

Date: 25.7.19
Page:

Attention

Sharyn Boulston.

I am writing in regards to the Development Application N^o 10.2019.24.1 location 115-119 Hitchell St. Jindera.

My concern is that the size and height of the shed and the position

the shed is to be built at the back of 'the' property

is too close to our home.

If the shed could be relocated on the Right Hand side of the property facing Hitchell St. then there would be no objections

I would also like to think that the shed would only be used for storage garden equipment and car parking.

Dear Cloete van Wyk

We are writing a submission letter to you in regards of Ref: CV:SLG:P10069193.

Development application No: 10.2019.75.1 for A G Dunn at 128 Huon St Gerogery West for a New Shed.

We Ken and Elisabeth Finger of 140 Huon St Gerogery West, have a few concerns in regards to the notification of development application we received on Friday the 28/06/2019 as we are zoned residential.

1. Referring to the below local environmental plan, for the size of the proposed shed, it's use could be any of the vehicle repair, industrial, truck depot or large storage shed's in the prohibited section.

Greater Hume Local Environmental Plan 2012

Current version for 28 February 2019 to date (accessed 30 June 2019 at 12:25)

[Land Use Table Zone R2](#)

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Environmental protection works; Home occupations; Roads

3 Permitted with consent

Boarding houses; Business identification signs; Centre-based child care facilities; Dual occupancies; Dwelling houses; Group homes; Home industries; Hostels; Oyster aquaculture; Pond-based aquaculture; Respite day care centres; Secondary dwellings; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered

clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recycling facilities; Wharf or boating facilities; Wholesale supplies

2. The measurement's do not line up off the boundary fence Ref: to development application No: 10.2017.70.1 of previous owners S M Villiers for the existing shed.

Development application No: 10.2017.70.1 showing the existing shed 40m off boundary fence.

Development application No: 10.2019.75.1 showing existing shed 46.2 metres off boundary fence.

3. We have concerns that this shed is going to be more than a storage shed as the size and height is a commercial size workshop. Being such a large shed what colour is it going to be and what is the peak height as the gutter is already at 5 metres? This height is going to really stand out being we are all only on small blocks. Our outdoor area where we spend a lot of our time faces towards this proposed shed.
4. The shed pad has also been made and in doing this they have removed a large existing tree.

We would like to see a tree buffer put in between the shed and fence. We would also like to be guaranteed there will not be a business operated out of the shed and there will be no noise being made of a night time.

Regards Ken and Elisabeth Finger

Kenny.lizzy@bigpond.com.



Development/Construction Application

Environmental Planning and Assessment Act 1979, Local Government Act 1993 & Environmental Planning and Assessment Regulation 2000

All applications to:
General Manager
Greater Hume Council
39 Young Street (PO Box 99)
HOLBROOK NSW 2644
P: 02 6036 0100
E: mail@greaterhume.nsw.gov.au

10.2019.89
nobfp

Office use only	
Date Rec.	
Property No.	P10036333/
Receipt No.	1395-251/
Doc. ID No.	

To avoid delays it is important that all relevant sections of this form are completed and any relevant information required to be attached is provided.

Applicant Details	
Name	Mr. Kimball Felton
Company	NA.
Postal Address	PO Box 279
Town/Locality	Jindera
State and Post Code	NSW 2642
Phone No.	
Mobile No.	0419 844141
Email	hideaway.4@bigpond.com
Your Ref (if applicable)	
Applicant/s Signature	<i>Kimball Felton</i>
Date	10/06/19

Approvals	
Development Consent	<input checked="" type="checkbox"/>
Construction Certificate	Building <input type="checkbox"/>
	Subdivision <input checked="" type="checkbox"/>
	Other work <input type="checkbox"/>
Complying Development Certificate	<input type="checkbox"/>
Bushfire Attack Level	<input type="checkbox"/>
Application form attached (if applicable)	

