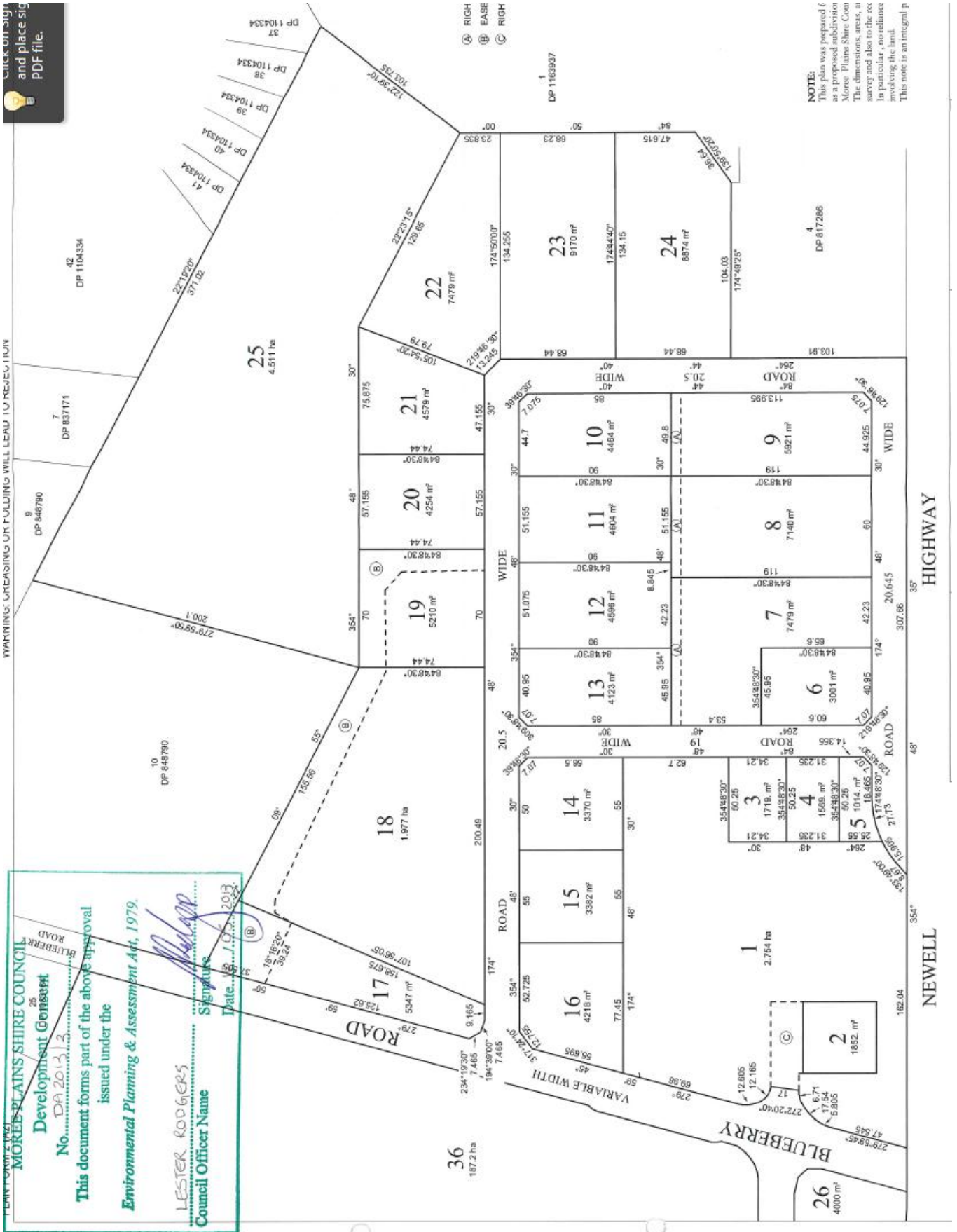


GENERAL MANAGER



WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

**MORE PLAINS SHIRE COUNCIL**  
**Development Consent**  
No. **DA 2013/3**  
**This document forms part of the above approval issued under the**  
**Environmental Planning & Assessment Act, 1979.**  
**LESTER RODGERS**  
Council Officer Name  
**Signature**  
Date **10/10/2013**



This is Page No.66 of the ADOPTED minutes of the ORDINARY MEETING of the More Plains Shire Council held on

*Katharine Humphries*

24 October 2013

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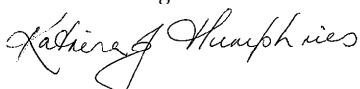
GENERAL MANAGER

# APPENDIX 11

## Report 3

### EXISTING ZONINGS – MOREE PLAINS LEP 2011 MAP LZN 4BA

This is Page No.67 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



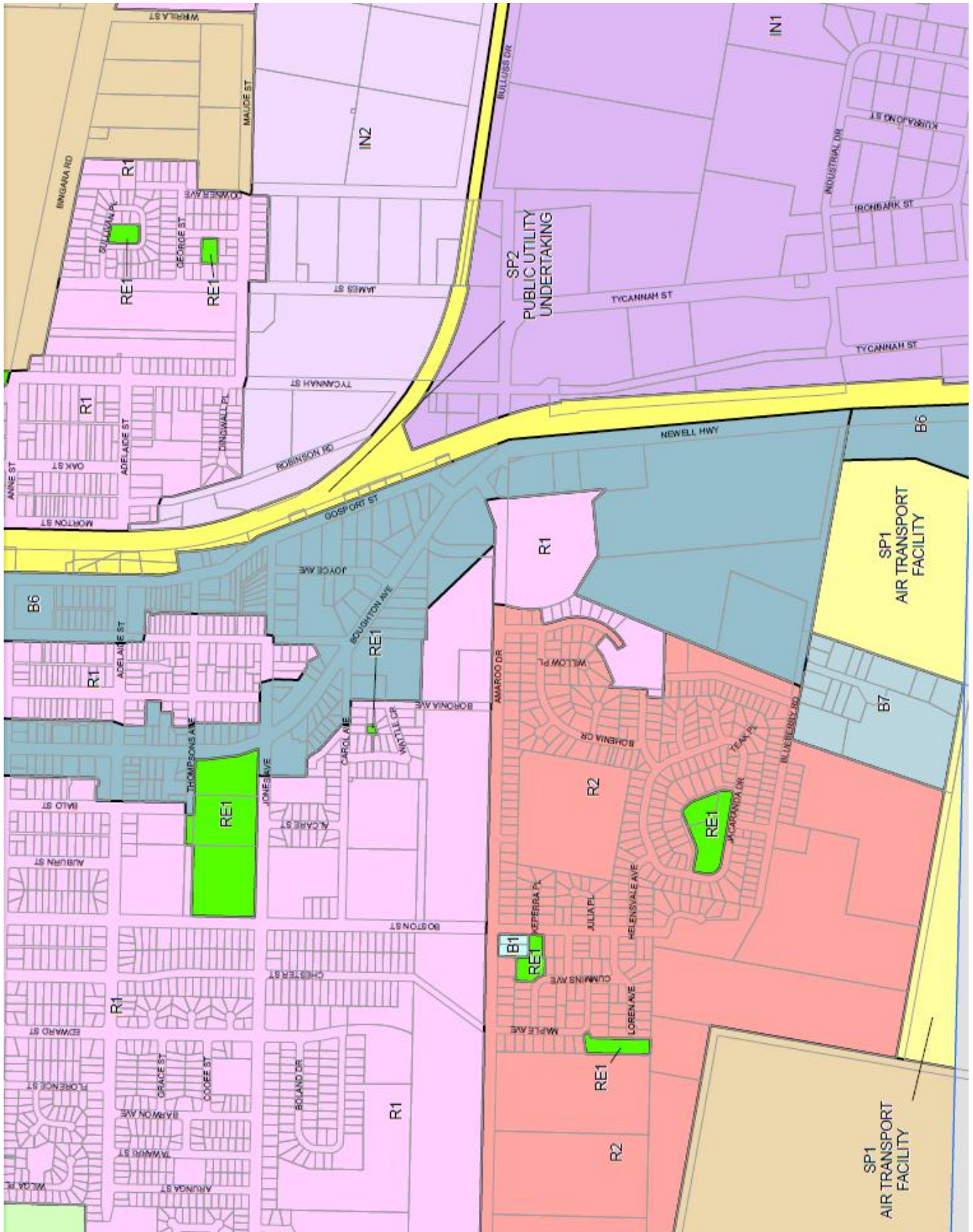
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*Kathryn Humphries*

24 October 2013

*[Signature]*

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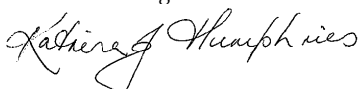
GENERAL MANAGER