Other Approvals	
Install a manufactured home, moveable dwelling or associated structure	<input type="checkbox"/>
Carry out water supply, sewerage or stormwater drainage work	<input type="checkbox"/>
Install Onsite Sewage Management System (septic system) Separate attached application form to be completed	<input type="checkbox"/>
Management of waste (trade waste discharge to sewer) Separate attached application form to be completed	<input type="checkbox"/>
Installation of backflow prevention device Separate attached application form to be completed	<input type="checkbox"/>
Public roads (hoardings)	<input type="checkbox"/>
Other activities (Install a domestic oil or solid fuel heating appliance; domestic greywater diversion)	<input type="checkbox"/>

Land Owner Details	
Name	Mr Kimball Felton
Company	NA
Postal Address	PO Box 279
Town/Locality	Jindera
State and Post Code	NSW 2642
Phone No.	0419 844141

Property Details			
Property Name	Hideaway		
No & Street/Road	103 Dunwarden Lane		
Town/Locality	Jindera NSW 2642		
Title details (if insufficient space attach list)	Lot/s	Sec/s	DP/s
	21		1143963

Document Name	Version Number	Date of Issue	Review Date
EAP - Development/Construction Application	1.0.5	5 February 2019	As Required

Description of Development

See attached description
of subdivision Lot 21,
103 Dunwendren Lane
Lindera.

Details of Development

Will the development involve

- Erecting, altering, or adding to a building structure?
- If so, is it a temporary building or structure?
- Subdividing land?
- Subdividing a building?
- Demolition of building or work?
- Changing the use of land or a building, or the classification of a building under the National Construction Code (without building, subdividing, or demolishing)?
- Other work (without building, subdividing, or demolishing)?

Estimated Cost of Development

Building construction and prep. cost (including the costs of installing plant, fittings, fixtures and equip.)	\$
Demolition costs of building or work	\$
Construction costs of the carrying out of other work	\$
TOTAL COST:	\$

Disclosure of Political Donations and Gifts

Have you or any associated person with a financial interest in this application in the last two (2) years made any political donation or given any gifts to any local Councillor or Council employee?

- Yes No

If you ticked "Yes", please fill out a Political Donations and Gifts Disclosure Statement and attach to this form. Note that it is an offence not to disclose reportable donations and gifts.

Required Documentation

TWO (2) copies of A3 size plans drawn to scale are to be provided as follows.

- Locality Plan**
- Site Plan** showing boundary dimensions, site area, north point, existing vegetation, location and uses of existing buildings, location of features, contours, the location and uses of buildings on sites adjoining the land, carparking, entry and exit points for vehicles, provision for movement of vehicles within the site, proposed landscaping, proposed methods of draining the land (as applicable)
- Floor Plan** (for building work only) showing layout, partitioning, room sizes, and intended uses of each part of the building
- Elevation Plans** (for building work only) showing proposed external finishes and heights of any proposed buildings (other than temporary structures)
- Plan of Existing Buildings and Structures** (for building alteration work only)
- Preliminary Civil Engineering Drawing** (for subdivision work only)
- Demolition Plan** (for demolition work only)
- Specifications** (for building Construction Certificate applications)
- BASIX Certificate/s** (for "BASIX affected building"/"BASIX affected development" only – ensure that the site plan, floor plan, and specifications (where relevant) show all BASIX commitments)

Environmental Effects

Is the development "designated development"?

- Yes** – please attach an Environmental Impact Statement (EIS) (seek Council advice beforehand)
- No** – please attach a Statement of Environmental Effects (SEE) (two (2) copies)

Is the development likely to significantly affect threatened species, populations or ecological communities, or their habitats?

- Yes** – please attach a Species Impact Statement (SIS) (seek Council advice beforehand)
- No**

Staged Development

If you wish, you can apply for development consent for only part of the development now and for the remaining part/s at a later time

- Are you applying for development consent in stages? Yes No

Concurrence from State Departments or Agencies

Does the development need concurrence from a State department or agency? If "Yes" list these Yes No

Approvals from State Departments or Agencies

If the development needs any of the following typical approvals before proceeding (see Fact Sheet) you can apply for those approvals at this time (note that this list only contains abridged approval types typical for Greater Hume). Ensure that a cheque for \$320 made out to the relevant agency accompanies this form.