# APPENDIX 12

## Report 3

### PROPOSED NEW ZONING PLAN FEATURING EXTENSION OF THE R2 LOW DENSITY RESIDENTIAL ZONE

This is Page No.69 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



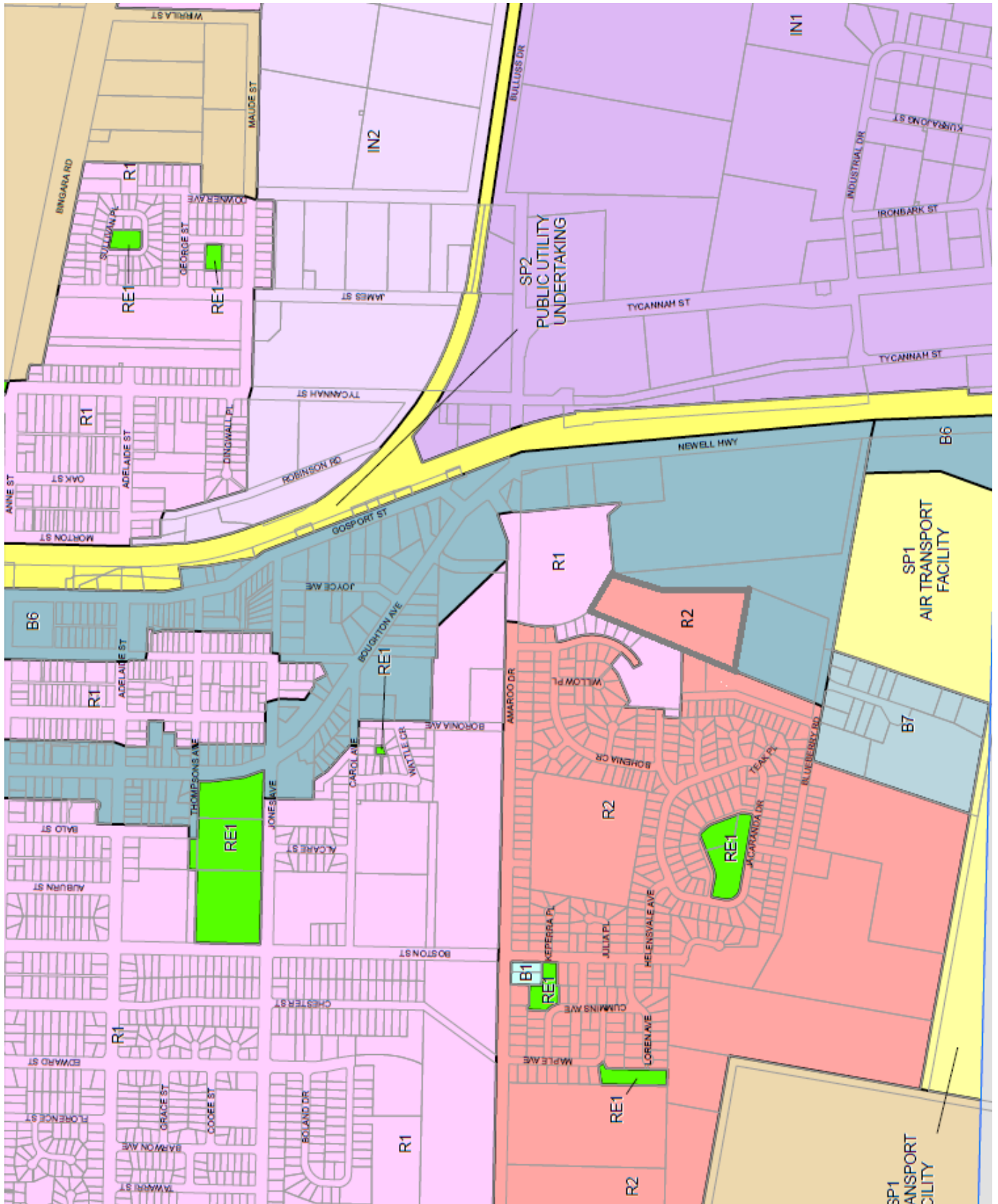
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24 October 2013

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|               |                                                                                                                                                                                                                          |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 4. SECTION 96(1A) MODIFICATION TO DEVELOPMENT APPLICATION DA2013/9 FOR THE DEMOLITION OF PART OF EXISTING DWELLING AND ALTERATIONS AND ADDITIONS TO EXISTING DWELLING ON LOT 11 DP 238789, 11 KARINGAL PLACE, MOREE 2400 |
| REPORT FROM:  | DIRECTOR OF PLANNING AND DEVELOPMENT                                                                                                                                                                                     |
| FILE NUMBER:  | DA2013/9                                                                                                                                                                                                                 |

## SUMMARY:

The purpose of this report is to seek a decision from Council on a Section 96(1A) Development Application (DA2013/9/2) to modify the development consent (DA2013/9) for demolition of part of existing dwelling and alterations and additions to an existing dwelling on Lot 11 DP 238789, 11 Karingal Place, Moree.

The land is zoned R2 (Low Density Residential) under the *Moree Plains Local Environmental Plan (LEP) 2011*. The proposal is permissible with the consent of Council.

A locality plan is attached as **Appendix 13**, the proposed site plan as **Appendix 14**, building elevations as **Appendix 15** and the image of a neighbouring porte-cochere/carport at 15 Karingal Place as **Appendix 16**.

The owner and applicant for the proposal are Simon and Kylie Smith of 11 Karingal Place, Moree NSW 2400.

Council determination of the proposal is sought due to a non-compliance with residential development guidelines in Council's *Development Control Plan (DCP) 2013*.

The proposal is recommended for condition approval.

## 13/10/35 RESOLVED (GALL/VON DREHNEN):

That Council resolves to approve Section 96(1A) application (DA2013/9/2) to modify the development consent (DA2013/9) for demolition of part of existing dwelling and alterations and additions to an existing dwelling on Lot 11 DP 238789, 11 Karingal Place, Moree subject to the following conditions:

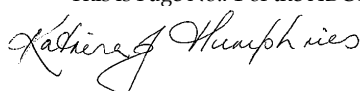
### General Conditions

1. This consent will be void if not physically commenced within five (5) years from the date of approval.

**Reason:** To ensure that the development is commenced within a satisfactory time frame.

2. The development is to be undertaken to the satisfaction of Council and in conformity with the *Environmental Planning and Assessment Act 1979, the Local Government Act*

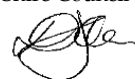
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1993, appropriate Australian Standards, Environmental Planning Instruments where applicable, the application made, endorsements and markings of the identified plans listed in the table below and specification attached, except as modified by the following conditions:

| DRAWING NO'S | REVISION | DRAWN BY                     | DATE        |
|--------------|----------|------------------------------|-------------|
| SS.01        |          | Gary Bergin Drafting Service | August-2013 |
| SS.03        |          | Gary Bergin Drafting Service | August-2013 |
| SS.04        |          | Gary Bergin Drafting Service | August-2013 |
| SS.05        |          | Gary Bergin Drafting Service | August-2013 |
| SS.06        |          | Gary Bergin Drafting Service | August 2013 |
| SS.1         |          | Gary Bergin Drafting Service | August 2013 |
| SS.2         |          | Gary Bergin Drafting Service | August 2013 |

**Reason:** To confirm and clarify the terms of Council's approval.

3. All building and plumbing work must be carried out in accordance with the provisions of The National Construction Code Series (NCC) and any Australian Standards adopted there under.

**Reason:** To ensure compliance with the provisions of The National Construction Code Series (NCC) and associated Australian Standards.

4. The building work is to be certified by a structural engineer stating that it is able to withstand flood velocities for that area. All materials below the 1% AEP flood event are to comply with the NSW Flood Manual and *Moree Plains Shire Council Development Control Plan 2008*.

**Reason:** To protect the occupants from the danger of flooding.

5. All new hot water installations shall deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes, at a temperature not exceeding 50°C and is to comply with AS3500.4.

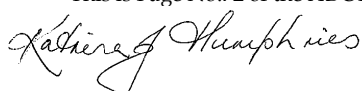
**Reason:** To prevent scalding of users of the fixtures.

6. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

**Reason:** To ensure compliance with the approved development.

7. Consent is granted for the demolition of Part of Existing Dwelling currently existing on the property, subject to strict compliance with the following conditions:

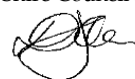
This is Page No.72 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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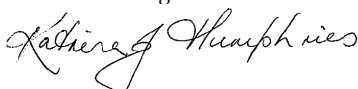
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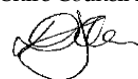
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to Council/Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by Council/Certifying Authority:
  - (i) A pre commencement inspection when all the site works are installed on the site and prior to demolition commencing.
  - (ii) A final inspection when the demolition works have been completed.
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) Demolition is to be carried out in accordance with the relevant provisions of AS 2601:2001: Demolition of structures.
- f) The hours of demolition work are limited to between 7:00am and 5.30pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- g) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales (NSW) and the Department of Environment and Climate Change NSW.
- h) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- i) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles.
- j) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- k) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- l) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.



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- m) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- n) Prior to demolition, a Work Plan must be prepared and submitted to Council/Certifying Authority in accordance with the relevant provisions of AS 2601:2001 Demolition of structures by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- o) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
  - (i) A WorkCover licensed contractor must undertake removal of all asbestos.
  - (ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a visible position on the site to the satisfaction of Council.
  - (iii) Waste disposal receipts must be provided to Council/Certifying Authority as proof of correct disposal of asbestos laden waste.
  - (iv) Removal and disposal of asbestos MUST be carried out in accordance with Council's asbestos policy and NSW WorkCover Legislation.
  - (v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

**Reason:** To ensure responsible disposal of waste material and to ensure the health and safety of the community and workers on the site.

- 8. The applicant must ensure that the development will not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems that connect to Council's storm water system.

**Reason:** To ensure appropriate disposal of storm water from the site.

#### **Prior to Issue of Construction Certificate**

- 9. Pursuant to section 94A(1) of the *Environmental Planning and Assessment Act 1979*, and the Moree Plains Development Contributions Plan, a levy of \$988.45 shall be paid to Council in respect of the development being 0.5% of the cost of carrying out the development as determined by the Council in accordance with Act and Regulations.

The amount to be paid is to be adjusted at the time of payment, in accordance with the provisions of the *Moree Plains Development Contributions Plan 2006* and the Regulation.

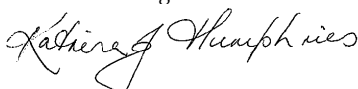
The contribution is to be paid prior to the issue of a Construction Certificate.

**Reason:** To ensure the provision of community facilities and services pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*

- 10. Building work that involves residential building work (within the meaning and exemptions provided in the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- a) In the case of work to be done by a licensee under that Act:

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- (i) Has been informed in writing of the licensee's name and contractor licence number, and
  - (ii) Is satisfied that the licensee has complied with the requirements of the Home Building Act, or
  - b) In the case of work to be done by any other person:
    - (i) Has been informed in writing of the person's name and owner-builder permit number, or
    - (ii) Has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was Gazetted, that amount was \$5,000. As those regulations are amended from time to time, that amount may vary.*
- c) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
  - d) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

**Reason:** Statutory requirement.

### **Prior to Work Commencing**

- 11. A Construction Certificate issued by the principal certifying authority is to be deposited with Council at least 48 hours prior to the commencement of any earthworks, engineering or building work on the site.

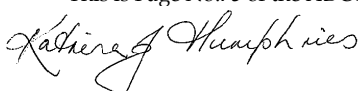
**Reason:** To confirm and clarify the terms of Council's approval.

- 12. Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the development consent.