<input type="checkbox"/>	<i>Heritage Act 1977</i>	Listing on the State Heritage Register
<input type="checkbox"/>	<i>National Parks and Wildlife Act 1974</i>	Aboriginal relic or places
<input type="checkbox"/>	<i>Protection of the Environment Operations Act 1997</i>	Environment Protection Licence
<input type="checkbox"/>	<i>Roads Act 1993</i>	Consent to connect a road (whether public or private) to a classified road
<input type="checkbox"/>	<i>Rural Fires Act 1997</i>	Subdivision of Bushfire Prone Land that could lawfully be used for residential or rural residential purposes or development for special fire protection purposes
<input type="checkbox"/>	<i>Water Management Act 2000</i>	Controlled Activity Approval for a "controlled activity" within 40m of the nearest high bank of a watercourse

Builder Details

Name	
Company	
Licence No.	
Permit No. (if owner builder)	
Postal Address	
Town/State/Post Code	
Mobile No	

Construction Statistics

Required by the Australian Bureau of Statistics for building construction work only

Walls

- Brick double (11)
- Brick veneer (12)
- Concrete or Stone (20)
- Fibre cement (30)
- Timber (40)
- Curtain glass (50)
- Steel (60)
- Aluminium (70)
- Other (80)
- Not specified (90)

Roof

- Tiles (10)
- Concrete or Slate (20)
- Fibre cement (30)
- Steel (60)
- Aluminium (70)
- Other (80)
- Not specified (90)

Floor

- Concrete or Slate (20)
- Timber (40)
- Other (80)
- Not specified (90)

Frame

- Timber (40)
- Steel (60)
- Aluminium (70)
- Other (80)
- Not specified (90)

Colour of roof? _____

Colour of walls? _____

Floor area of dwelling (exc. garage)? _____

Floor area of garage? _____

Floor area (other)? _____

No. of storeys? _____

- | | |
|--|---|
| If the building is a dwelling, is it a | <input type="checkbox"/> Separate house |
| | <input type="checkbox"/> Kit home |
| | <input type="checkbox"/> Transportable dwelling |
| No. of new residential units (including dual occupancy)? | <input type="checkbox"/> Attached |
| | <input type="checkbox"/> Detached |

Plumber Details	
Name	
Company	
Licence No.	
Postal Address	
Town/State/ Post Code	
Mobile No.	

Principal Certifying Authority	
<input type="checkbox"/>	Does the landowner wish to appoint Council as the Principal Certifying Authority (PCA) for the purposes of carrying out inspections and issuing construction, compliance and occupation certificates?
Yes	
<input type="checkbox"/>	Note:
No	1. Only a person having the benefit of the development consent or complying development certificate can appoint a PCA (ie the landowner).

Contract for Undertaking Certification Work	
<p><i>The following applies if you have appointed Greater Hume Council as the PCA for this development:</i> This contract has been prepared pursuant to Section 73A of the Building Professionals Act 2005 and Clause 19A of the Building Professionals Regulation 2007.</p> <p>This is a contract between:</p> <ol style="list-style-type: none"> The Council is a certifying authority and employs an accredited certifier who is authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council. The owner seeks to engage the Council to perform certification work in relation to the subject development. <p>Refer to the Fees and Charges & Statutory Obligations of the Certifier (see pages 5-7) Council undertakes all certification work in a professional manner and in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. Details of the officers employed by Council as Accredited Certifiers, any of whom may carry out certification work and inspections under this contract, can be found on the Building Professionals Board website at www.bpb.nsw.gov.au</p> <p>Certifying Authority: Greater Hume Council 40 Balfour Street CULCAIRN NSW 2660 P: 02 6036 0100 E: mail@greaterhume.nsw.gov.au</p>	

Development Consent/CDC/Part 6 Certificate number/identifier
Development Consent/CDC/Part 6 Certificate approval date
Name and Accreditation number of PCA on behalf of Council
Signature of Council PCA
Date
Signature of Owner/s
Date

Applicant Declaration	
I hereby apply for the approval/s as described in this application form	
Name (capitals)	K A FELTON
Signature	<i>[Handwritten Signature]</i>
Date	19/06/19.

Landowner/s Declaration	
I/We being the owner/s of the land for which this application is sought, consent to the lodgement of this application, and give consent to authorised officers of Council to enter the property to carry out inspections, if necessary, relating to this application.	
Name (capitals)	K A FELTON
Signature	<i>[Handwritten Signature]</i>
Date	19/06/19.
Name (capitals)	
Signature	
Date	
Name (capitals)	
Signature	
Date	
If the land is owned by individuals, all must sign. If the land is owned by a private company, at least one director residing in Australia must sign. If the land is owned by a public company, at least three directors must sign, two of which must reside in Australia.	

FEES AND CHARGES & STATUTORY OBLIGATIONS OF THE CERTIFIER

FEES & CHARGES

The fees and charges associated with all certification work must be paid after the lodgement of the relevant Construction Certificate or Complying Development Certificate, excluding any fees and charges for work arising as a result of unforeseen contingencies. Additional fees may be charged in the following circumstances:

- Additional critical stage inspections or other inspections due to the staging of building works or variations in the construction sequence;
- Re-inspection works as a result of the relevant stage of construction not being ready, incomplete or unsatisfactory; or
- Additional on-site meetings.

The payment of fees and charges associated with the above circumstances or any unforeseen contingencies will be subject to issue of a Development Application/Complying Development Quote.

STATUTORY OBLIGATIONS

Application for a Complying Development Certificate (CDC)

Description of Services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate timely determination of the application, including:

1. Provide a blank copy of CDC (Development/Construction) application form to the Client.
2. Obtain a certificate under Section 10.7 of the EP&A Act (mandatory).
3. Conduct an inspection of, or arrange for another accredited certifier to inspect, the development site, and prepare a record of the inspection.
4. If clause 130(2A) or 130(2E) of the EP&A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer or another accredited certifier that satisfies the requirements of Clause of the 130 EP&A Regulation.
5. Assess whether the proposed development satisfies the development standards set out in the relevant environmental planning instrument, development control plan and the EP&A Regulation.
6. Determine the application and prepare a notice of the determination.
7. If the application is granted:
 - a. prepare a Complying Development Certificate.
 - b. endorse all relevant plans, specifications and other documents.
 - c. prepare any associated fire safety schedule or fire link conversion schedule.
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. ascertain if any contributions plan requires the CDC to be subject to a monetary payment.
 - f. issue CDC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forward copies of documents prepared to statutory authorities, including the NSW Rural Fire Service, as required by the EP&A Regulation.

Application for a Construction Certificate (CC)

Description of Services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of CC (Development/Construction) application form to the Client.
2. If necessary, obtain a certificate under Section 10.7 of the EP&A Act.
3. If the development is on a site which affects an existing building, inspect, or arrange for another accredited certifier to inspect, the building and prepare a record of the inspection.
4. If clause 144 of the EP&A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for an initial fire safety report.

5. If the development is a residential flat building, obtain a design verification from a qualified designer under clause 50(1A) of the EP& A Regulation.
6. If clause 144A of the EP& A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer.
7. Assess whether the application satisfies the requirements of the EP&A Regulation, including compliance with the BCA, the development consent and any pre-conditions to the issue of a CC.
8. Determine the application and prepare a notice of the determination.
9. If the application is granted:
 - a. prepare a Construction Certificate.
 - b. endorse all relevant plans, specifications and other documents.
 - c. prepare any associated fire safety schedule or fire link conversion schedule.
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. ascertain if any security or monetary payment or levy under sections 7.11 & 7.12 of the EP&A Act are required before the CC is issued.
 - f. issue CC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forward copies of documents prepared to the consent authority as required by the EP&A Regulation.