**Reason:** Statutory requirement.

- 13. The proposed structure/s are to be located clear of existing Council easements. Special footings will be required where the proposed/existing structures are adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing

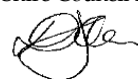
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drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary.

The footing system is to be designed by a practising professional structural engineer. The location and depth of the Council easement and sewer and / or stormwater lines are to be confirmed with Council's Water and Waste Department prior to commencement of works.

Reason: To protect Council infrastructure.

## **During Construction**

14. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a) Stating that unauthorised entry to the work site is prohibited,
  - b) Showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours;
  - c) Showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

Reason: Statutory requirement.

15. Should Aboriginal relics be discovered work shall cease immediately and application be made for consent for Destroy and Care and Control Permits under the provisions of the *NSW National Parks and Wildlife Act 1974*. Any applications for permits shall be supported by written documentation from the Local Aboriginal Land Council demonstrating appropriate consultation.

Reason: To ensure compliance with the *NSW National Parks and Wildlife Act 1974* and protection of Aboriginal relics.

16. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.

17. a) If the work involved in the erection or demolition of a building:
- (i) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (ii) Building involves the enclosure of a public place.

A hoarding and site fencing must be erected between the work site and the public place and be contained within the site boundary unless prior permission has been obtained in writing from Council.

- b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d) Any such hoarding, fence or awning is to be removed when the work has been completed.
- e) No access across public reserves or parks is permitted.

**Reason:** To ensure public safety and the proper management of public land.

18. All building construction works are to be carried out during the following hours:

- a) Between Monday to Friday (inclusive) – 7am to 6pm,
- b) On a Saturday – 8am to 1pm.

Building construction must not be carried out on a Sunday or a public holiday.

**Reason:** To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

#### **Prior to Issue of Occupation Certificate**

19. A Final Occupation Certificate must be issued by the principal certifying authority before the building is used or occupied. The Final Occupation Certificate shall not be issued until such time as all relevant conditions of the development consent have been complied with and the requirements of any BASIX certificate issued in relation to the development have been fully complied.

**Reason:** To ensure the requirements of the *Environmental Planning and Assessment Act 1979* are satisfied.

20. Builder's sheds, waste containers and building materials must be stored wholly within the site during the construction phase. All waste must be appropriately disposed of to Moree's waste management facility and temporary building structures removed before the issuing of the Final Occupation Certificate.

**Reason:** To ensure that public places and road reserves are not obstructed.

21. All excess roof water is to be conveyed to Council's stormwater drainage infrastructure by means of storm water drainage piping which has been sized in accordance with AS3500. In instances where it is impractical to dispose of roof water to Council's stormwater drainage infrastructure an alternative design shall be submitted to and approved of by Council's Engineering Department prior to the issue of a Construction Certificate.

The applicant shall implement suitable means of storm water disposal in accordance with this condition prior to the issue of a Final Occupation Certificate.

**Reason:** To ensure disposal of roof water without causing a nuisance.

22. The applicant must make provision for a driveway across the public footpath. The driveway shall be constructed using concrete in accordance with Council's Vehicular Crossing (Driveway) Policy.

All works shall be completed prior to the issue of a Final Occupation Certificate.

Reason: To ensure compliance with accepted standards.

23. The licensed contractor who is responsible for all sanitary drainage works shall submit (on the required form) to Council a copy of the drainage diagram for all drains installed showing:

- a) The level of the drain in relation to the sewer main junction and the finished ground level,
- b) The distances from the drains to the nearest boundaries of, and buildings on the premises.

The requirements of this condition shall be satisfied prior to the issue of a Final Occupation Certificate.

Reason: To ensure compliance with the Local Government (General) Regulation 2005.

24. Any necessary alterations to, or relocations of, utility services must be carried out at no cost to the council or the relevant public authority.

All works shall be completed prior to the issue of a Final Occupation Certificate.

Reason: To ensure costs associated with the development are not transferred to the public.

25. All electrical wiring, power outlets and switches must be located above the 1% flood event. Alternatively, precautions are to be taken to ensure protection of all electrical equipment and wiring in a 1% flood event. A compliance certificate supplied by a qualified person is to be provided for the above prior to the issuance of a Final Occupation Certificate.

Reason: To ensure safety and to minimise electrical damage to the dwelling in a flood event.

26. Upon completion of works and prior to occupation, the person entitled to act on this consent shall provide to Council the following information;

- a) The total tonnage of all waste and excavated material disposed of from the site,
- b) The disposal points and methods used,
- c) A copy of all disposal receipts are to be provided.

Reason: To ensure responsible disposal of waste material.

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FOR: Councillors Humphries, Price, Gall, Tramby, Munn, von Drehnen and Cikota.

AGAINST: Nil.

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# REPORT

## BACKGROUND:

The proposal involves a Section 96(1A) Development Application (DA2013/9/2) to modify the development consent (DA2013/9) for demolition of part of existing dwelling and alterations and additions to an existing dwelling on Lot 11 DP 238789, 11 Karingal Place, Moree. The modification proposes the addition of a porte-cochere/carport to the front of the dwelling.

## Assessment of the Application

The assessment of this Application has been undertaken in accordance with Section 79C (1) of the *Environmental Planning and Assessment Act 1979*, as amended. Under Section 79C(1), a Consent Authority is required to take into consideration various matters that are of relevance when assessing any Development Application, as discussed in turn below:

## Moree Plains Local Environmental Plan (LEP) 2011

### *Land Use Table*

The land is zoned R2 (Low Density Residential) under Moree Plains LEP 2011. The zone has the following objectives:

- *To provide for the housing needs of the community within a low density residential environment*

The proposal involves additions and alterations to an existing single dwelling.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposal consists of additions and alterations to an existing dwelling and does not involve other land uses or the provision of facilities or services.

## State Environmental Planning Policies (Exempt and Complying Development Codes) 2008

### *Part 3 General Housing Code*

In accordance with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*:

- (1) *A dwelling house and all ancillary development on a lot must have a setback from the boundary with a primary road that is not a classified road of at least:*

- (b) (iii) **6.5m**, if the lot has an area of at least 900m<sup>2</sup> but less than 1500m<sup>2</sup>.

The proposed development departs from the front setback provisions of the SEPP 2008, in so far as it proposes a 5m front setback, therefore a performance based assessment is required.

## Development Control Plans

### *Moree Development Control Plan (DCP) 2013*

#### Chapter 3 – Residential Development

This section of the DCP contains residential development controls specific to Moree Plains Shire.

#### **Aims:**

1. To minimise impacts of adjoining properties,
2. To maintain streetscape.

The porte-cochere/carport has been proposed to be built with a 5m setback from the front boundary. In accordance with Table 3.2 of the DCP 2013, the setbacks for residential development in R2 require the building to be set back 8m or the average of the adjoining dwellings, whichever is the lesser, which in this case is the 8m setback.

The proposed development departs from the front setback provisions of the DCP 2013, in so far as it proposes a 5m front setback, therefore a performance based assessment is required.

#### ***Performance Outcomes:***

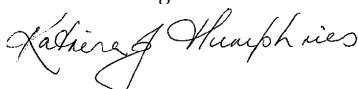
1. To maintain streetscape, setbacks which are consistent with existing development.

#### ***Performance based considerations for DA2013/9, Lot 11 DP 238789, 11 Karingal Place, Moree:***

1. The proposal is an open structure connected to the existing dwelling through a common ceiling and roof supported by two 200mm square posts. As a result of having no walls the structure does not visually intrude into the setback area
2. The materials proposed to be used complement the existing structure and appear as an extension of the existing dwelling.
3. The proposed structure does not dominate the dwelling facade and is sympathetic to the streetscape in terms of size and style.
4. A similar porte-cochere/carport exists at another property in the street which is within the front setback.
5. The lot is located in a cul-de-sac, which has created a narrow street frontage minimising the availability of access to the lot and limits the potential for development within the site.
6. It is considered that this property does not detract from the streetscape due to its open nature and good design.
7. Adjoining owners have been notified and no submissions against the proposal have been received

Based on the above performance based assessment it is considered that the proposed development complies with the performance outcomes of DCP 2013.

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**COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

**ECONOMIC IMPLICATIONS:**

No significant economic implications have been identified.

**ENVIRONMENT IMPLICATIONS:**

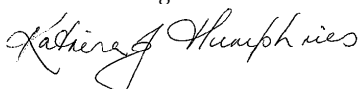
No significant environmental implications have been identified.

**LEADERSHIP / LEGAL IMPLICATIONS:**

No significant leadership/legal implications have been identified.

**FINANCIAL / OPERATIONAL PLAN IMPLICATIONS:**

No significant financial/operation plan implications have been identified.



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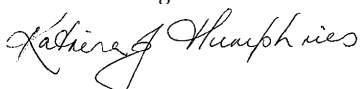
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# APPENDIX 13

## Report 4

### LOCALITY PLAN

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DP 1165010  
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DP 116  
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Kathryn J. Humphries



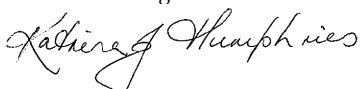
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# APPENDIX 14