Application for an Occupation Certificate (OC)

Description of Services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of an OC application form to the Client.
2. Conduct an inspection of the development and prepare a record of the inspection.
3. If clause 144 of the EP& A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for a final fire safety report.
4. Obtain a Final Fire Safety Certificate or Interim Fire Safety Certificate as required by the EP& A Regulation.
5. If the development is a residential flat building to which clause 154A of the EP&A Regulation applies, obtain a further design verification from a qualified designer in relation to the completed works.
6. Ensure that all BASIX requirements required to be complied with before an OC may be issued have been satisfied, including obtaining any necessary BASIX completion receipt.
7. If clause 130(2A) or 144A(1) of the EP& A Regulation applied to the development (i.e. where there is an alternative solution relating to fire safety requirements), obtain a further compliance certificate or written report from a fire safety engineer with respect to the completed works as required by clause 153A of the EP& A Regulation.
8. Assess whether the application satisfies the requirements of the EP&A Regulation, including whether any pre-conditions of the development consent or CDC which are required to be met before an OC may be issued, have been met and (where building work has been carried out) whether the work is not inconsistent with the development consent).
9. Determine the application and prepare a notice of the determination.
10. If the application is granted, prepare an OC and issue it to the Client.
11. Forward copies of documents prepared to the consent authority and the council as required by the EP&A Regulation.

Application for a Subdivision Certificate (SC)

Description of Services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of SC application form to the Client.
2. Conduct an inspection of any subdivision work, if necessary.
3. Ascertain if any conditions of development consent, or requirements of a planning agreement, which are required to be complied with before a SC may be issued have been satisfied.
4. Ascertain if a certificate of compliance from a water supply authority is required, and if so, whether one has been obtained.
5. Ascertain if objector rights of appeal, if any, have lapse or been determined.
6. Ascertain if any drainage easement is required by an order under section 40 of the *Land and Environment Court Act 1979*, and if so, whether such an easement has been provided.

7. If any subdivision work has not been completed, ascertain if any agreement has been reached with the consent authority relating to the payment for, or the giving of security for, the completion of the subdivision work.
8. Determine the application and prepare a notice of determination.
9. If the application is granted, prepare a subdivision certificate and endorse the plan of subdivision.

Dictionary

Accredited certifier means the holder of a certificate of accreditation as an accredited certifier under the *BP Act*.

Applicable environmental planning instrument means the State Environmental Planning Policy or the Local Environmental Plan nominated by the Client as the instrument against which an application for a Complying Development Certificate is to be assessed.

BASIX means the Building Sustainability Index.

BCA means the Building Code of Australia.

BP Act means the *Building Professionals Act 2005*.

Certification work means:

- a. the determining of an application for a development certificate.
- b. the issue of a development certificate.
- c. carrying out the functions of a PCA.
- d. carrying out of inspections for the purposes of Section 6.5 of the EP&A Act.
- e. carrying out inspections under section 22 *Swimming Pools Act 1992* and issuing certificates of compliance under that Act.

Contractor licence means a licence issued under the *Home Building Act 1989*.

Development certificate means:

- a. a certificate under Part 6 of the EP&A Act, being:
 - a Construction Certificate.
 - a subdivision certificate.
 - an Occupation Certificate.
- b. a Complying Development Certificate.
- c. a strata certificate issued under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the Environmental Planning and Regulation 2000.

Owner-builder permit has the meaning given to it by the *Home Building Act 1989*.

PCA means a Principal Certifying Authority appointed under Section 6.5 of the EP&A Act.

Residential building work has the meaning given to it by the *Home Building Act 1989*.



Statement of Environmental Effects Form

All forms to:

Greater Hume Council, 39 Young Street (PO Box 99) HOLBROOK NSW 2644
 Email: mail@greaterhume.nsw.gov.au

Legislation

In accordance with Schedule 1 of the *Environmental Planning and Assessment Regulation 2000* a development application must be accompanied by a Statement of Environmental Effects (except for "designated development" which must be accompanied by an Environmental Impact Statement).

Qualifier

This *Statement of Environmental Effects Template* has been produced to assist applicants to identify the environmental impacts of a development and the steps to be taken to protect the environment or lessen the expected harm. The template is suitable for minor impact development such as dwellings, alterations and additions, outbuildings, small scale commercial and industrial developments and minor subdivisions. It may be necessary for Council to request additional information depending on the nature and impacts of a proposal. Larger scale developments should be accompanied by a detailed and specific Statement of Environmental Effects. For further information in this regard please see Council's Fact Sheet 'Guide on the Preparation of a Statement of Environmental Effects'.

(When completing template if any potential environmental impact is identified please provide additional comment. If necessary attach additional information).

Application Details

Applicant's Name Mr Kimball Felton

Location of Development
 Lot 21 DP 1143963
 No 103 Street Dunwandren Lane
 Locality Jindera NSW 2642

Description of the Development

(Should include where applicable physical description of building, proposed building materials, nominated colour scheme, nature of use, details of any demolition etc).

Create an 8ha subdivision from Lot 21, Dp 1143963, 103 Dunwandren Lane, Jindera. The remaining Lot to be 7.2ha and the current residence will be on this lot.

Document Name	Version Number	Date of Issue	Review Date
EAP - Statement of Environmental Effects Form	1.0.1	11 January 2019	As Required

Description of the Site

(Describe the physical features such as shape, slope, vegetation, any waterways. Also describe the current use/s on the site).

The lot will be rectangular with approx 190m frontage to Dunwandren Lane, Jindera.

The slope is gentle with no waterways.

Vegetation is improved grazing pasture.

Current use; grazing for horses and cattle.

Context and Setting

Will the development

- Be visually prominent in the surrounding area? No Yes
- Be inconsistent with the existing streetscape or Council's setback policies? No Yes
- Be out of character with the surrounding area? No Yes

Comments The proposed lot sizes are generally compatible with others in Dunwandren Lane, and the urban/rural fringe of Jindera. Specifically the immediate adjoining lots to the east and west are less than 8ha. The proposed subdivision will provide lots consistent with adjoining development.

Access/Traffic and Utilities

(Note 1 dwelling = approximately 10 vehicle movements per day)

- Is legal and practical access available to the development? No Yes
- Will development increase local traffic movements / volumes?
If yes, by how much? No Yes
- Are additional access points to road network required? No Yes
- Has vehicle manoeuvring and onsite parking been addressed in the design?
(Commercial / Industrial / Multi Res / Public Buildings only) No Yes NA
- Are power, water, electricity, sewer and telecommunications services readily available to the site? No Yes

Comments Both blocks will have separate driveway access, a new driveway will be created, Block 1. Development will create minimal increase in local traffic, when/if a dwelling was built in the future, the current road would accommodate this. Phone, water and electricity are readily available to the site.

Environmental Impacts

- Is the development likely to result in any form of air pollution (smoke, dust, odour etc.)? No Yes
- Does the development have the potential to result in any form of water pollution (e.g. sediment run-off)? No Yes
- Will the development have any noise impacts above background noise levels (e.g. swimming pool pumps)? No Yes
- Does the development involve any significant excavation or filling? No Yes
- Could the development involve any significant excavation or filling? No Yes
- Is there any likelihood in the development resulting in soil contamination? No Yes
- Is the development considered to be environmentally sustainable (including provision of BASIX certificate where required)? No Yes
- Is the development likely to disturb any aboriginal artefacts or relics? No Yes

Comments No trees will need to be removed.

Flora and Fauna Impacts

(For further information on threatened species, see www.threatenedspecies.environment.nsw.gov.au)

- Will the development result in the removal of any native vegetation from the site? No Yes
- Is the development likely to have any impact on threatened species or native habitat? No Yes

(If the answer is yes to either of the above questions it may be necessary to have a formal seven-part test completed to assess the impact on threatened species – applicants are encouraged to consult Council).

Comments There are no waterways on the proposed site.

Natural Hazards

Is the development site subject to any of the following natural hazards

- Bushfire Prone? Landslip? Flooding?

(Note if the site is identified as Bushfire Prone it will be necessary to address the Planning for Bushfire Protection Guidelines and in the case of subdivision the development will be integrated. For further information please consult the NSW Rural Fire Service website www.rfs.nsw.gov.au).

Comments Not applicable, to the site.

Waste Disposal

- How will effluent be disposed of? To Sewer Onsite
- Will liquid trade waste be discharged to Council's sewer? No Yes
- How will stormwater (from roof and hard standing) be disposed of?
 Street Drainage System Other (provide details)

Comments Any future dwelling on the site would use systems to Council's specifications.