## Report 4

### SITE PLAN

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| SPECIFICATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |           |             |  |     |      |             |   |           |  |   |  |  |   |  |  |   |  |  |   |  |  |
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| <p><b>GENERAL:</b> All work to comply with Building Code of Australia and Local Government requirements. Builder to obtain all Certificates, pay all fees and obtain relevant permits.</p> <p><b>INSURANCES:</b> All works to be insured by the Builder including Fire, Public Risk and Workers Compensation or any Act amending same.</p> <p><b>SET OUT:</b> The Builder is to set out and maintain the works in accordance with the drawings.</p> <p><b>LABOUR AND MATERIALS:</b> The Builder is to provide all labour, materials, plant and fittings required to complete the works. All work to be new or of the standard specified.</p> <p><b>VISIT THE SITE:</b> Contractors are to visit the site and satisfy themselves to the nature and extent of the work.</p> <p><b>EXCAVATION:</b> The Builder is to excavate, fill and generally prepare the site as required. Remove all trees, stumps and roots. All surface run-off water is to be directed away from the building.</p> <p><b>DRAINAGE:</b> All work is to be carried out to the rules of local Council, the Water Supply Authorities and Sewerage Authorities.</p> <p><b>DRAINS:</b> Provide and lay pipes of approved manufacture and sizes required with all necessary junctions, elbows, bends, wyes, etc., required.</p> <p><b>CONCRETE:</b> The whole of the concrete work to conform with the AS3600 and be of M20 grade. Refer to Engineers structural drawing and specifications.</p> <p><b>TERRACE PROTECTION:</b> Provide kerb/curb protection in accordance with AS3600 and Certification of method used.</p> <p><b>BRICKLAYER:</b> Brickwork/Blockwork shall be plumb and in level courses built in mortar and carried to the various heights required, complete with copings, stringers, etc. etc. as per AS3700.</p> <p><b>CARPENTER:</b> Timber shall comply with the provisions of the Timber Framing Code AS1684 and be of the cross species. Sizes of timber for construction purposes to comply with national standards.</p> <p><b>STEEL FRAMING:</b> All steelwork shall be manufactured from galvanneal steel conforming to AS1397.</p> <p><b>ROOF FRAMING:</b> Provide and securely fix approved Timber/Steel Roof Trusses or Rafters in accordance with the Manufacturers Specifications.</p> <p><b>JOINER:</b> All joinery and linings to be of approved softwood, dressed all round, accurately cut and securely fixed and finished, smooth ready for the painter.</p> <p><b>DOORS:</b> Doors to all openings, as shown, fitted with necessary hinges, locks and furniture.</p> <p><b>WINDOWS:</b> Fit windows, as shown on plan and in accordance with manufacturers specifications and AS1286.</p> <p><b>CABINET MAKER:</b> Provide built-in items indicated on the drawings, all constructed in accordance with good current trade practice. Firms with approved dressed softwood, all finishes flush, doors of solid timber, drawers and doors to be fitted with appropriate selected cupboard catches, latches, etc.</p> <p><b>ROOFER:</b> The whole of the roof shall be sheathed with steel roofing, (or that where specified), in single lengths, fixed in accordance with the manufacturers specifications and complete with sarking.</p> <p><b>PLASTERER:</b> Line with 10mm plasterboard generally, fixed in accordance with manufacturers specifications, provide 6mm Vitraboard or equal to all walls in wet areas.</p> <p><b>ELECTRICIAN:</b> All works shall be carried out in accordance with the requirements of the National Electrical Code of Australia. Supply Authority. Arrange for connection from mains to meter boards. Provide light points, power points and connection of all appliances. Smoke Detectors/Alarms installed in accordance with AS3785.</p> <p><b>TILELAYER:</b> The walls and floors with tiles selected by the Owner. For guidance on installation see recommendations as set out in AS3965.</p> |           |             |  |     |      |             |   |           |  |   |  |  |   |  |  |   |  |  |   |  |  |
| <p><b>PLUMBER:</b> All sanitary and water plumbing shall be in accordance with the regulations and requirements of the National Plumbing Code of Australia. Supply all materials, fittings etc. necessary for the proper completion of the work in accordance with regulations and practices.</p> <p><b>RAINWATER STORAGE TANK:</b> Install tanks of selected materials.</p> <p><b>PAINTER:</b> All points and stains shall be first quality, of approved brand, and shall be applied in accordance with manufacturers instructions.</p> <p><b>COMPLETION:</b> The building shall be completed in every trade. Sashes, locks and all other equipment shall be checked and left in a satisfactory operating condition. All paint, surplus materials and debris shall be removed from the site and the site left clean and fit for occupation. Arrange all final inspection and supply all certifications.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |           |             |  |     |      |             |   |           |  |   |  |  |   |  |  |   |  |  |   |  |  |
| <p><b>BASIC SUMMARY</b></p> <p>FLOOR AREAS - 232 SQ.M.</p> <p>TOTAL FLOOR AREA - 232 SQ.M.</p> <p>WATER COMMITMENTS - N/A</p> <p>RAINWATER TANK - N/A</p> <p>ENERGY COMMITMENTS - N/A</p> <p>HOT WATER - N/A</p> <p>GAS INSTANTANEOUS - N/A</p> <p>AIRCITIONAL LIGHTING - N/A</p> <p>MINIMUM OF 40% NEW/ALTERED FITTED WITH FLUORESCENT, COMPACT FLUORESCENT OR LIGHT EMITTING DIODE LAMPS</p> <p>FIXTURES - N/A</p> <p>SHOWERS/TOILETS &amp; TAPS - MIN. 3 STAR WATER RATING</p> <p>THERMAL REQUIREMENTS - N/A</p> <p>ADDITIONAL INSULATION REQUIRED (R-VALUE) - N/A</p> <p>FLOOR - N/A</p> <p>CONCRETE SLAB - NIL</p> <p>FLAT CEILING, PITCHED ROOF - N/A</p> <p>CEILING: R1.95 (UP), ROOF: 55mm POLY BACKED BLANKET</p> <p>EXTERNAL WALL BRICK VENER - N/A</p> <p>R1.56 (OR 2.10 INCLUDING CONSTRUCTION)</p> <p>WINDOWS/GLAZED DOORS - N/A</p> <p>TYPE - W1 STANDARD ALUMINIUM</p> <p>SINGLE PROXYLIC LOW E - N/A</p> <p>W2 TO W6 STANDARD ALUMINIUM, SINGLE CLEAR</p> <p>EWMS/VERANDAH SHOWN ON PLAN</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |           |             |  |     |      |             |   |           |  |   |  |  |   |  |  |   |  |  |   |  |  |
| <p><b>CLIENT</b> S SMITH 11 KARINDAL PLACE, MOREE NSW, 2400</p> <p><b>PROJECT</b> PROPOSED ADDITIONS AND ALTERATIONS</p> <p><b>DRAWING TITLE</b> SITE PLAN</p> <p><b>SCALE @ A3</b> 1:200</p> <p><b>DATE</b> JANUARY 2013</p> <p><b>PROJECT REF:</b> SSMITH/2012</p> <p><b>DRAWING NO.</b> SS.01</p> <p><b>REVISION</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>JULY 2013</td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td></td> </tr> </tbody> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |           |             |  | NO. | DATE | DESCRIPTION | 1 | JULY 2013 |  | 2 |  |  | 3 |  |  | 4 |  |  | 5 |  |  |
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**KARINDAL PLACE**

19.455

5.77

35.78

36.575

37.49

ABT.1100

ABT.5000

ABT.9500

ABT.3000

ABT.6300

PROPOSED PORT-COCHERE

EXISTING RESIDENCE

PROPOSED PORCH ADDITION

PROPOSED VERANDAH ADDITION

LOT 11 DP 238789

*Kathleen Humphries*

24 October 2013

*[Signature]*

MAYOR

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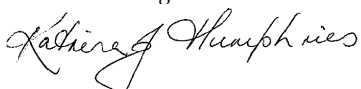
GENERAL MANAGER

# APPENDIX 15

## Report 4

### ELEVATIONS

This is Page No.86 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



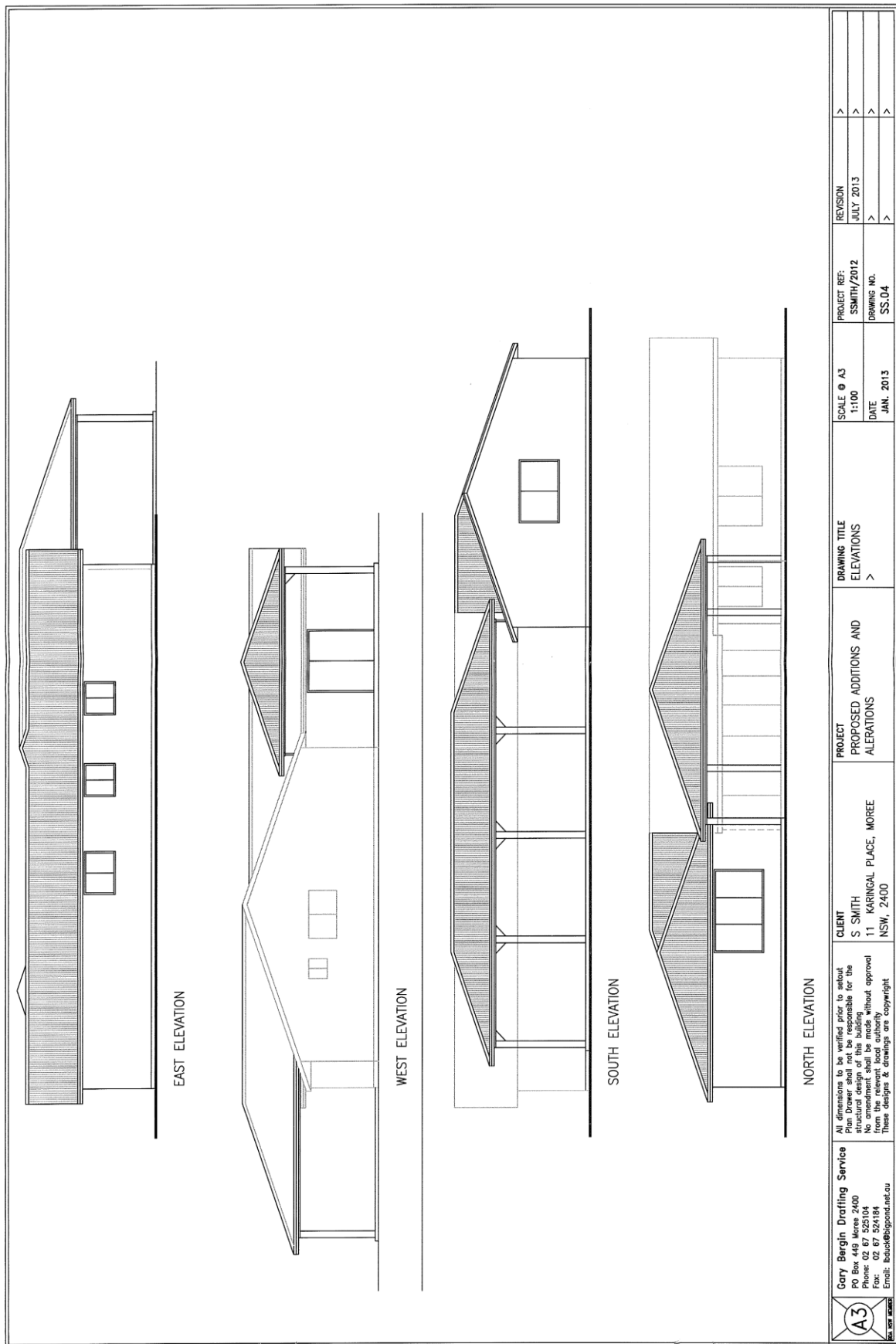
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GENERAL MANAGER



|                                                                                       |                                                                                                                                           |  |                                                                                                                                                                                                                                                            |  |                                                                   |                                                         |                                         |                                                        |                                                                   |                                             |             |
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|  | <b>Gary Bergin Drafting Service</b><br>PO Box 449 Moree 2400<br>Phone: 02 67 525104<br>Fax: 02 67 524184<br>Email: hbaucke@bigpond.net.au |  | All dimensions to be verified prior to submit.<br>Plan Drawer shall not be responsible for the<br>accuracy of the drawings.<br>No amendment shall be made without approval<br>from the relevant local authority.<br>These designs & drawings are copyright |  | <b>CLIENT</b><br>S SMITH<br>11 KARINGAL PLACE, MOREE<br>NSW, 2400 | <b>PROJECT</b><br>PROPOSED ADDITIONS AND<br>ALTERATIONS | <b>DRAWING TITLE</b><br>ELEVATIONS<br>> | <b>SCALE</b> @ A3<br>1:100<br><b>DATE</b><br>JAN. 2013 | <b>PROJECT REF:</b><br>SSMITH/2012<br><b>DRAWING NO.</b><br>SS.04 | <b>REVISION</b><br>JULY 2013<br>><br>><br>> | ><br>><br>> |
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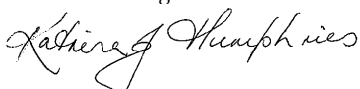
# APPENDIX 16

## Report 4

**15 KARINGAL PLACE**

**PORTE-COCHERE/CARPORT**

This is Page No.88 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



**MAYOR**

24 October 2013

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**GENERAL MANAGER**



This is Page No.89 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on

*Katharine Humphries*

MAYOR

24 October 2013

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*[Signature]*

GENERAL MANAGER

|               |                                         |
|---------------|-----------------------------------------|
| REPORT TITLE: | 5. FLOODPLAIN RISK MANAGEMENT COMMITTEE |
| REPORT FROM:  | DIRECTOR OF ENGINEERING                 |
| FILE NUMBER:  | FILE 13/1189                            |

## SUMMARY:

The establishment of a Floodplain Risk Management Committee is the first formal step in the Floodplain Risk Management process as defined in the NSW Floodplain Development Manual.

Council has previously resolved to advertise for expressions of interest for community representatives to join the committee. Two community members have expressed such an interest. Three community members are required on this committee as per the adopted Terms of Reference for the Floodplain Risk Management Committee.

### 13/0/36 RESOLVED (PRICE/MUNN):

That Council:

1. Accept the two (2) expressions of interest received to join the Floodplain Risk Management Committee.
2. Seek another representative as per the terms of reference for the Moree Floodplain Risk Management Committee.

## REPORT

### BACKGROUND:

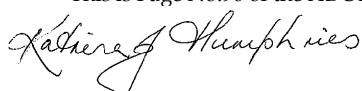
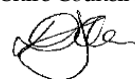
Council has previously established a Floodplain Risk Management Committee and has recently resolved to re-establish the committee in accordance with the guidelines contained in the NSW Floodplain Development Manual.

Council at its meeting on 8 August 2013 resolved the following:

13/08/09 RESOLVED (TRAMBY/BRAZEL):

That:

1. Council adopt the proposed Terms of Reference for the Floodplain Risk Management Committee.
2. Councillor John Tramby and Councillor Katrina Humphries be appointed to the committee for the remainder of Council's current term and that Councillor Theo Tzannes be nominated as an alternative.

3. *Advertisements be placed calling for nomination of community representatives to the committee and a further report be submitted to Council to consider the appointment of community representatives following receipt of those nominations.*

Expressions of interest were advertised in the *Moree Champion*, *Mungindi Matters*, Council's Facebook sites and the Moree Plains Shire Council website. Two community members being, Paul Covell (SMK) and Jeff Fing (Moree Plains Shire Council Staff Member), have expressed interest in joining the committee.

In accordance with the adopted Terms of Reference Council are to have three (3) community representatives as committee members. There is still one place left for one community member to join this committee. The Terms of Reference are attached for information.

It may be necessary to convene a meeting of the committee prior to the appointment of a third community representative but this will not be out of order as long as a quorum is present in accordance with the terms of reference.

### **COMMUNITY IMPLICATIONS:**

The establishment of the Floodplain Risk Management Committee will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

**S1. Our community is a safe place**

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

A Floodplain Risk Management Committee would contribute to the overall safety of the Moree Plains Shire community and visitors in the event of a flood crisis. It would also assist in decision making process so that the community and key organisations can be as prepared as possible.

Additionally, the decision making process would be in a committee format, therefore it would be collective and important and the relevant information would be communicated more widely.

### **ECONOMIC IMPLICATIONS:**

No significant economic implications have been identified.

### **ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

### **LEADERSHIP/LEGAL IMPLICATIONS:**

The establishment of the Floodplain Risk Management Committee will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

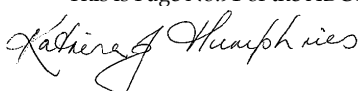
**L3. We are engaged and well informed**

**L4. We collaborate to achieve outcomes**

**L6. We demonstrate leadership in the face of natural disaster**

The Moree Plains Floodplain Risk Management Committee would provide leadership in preparation and during times of flood crisis which includes planning for the worst case scenarios.

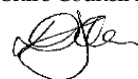
This is Page No.91 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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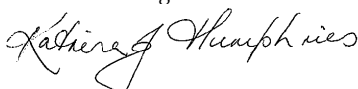
GENERAL MANAGER

This would be a platform for solving problems to ensure we are as prepared as possible during these times.

The collaborative decision making process enables the best possible decisions to be made and goals to be achieved.

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

There are no direct financial/operational plan implications other than staff and Councillor's time and administrative costs. Where successful, Council's grant applications receive 2:1 funding under the State and Commonwealth Floodplain Management Programs.



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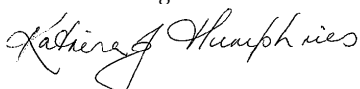
**GENERAL MANAGER**

# APPENDIX 17

## Report 5

### MOREE PLAINS FLOODPLAIN RISK MANAGEMENT – TERMS OF REFERENCE

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GENERAL MANAGER



REF:FILE13/1189

## MOREE PLAINS FLOODPLAIN RISK MANAGEMENT COMMITTEE TERMS OF REFERENCE

### 1. Name of Committee

The Committee shall be known as the "Moree Plains Floodplain Risk Management Committee".

### 2. The Need for the Committee

The Committee acts as both a focus and forum for the discussion of technical, social, economic, environmental and cultural issues and for the distillation of possibly differing viewpoints on these issues into a management plan or plans.

The development of a management plan, for either urban or rural areas, must take into consideration a number of diverse issues which include:

- the risk, danger to personal safety and property damage, imposed on existing land uses (the existing use);
- the cumulative impact of flooding on potential future land uses and occupants and of development on flooding (the future risk);
- the management of the continuing flood risk remaining in both existing and future development areas after works and controls are implemented;
- the environmental impact of existing and potential future developments and floodplain risk management measures;
- the broad scale catchment issues such as water quality, riverine and floodplain enhancement and land management;
- cumulative impacts as a result of changes in hydrology, floodplain geometry, or other factors;
- the potential economic cost and benefits to both the private and public sectors of floodplain occupation;
- the potential economic benefits of proposed risk management measures;
- potential intangible flood costs, including physical and psychological effects of flooding;
- social factors, including the needs and aspirations of the local community, both existing and in the future;
- planning options and restrictions, including special zonings and planning controls, opportunities; and
- the protection of Aboriginal sites and places and European heritage.

### 3. Role of the Committee

Date of Issue - 25 July 2013

Date of Review – 25 July 2018

Page~ 1 ~ of 4

MOREE PLAINS FLOODPLAIN RISK MANAGEMENT COMMITTEE  
TERMS OF REFERENCE

This is Page No.94 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on

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The Floodplain Risk Management Committee is established in accordance with the NSW Government's Flood Prone Land Policy and their Floodplain Development Manual (current version dated 2005) prepared to guide Councils in the development and implementation of detailed local floodplain risk management plans to produce effective floodplain risk management outcomes. The Committee deliberations are to be guided by this Manual. The Manual also outlines the technical assistance provided by the State Government throughout the floodplain risk management process.

The Floodplain Risk Management Committee does not have any formal powers. Rather it is an advisory role, but an important one.

The Floodplain Risk Management Committee's main objective is to assist Council in the development and implementation of one or more floodplain risk management plans for the areas under its jurisdiction (ie. towns, villages and rural areas).

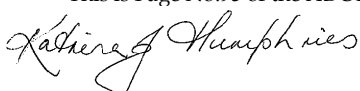
In addition to assistance with the preparation of a Floodplain Risk Management Plan, the Committee also assists in:

- formulating objectives (in accordance with Ecologically Sustainable Development principles), strategies and outcomes sought from the process;
- providing a link between the local community and Council;
- identifying the flood problem to be assessed and the study area;
- considering and making recommendations to Council on appropriate development controls for use until the Floodplain Risk Management Plan is completed, approved and implemented;
- identifying management options and providing input into their consideration as part of the floodplain risk management study;
- identifying implementation strategies for the Floodplain Risk Management Plan.
- coordinating with catchment management boards/authorities, emergency management planning and other advisory bodies.

#### 4. Membership

The Membership of the Committee is to comprise:

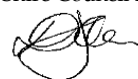
- Council Representatives;
  - i. Two Councillor Representatives (elected by Council)
  - ii. Council Engineering Department Representative
  - iii. Council Planning and Development Department Representatives
- Three local community representatives – with at least one from Mungindi and one from Moree;
- NSW State Emergency Service Representatives
- NSW Office of Environment and Heritage Representative.



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A Technical Sub-Committee may be established from time to time to provide technical assistance to enable the Committee to fulfil its advisory role to Council efficiently.

Other Working Groups may be established within the Committee structure on an as needs basis to complete tasks emanating from the deliberations of the Committee or consider issues prior to submission to the Committee.

Council's elected representatives to the Committee and representatives of the community shall be reviewed following each general election of Council or upon a vacancy occurring on the Committee. In the case of Council's elected representatives, the selection of new members shall be by Council resolution.

For local community representatives, nomination will be sought by public advertisement and selection made by Council.

The selection criteria for community representatives will have regard to the Committee's role and objectives. The local community Representatives should:

- Form a link between the Committee and the local population in the flood prone area. They therefore need to be able to effectively inform the affected community of the deliberations of the Committee and so foster a wider understanding of the process
- Provide historical advice on local problems and perceived solutions
- Consider in detail implications of matters which may impact on the local community
- Facilitate formal representations to the Committee on behalf of the public

#### **5. Attendance and Participation of other Non-Members**

The Committee may from time to time decide to form other Sub-Committees or Working Groups to investigate particular issues in more detail, and may invite other people to participate in the discussions of the Committee, Sub-Committees or Working Group, to address meetings or provide technical advice.

#### **6. Quorum**

A quorum shall be a simple majority of the full membership of the Committee.

#### **7. Meetings**

The Committee shall meet on an "as required" basis.

The outcome of meetings shall be reported to Council after each meeting.

#### **8. Agendas**

Written notice of meeting venues, times and agendas is to be given to members in advance. Any items or reports for inclusion in agendas are to be given to the Executive Assistant to the Director of Engineering at least seven days before scheduled meeting dates.

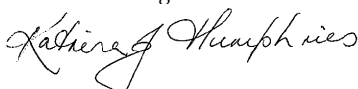
Date of Issue - 25 July 2013

Date of Review – 25 July 2018

Page~ 3 ~ of 4

MOREE PLAINS FLOODPLAIN RISK MANAGEMENT COMMITTEE  
TERMS OF REFERENCE

This is Page No.96 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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Matters of a "General Business" nature may be identified for discussion at the meetings, so that more detailed reports can be prepared on specific issues for the following meeting. Matters deemed by the Chairperson to be of an urgent nature, not identified on meeting agendas, may be discussed under "General Business".

**9. Chairperson**

The Committee shall be chaired by either the Director of Engineering Services or the Director of Planning and Development, or in his/her absence, by one of the Council representatives elected by the Committee for that particular meeting.

**10. Administration**

Administrative resources for the Committee shall be provided from Council's employees.

**11. Conflicts of Interest**

Committee members shall abide by Council's adopted Code of Conduct during all meetings of the Committee and in all matters relating to their participation on the Committee.

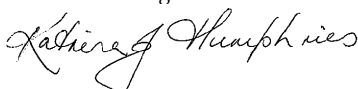
**12. Voting**

This Advisory Committee shall operate in a democratic manner keeping formalities to a minimum. However, should a matter require a formal recommendation to Council, the matter shall be put to members in the form of a Motion, which must be seconded and then voted upon. A simple majority vote, by members present, shall carry the Motion. The Chairman shall have a casting vote if necessary but should first consider these Terms of Reference.

Any member dissenting from a decision to make a certain recommendation to Council may have their name recorded if they so wish.

**13. Changing these Terms of Reference**

The Terms of Reference of the Committee may only be changed by Council resolution.



|               |                                                         |            |  |
|---------------|---------------------------------------------------------|------------|--|
| REPORT TITLE: | 6. SCHEDULE OF INVESTMENTS HELD AS AT 30 SEPTEMBER 2013 |            |  |
| REPORT FROM:  | DIRECTOR OF CORPORATE SERVICES                          |            |  |
| FILE NUMBER:  | FILE 13/680                                             | LETTER NO: |  |

**SUMMARY:**

This report is presented in accordance with the provisions of both Section 625 of the *Local Government Act 1993* and Clause 212 of the Local Government (General) Regulation 2005.

**13/10/37 RESOLVED (GALL/MUNN):**

**That the schedule detailing Council's Investments held as at 30 September 2013 be received for information.**

**REPORT****BACKGROUND:**

Under the provisions of Clause 212 of the Local Government (General) Regulation the responsible accounting officer is required to furnish Council on a monthly basis a written report detailing the amount of money that Council has invested under section 625 of the *Local Government Act 1993*.

Clause 212 also provides that the report must also include a certificate as to whether or not the investments has been made in accordance with the Act, the regulations and Councils investments policies

The report also includes the mark to market value of all investments.

**COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

**ECONOMIC IMPLICATIONS:**

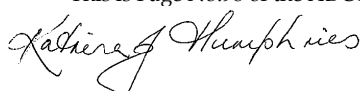
No significant economic implications have been identified.

**ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

**LEADERSHIP/LEGAL IMPLICATIONS:**

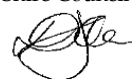
This is Page No.98 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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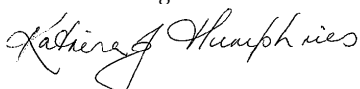
GENERAL MANAGER

The submission of the report is a statutory requirement under Section 625 of The *Local Government Act 1993*.

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

The Operational Plan contains a significant income stream from interest on investments.

Council's intent is to maximise its return on investments whilst at the same time ensuring protection of capital.



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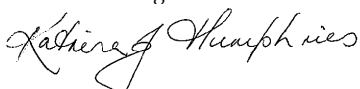
**GENERAL MANAGER**

# APPENDIX 18

## Report 6

### MPSC INVESTMENT PORTFOLIO SEPTEMBER 2013

This is Page No.100 of the ADOPTED minutes of the ORDINARY MEETING of the Moree Plains Shire Council held on



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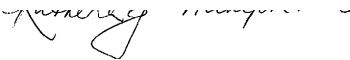


GENERAL MANAGER

September 2013 Investment Summary

| ID (Ref)                                         | Type | Institution                      | Start     | Mature    | Rate (%) | Face Value      | FMV August      | NAV %  | Face Value      | FMV September   | NAV %  |
|--------------------------------------------------|------|----------------------------------|-----------|-----------|----------|-----------------|-----------------|--------|-----------------|-----------------|--------|
| Operating Accounts                               |      |                                  |           |           |          |                 |                 |        |                 |                 |        |
| Business Online Saver Account                    | OA   | Commonwealth Bank                | N/A       | N/A       |          | 6,608,441.71    | 6,608,441.71    | 100.00 | 9,993,441.71    | 9,993,441.71    | 100.00 |
| General Fund                                     | OA   | Commonwealth Bank                | N/A       | N/A       |          | 2,086,761.64    | 2,086,761.64    | 100.00 | 150,951.53      | 150,951.53      | 100.00 |
|                                                  |      |                                  |           |           |          | \$8,695,203.35  | \$8,695,203.35  |        | \$10,144,393.24 | \$10,144,393.24 |        |
| Investment Type: Capital Protected Note          |      |                                  |           |           |          |                 |                 |        |                 |                 |        |
| 13 Ref:LCP Series 32                             | CPN  | Longreach Global Capital Pty Ltd | 28-Nov-07 | 28-Nov-14 |          | 1,000,000.00    | 932,500.00      | 93.25  | 1,000,000.00    | 942,500.00      | 94.25  |
|                                                  |      |                                  |           |           |          | \$1,000,000.00  | \$932,500.00    |        | \$1,000,000.00  | \$942,500.00    |        |
| Investment Type: Collateralised Debt Obligations |      |                                  |           |           |          |                 |                 |        |                 |                 |        |
| 15 Ref:Scarborough                               | CDO  | Grange - Lehman Bros             | 25-May-06 | 23-Jun-14 |          | 1,000,000.00    | -               |        | 1,000,000.00    | -               |        |
| 17 Ref:Kakadu                                    | CDO  | Grange - Lehman Bros             | 5-Dec-06  | 20-Mar-14 |          | 1,000,000.00    | 268,484.93      | 26.02  | 1,000,000.00    | 248,900.00      | 24.89  |
| 18 Ref:Averon II                                 | CDO  | Grange - ANZ                     | 24-Jul-07 | 20-Jun-14 |          | 500,000.00      | 481,550.00      | 96.31  | 500,000.00      | 483,600.00      | 96.72  |
|                                                  |      |                                  |           |           |          | \$2,500,000.00  | \$750,034.93    |        | \$2,500,000.00  | 732,500.00      |        |
| Investment Type: Term Deposit                    |      |                                  |           |           |          |                 |                 |        |                 |                 |        |
| 2 Ref:ANZ # 1 2014                               | TD   | Australian & New Zealand Bank    | 4-Jul-13  | 2-Oct-13  | 4.20     | 2,000,000.00    | 2,000,000.00    | 100.00 | 2,000,000.00    | 2,000,000.00    | 100.00 |
| 4 Ref:NAB # 15 2013                              | TD   | National Australia Bank          | 18-Jun-13 | 19-Sep-13 | 4.12     | 2,000,000.00    | 2,000,000.00    | 100.00 | 2,000,000.00    |                 |        |
| 19 Ref:ANZ # 2 2014                              | TD   | Australian & New Zealand Bank    | 14-Aug-13 | 12-Nov-13 | 4.10     | 1,500,000.00    | 1,500,000.00    | 100.00 | 1,500,000.00    | 1,500,000.00    | 100.00 |
| 20 Ref:CBA # 2 2014                              | TD   | Commonwealth Australia Bank      | 20-Aug-13 | 19-Sep-13 | 3.30     | 1,000,000.00    | 1,000,000.00    | 100.00 | 1,000,000.00    |                 |        |
| 21 Ref:ANZ # 3 2014                              | TD   | Australian & New Zealand Bank    | 27-Aug-13 | 25-Nov-13 | 4.00     | 1,000,000.00    | 1,000,000.00    | 100.00 | 1,000,000.00    | 1,000,000.00    | 100.00 |
| 22 Ref:NAB # 2 2014                              | TD   | National Australia Bank          | 3-Sep-13  | 2-Dec-13  | 3.85     | 1,000,000.00    | 1,000,000.00    | 100.00 | 1,000,000.00    | 1,000,000.00    | 100.00 |
| 23 Ref:CBA # 3 2014                              | TD   | Commonwealth Australia Bank      | 3-Sep-13  | 3-Oct-13  | 3.28     | 2,000,000.00    | 2,000,000.00    | 100.00 | 2,000,000.00    | 2,000,000.00    | 100.00 |
| 24 Ref:NAB # 1 2014                              | TD   | National Australia Bank          | 15-Aug-13 | 13-Nov-13 | 3.89     | 1,000,000.00    | 1,000,000.00    | 100.00 | 1,000,000.00    | 1,000,000.00    | 100.00 |
| 25 Ref:WBC # 2 2014                              | TD   | Westpac Banking Corporation      | 3-Sep-13  | 4-Nov-13  | 3.43     | 2,000,000.00    | 2,000,000.00    | 100.00 | 2,000,000.00    | 2,000,000.00    | 100.00 |
| 26 Ref:NAB # 3 2014                              | TD   | National Australia Bank          | 16-Sep-13 | 17-Dec-13 | 3.85     |                 |                 |        |                 | 2,000,000.00    | 100.00 |
| 27 Ref:CBA # 4 2014                              | TD   | Commonwealth Australia Bank      | 19-Sep-13 | 21-Oct-13 | 3.26     |                 |                 |        |                 | 1,000,000.00    | 100.00 |
|                                                  |      |                                  |           |           |          | 13,500,000.00   | \$13,500,000.00 |        | 13,500,000.00   | \$13,500,000.00 |        |
| TOTAL INVESTMENTS                                |      |                                  |           |           |          | \$25,695,203.35 | \$23,877,738.28 |        | \$27,144,393.24 | \$25,319,393.24 |        |

I, David Aber, certify that the above list of investments is a complete and accurate account of all investments that have been made on behalf of council in accordance with Section 625 of the Local Government Act, 1993 (amended), its regulations and Council's policy.

  
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|               |                                                                      |
|---------------|----------------------------------------------------------------------|
| REPORT TITLE: | 7. DRAFT MEMORANDUM OF UNDERSTANDING WITH AUSTRALIAN PASSION PTY LTD |
| REPORT FROM:  | GENERAL MANAGER                                                      |
| FILE NUMBER:  | FILE 13/1032                                                         |

**SUMMARY:**

Mr Alastair Brodie, Managing Director Australian Passion Pty Ltd, has been working with Council staff to determine the merits of establishing a Barramundi Fish Farm in Moree. Mr Brodie made a presentation to the Council Committee meeting on Thursday, 12 September 2013.

The preferred site for the Fish Farm is the Evergreen Precinct south of the Waste Management Facility and the proposal would see significant economic activity and employment opportunities created within the Shire.

On Thursday, 10 October 2013, a draft Memorandum of Understanding (MOU) was presented and work-shopped within the Council Committee Meeting. The MOU forms the basis for terms of an agreement for land tenure for Australian Passion Pty Ltd on the Evergreen Precinct site.

Following the workshop on 10 October 2013, Council staff have worked with Mr Brodie to update the MOU and make the document available for Council consideration.

**RECOMMENDATION:**

That Council consider endorsement of the proposed draft Memorandum of Understanding with Australian Passion Pty Ltd for the Barramundi Fish Farm proposal.

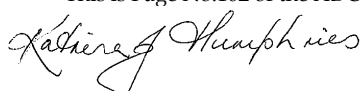
**13/10/38 RESOLVED (VON DREHNEN/PRICE):**

That Council endorse the Memorandum of Understanding with Australian Passion Pty Ltd for the Barramundi Fish Farm proposal.

**REPORT****BACKGROUND:**

Australian Passion Pty Ltd is proposing to develop a Sustainable Barramundi Fish Farm with eventual production of up to 20 tons of Barramundi per week. This production target is identified with current market research.

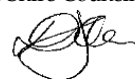
The development plan is in a staged rollout with each step developing a separate owner operator business, that when completed will establish vibrant, interrelated aquaculture businesses. Though not essential to the plan the ability to provide low cost energy to this venture will ensure



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its success and its ability to provide on-going employment, training and careers for the Moree community.

Moree has been identified as a prime development location due to the following factors:

- Access to clean and suitable aquifer water
- Potential access to low cost energy
- Availability for land to fulfil the full business plan and future possible expansions
- Support by local Council Staff, State and Federal government including grants for rural industries
- Ability to meet Green Criteria to produce a certified product
- Access to employees
- Proximity to airport for export
- Cross roads for distribution to the Eastern Seaboard or over 50% of Australia's population
- Ability to develop an Aquaculture Industry to meet the identified demand of the market place

At the Council Committee meeting held on 12 September 2013, Council received a presentation from Mr Brodie in relation to the Fish Farm proposal.

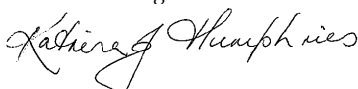
On 12 September 2013, Council Committee recommended (13/09/04) the following:

1. *That Council further consider support of the fish farm by way of land and water provision with terms to be negotiated.*
2. *That Council delegate authority to the General Manager to provide owner's consent for the lodgement of a Development Application for the purpose of a Fish Farm (and associated activities) at the Evergreen Precinct incorporating Lot 4 DP 570202 and Lot 53 DP 751791.*

Pursuant to recommendation 1 above, Mr Brodie provided a draft Memorandum of Understanding (MOU) for Council to workshop as a preliminary agreement for land and water provision at the Council Committee Meeting held on 10 October 2013. Mr Brodie also made available the preliminary Business Plan of Australian Passion Pty Ltd for comment and discussion.

As a result of the workshop held on 10 October 2013, the Council Committee recommended the following (13/10/04):

*That the Council Committee note the suggested changes to the draft Memorandum of Understanding with Australian Passion Pty Ltd and that a report be submitted to the Ordinary Council Meeting scheduled 24 October 2013.*



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Pursuant to the recommendation above, Council staff have worked with Mr Brodie to update the MOU as per the requested changes. The new document was not available at the time of printing and will be distributed for review at a later date.

Further commentary and explanation of the MOU will take place at the Ordinary Council Meeting scheduled 24 October 2013.

### **COMMUNITY IMPLICATIONS:**

The proposed development will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

#### **S4. Our health and wellbeing provide for a satisfying and productive life**

The proposed commercial development would increase the range of opportunities provided to the members of our community.

### **ECONOMIC IMPLICATIONS:**

The proposed development 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**

Commercial development within our Shire supports employment opportunities and sustains existing jobs.

An appropriate development would improve the quality and amenity of the Shire and present a more attractive image to our community and visitors.

### **ENVIRONMENT IMPLICATIONS:**

The proposed development will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

#### **E1. The diversity of the natural environment is protected and supported**

#### **E2. We live sustainably and use our resources responsibly**

The proposed commercial development is environmentally sustainable in nature.

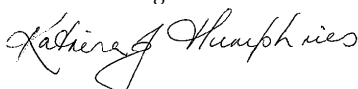
### **LEADERSHIP/LEGAL IMPLICATIONS:**

The proposed development will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

#### **L4. We collaborate to achieve outcomes**

The proposed commercial development would improve the quality and amenity of the Shire and present a more attractive image to our community and visitors, thereby increasing pride and respect for our residents.

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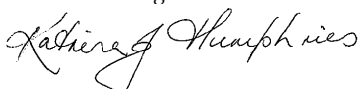


GENERAL MANAGER

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

Financial implications are to be further assessed as the proposal moves forward; however, under the draft MOU this will include provision of land and water supply.

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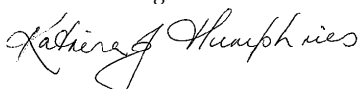
**GENERAL MANAGER**

# APPENDIX 19

## Report 7

### DRAFT MOU WITH AUSTRALIAN PASSION PTY LTD

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GENERAL MANAGER

**THIS MEMORANDUM OF UNDERSTANDING (MOU)**

is made on the

XXXX 2013

**BETWEEN:**

**MOREE PLAINS SHIRE COUNCIL** ("the Council")

**AND:**

**AUSTRALIAN PASSION PTY LTD (ACN 162 497 743)** of L2, 59-57 Station Street, Penrith NSW 2750 ("Passion")

**RECITALS:**

- A. Passion proposes to establish an Aquaculture industry in Moree. The proposal is outlined in the Australian Passion Pty Ltd Development Plan attached as **Schedule B**.
- B. The Council owns Land and Water entitlements that meet the needs of the Passion proposal.
- C. The Council wishes to facilitate the establishment of an aquaculture industry to promote employment and economic activity in the municipality.
- D. Passion wishes to establish an agreement with the Council for the use of the identified land and water rights, "**The Agreement**."

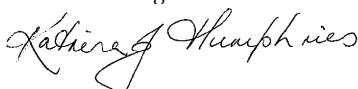
**1. AGREEMENT**

**(a) The Council:**

- (i) Warrants it holds clear title on the identified land as depicted in **Schedule A Section 1**.
- (ii) Agrees to enter into an initial formal lease with Passion for the use of up to twenty hectares (20 ha) of the identified land as depicted in **Schedule A Section 1 ("the Land")**, subject to project development milestones being met as described in **Schedule A Section 3**.
- (iii) Agrees payment for the use of the Land will be equivalent to the apportioned Council rates for the initial 2 years of occupation.
- (iv) Agrees that subject to Passion meeting development milestones as described in **Schedule A Section 3**, a further long term lease for land tenure will be negotiated. This lease term to be no less than ten (10) years.
- (v) Agrees that following the initial two (2) year development period, rent will be equivalent to the apportioned Council rates plus a licence fee equal to a 5% dividend share holding of the company or rent at commercial market rates, whichever is greater. Market rates will be determined by an independent licensed valuer.
- (vi) Warrants it holds entitlements for the water as described in **Schedule A Sections 2(a) and 2(b)**, being Spent Artesian Spa Water (SASW) and Town Water respectively ("the Water").
- (vii) Agrees to supply SASW to Passion at a cost of **XX cents per kilolitre** when the

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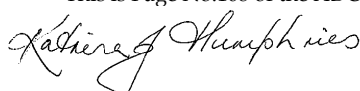
water becomes available at the Evergreen Precinct. The cost of supply will increase on an annual basis by CPI from the date the water becomes available and is supplied to Passion. The use of this water is restricted to operations at the facility located on the Evergreen Precinct and to a volume no greater than 145 mega litres per annum.

- (viii) Agrees to supply Town Water to Passion at market cost, as published in the annual Council Operational Plan. (TBC)
  - (ix) Agrees the supply of SASW will continue as long as Passion adheres to the requirements of this agreement and the Council is reasonably able to do so and there is a current lease between the parties hereto.
  - (x) Will provide general assistance for the establishment of the aquaculture farm provided any such assistance is not at cost to the Council.
- (b) **Passion:**
- (i) Will diligently pursue the establishment of an aquaculture industry in Moree.
  - (ii) Will not require funding from the Council.
  - (iii) Agrees to the development milestones hereto attached in Schedule A Section 3.
  - (iv) Will be solely responsible for the cost of the connection of the water supply to the site, be it from SASW or Town Water sources.
  - (v) Will provide audited financial statements each year to establish the license fee payable to the Council. A statement will also be provided to allow the Council to adequately invoice Passion for the fee.
  - (vi) Will be responsible for management of the aquaculture farm including all insurances. The Council will be noted as an interested party in the public liability insurance policy.
  - (vii) Passion will be the owners of all the fittings and fixtures on the land subject to further terms of this MOU and the negotiated lease agreements.
  - (viii) Will ensure any spent water from the operations will be disposed in a manner approved by the Council and the EPA.

## 2. FURTHER ASSURANCES

- (a) Each party will do all things and execute all documents necessary to give the intent of effect to this MOU.
- (b) Each party acknowledges that it has entered into this MOU with the express purpose of establishing an Aquaculture Industry in Moree.
- (c) The Council will not be liable for any loss suffered by Passion (or its customers, affiliates, owners, directors, suppliers, financiers or subsidiaries) in the event the Council can not supply Passion with water where the supply is frustrated by circumstances beyond the control of Council.

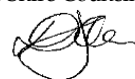
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- (d) Should Passion fail to establish an aquaculture industry on the identified land within 3 years from the date of this agreement or fail to pay its licence fee to the Council or becomes insolvent, the Council can terminate this agreement.
- (e) Each party acknowledges that any party is entitled to relief and remedies at law or in equity including, but not limited to, injunctive relief and specific performance in the event of any breach or anticipated breach of the MOU without having to prove damage.

### 3. LEASE

- (a) The parties hereto acknowledge that the terms hereof shall not be binding on the parties hereto unless and until there is a current lease in place between the parties as foreshadowed by clauses 1(a)(ii) and 1(a)(iv) hereof.
- (b) Following the execution of this Agreement the parties hereto shall negotiate and enter into the initial lease ("the 2 year lease") as soon as possible.
- (c) The initial lease shall, in addition to usual commercial terms, include the following provisions:
- (i) An abandonment provision where the Lessor has the right to terminate the lease if the land has been unoccupied for more than twelve (12) consecutive months.
  - (ii) Provision for the Lessee upon termination to leave the property in the same condition as it was at the commencement date.
  - (iii) Should the lease be terminated, the Lessee to have a period of twelve (12) months to remove their improvements.
- (d) The subsequent lease (as referred to in clause 1(a)(v) hereof shall contain the provisions referred to in subclause 3(c) hereof together with the following:
- An option to purchase part or all of the leased land on condition that:
- The land has been leased by Passion for at least five (5) years.
  - The area to be purchased is not more than the leased area unless specifically agreed with the Council.
  - If the area to be purchased is not an existing lot, Passion to be responsible for all subdivision costs and fees.
  - The sale price to be the then market value as determined as the average of valuations by two (2) licensed valuers one appointed by each party. The valuations shall exclude all improvements on the land constructed by passion.

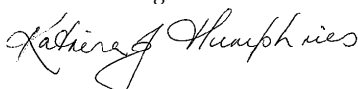
### 4. COSTS AND EXPENSES

Each party will pay its own costs and expenses, including the cost of due diligence, in respect of this MOU or any other agreement entered into or under this MOU.

### 5. GOVERNING LAW

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This MOU is governed by the laws of New South Wales and the parties submit to the exclusive jurisdiction of the courts of that State.

#### 6. CONFIDENTIALITY

Subject to disclosure to their own advisers, the parties must keep confidential the content of this MOU and all their dealings in respect of its subject matter.

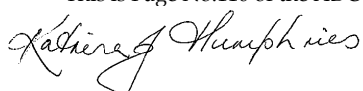
It is acknowledged by the parties that a breach of confidentiality may give rise to damages to the party affected by the disclosure.

#### 7. NO PARTNERSHIP

Nothing in this agreement creates or is to be taken to create any partnership or joint venture between the Council and Passion.

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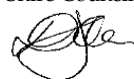
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EXECUTED as an agreement  
EXECUTED by **Moree Plains Shire Council**

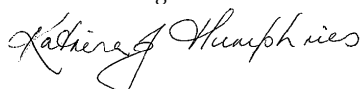
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|----------------------------------------------|---|----------------------------------------------|
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Signature of authorised person               | ) | Signature of authorised person               |
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Office held                                  | ) | Office held                                  |
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Name of authorised person<br>(block letters) | ) | Name of authorised person<br>(block letters) |

EXECUTED BY AUSTRALIAN PASSION  
PTY LTD ( ACN 162 497 743) in  
accordance with its constituent documents:

|                                              |   |                                              |
|----------------------------------------------|---|----------------------------------------------|
|                                              | ) |                                              |
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Signature of authorised person               | ) | Signature of authorised person               |
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Office held                                  | ) | Office held                                  |
|                                              | ) |                                              |
| .....                                        | ) | .....                                        |
| Name of authorised person<br>(block letters) | ) | Name of authorised person<br>(block letters) |

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MAYOR

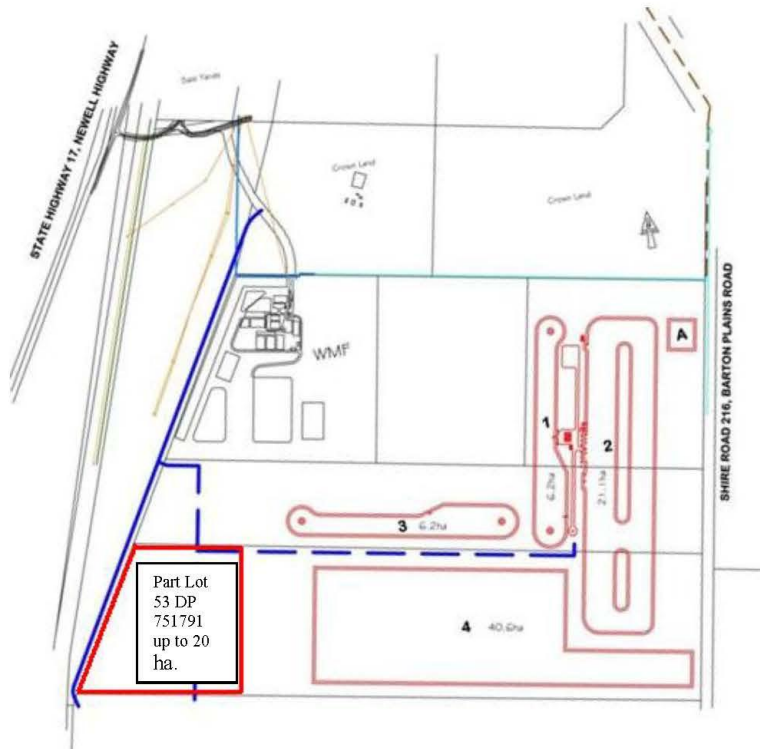
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## **SCHEDULE A**

### **1. THE LAND (DRAFT - Accurate Mapping/Survey TBC)**

The land is depicted in the South West corner of Lot 53 DP 751791 being approximately 20 hectares of said lot.



### **2. WATER (DRAFT TBC)**

- A. Spent Artesian Spa Water discharged from the Moree Artesian Aquatic Centre, extracted under bore licence (up to 620ML) and delivered to the Evergreen Precinct via rising main.
- B. Town Water as the Local Water Utility for the Moree Plains Shire.

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*Kathie Humphries*

MAYOR

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*[Signature]*

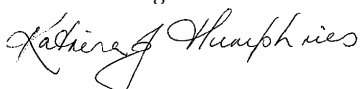
GENERAL MANAGER

### 3. DEVELOPMENT MILESTONES (TBC)

| Milestone Number | Milestone Description                                                                                                                                                   | Agreed Milestone Completion Date |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 1                | Development Application lodged to Moree Plains Shire Council for the development of the initial shed as described in the Australian Passion business plan (Schedule B). | 31 December 2013                 |
| 2                | Progress made by Australian Passion to allow the issuance of a construction certificate by Moree Plains Shire Council.                                                  | 30 June 2014                     |
| 3                | Production of aquaculture to commence.                                                                                                                                  | 31 December 2014                 |

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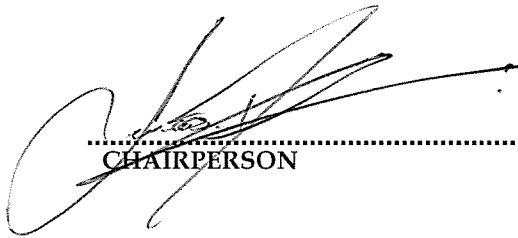
GENERAL MANAGER

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There being no further business the meeting closed at the time being 6.49pm.

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SIGNED BY THE MAYOR OF  
MOREE PLAINS SHIRE  
COUNCIL, WHOSE SIGNATURE  
APPEARS BELOW.

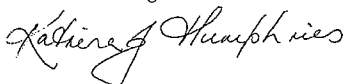


CHAIRPERSON

ADOPTED AT THE ORDINARY  
COUNCIL MEETING OF THE  
MOREE PLAINS SHIRE  
COUNCIL HELD ON

14/11/2013  
DATE

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MAYOR

24 October 2013

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GENERAL MANAGER