Social and Economic Impacts

- Will the proposal have any economic consequences in the area? No Yes
- Will the proposal affect the amenity of surrounding residences by overshadowing / loss of privacy / increased noise or vibration? No Yes
- Is the development situated in a heritage area or likely to have an impact on any heritage item or item of cultural significance? No Yes

Comments Positive economic consequences are predicted with the attraction of more residents/families to the Lindera + Greater Hume area.

Operational and Management Details

(This section is only relevant to commercial / industrial / public buildings and other non-residential uses)

Please attach a separate statement to this form addressing the following matters

- Description of operation.
- Numbers of staff.
- ~~Description of production process.~~
- Type and quantity of goods handled including any hazardous substances.
- Provision for disabled access and facilities.
- Hours and days of operation.
- Maximum expected number of customers.
- Nature of any waste generated.

Applicant's Signature

Pho Felton

Date

16/06/19

Privacy Policy – This information is required under the Environmental Planning and Assessment Act and Regulation to process your application. Your information would comprise part of a public register related to this purpose. This information will be kept by Council and disposed of in accordance with the Local Government Disposal Authority. You are entitled to review your personal information at any time by contacting this Council.

Description of Development Proposal

Subdivide Lot 21, 103 Dunwandren Lane Jindera into two lots, current size of Lot 21 is 15.2 ha;

- 1 Block 1 (subdivision) 8 ha
- 2 Block 2 with current residence 7.2 ha

In accordance with the provisions of clause 4.6(3)(b) of the Greater Hume Local Environmental Plan 2012, the following provides a written request outlining why the proposed two lot rural residential lifestyle allotments is considered to have sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6 of the Greater Hume Local Development Plan 2012 is relevant to exceptions to development standards and provides a degree of flexibility to a development. This development will result in Block 1 which complies to the minimum size requirement of 8 ha and Block 2 which will be 7.2 ha. The 7.2 ha lot meets the requirement of Clause 4.6(6)(b) to be not less than 90% of the area specified for a lot by the development standard.

Reasons for the proposed subdivision are outlined as follows:

- The proposed lot sizes are generally compatible with other surrounding development along Dunwandren Lane and the urban/rural fringe of the township of Jindera. More specifically, the two properties to the immediate east at 57 & 67 Dunwandren Lane are both less than the 8 ha minimum lot size requirement, being approximately 4.5 ha and 2 ha respectively. Similarly, the property adjoining immediately to the west at 113 Dunwandren Lane is also less than the 8 ha minimum lot size and is only approximately 2 ha in size. Accordingly, the proposed subdivision will provide for a variety of lot sizes consistent with adjoining development;
- Based on the above, the development will not create any land use conflicts with surrounding properties and will not restrict agricultural activities being undertaken in this area;
- The proposed subdivision provides a simple and logical design via the creation of two rectangular lots;
- The land will continue to be used for rural lifestyle/hobby farm purposes due to their proposed size and their location within a rural lifestyle area;
- The subject land contains limited environmental features as it contains no waterways, ridgelines or areas of high quality vegetation (outside of individual scattered paddock and landscape trees) and the land is generally flat;
- Due to the size of the proposed allotments there is ample opportunities to position and locate a future dwelling without causing any environmental or social impacts;
- The size of the property will allow for the appropriate disposal of effluent on site without causing environmental harm;
- The property can be serviced with reticulated services including road access, town water, electricity and telecommunications. Bottled gas will be provided to any future dwelling consistent with other rural residential properties, whilst sewer/effluent can be appropriately disposed of via an on-site disposal system.
- Council has previously approved subdivisions of this type. The proposal will have no adverse effects on the amenity or the future building envelope of the site and will not be contrary to public interest.

Based on the above, the proposed subdivision is considered to be appropriate on environmental planning grounds and the imposition of the rigid 8 ha minimum lot size is considered unnecessary in this instance.


AMENDED



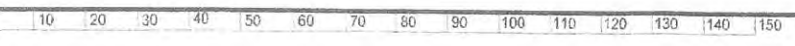
SURVEYING & SPATIAL INFORMATION REGULATION 2012 CLAUSE 61(2)					
MARKS	MGA CO-ORDINATES		CL	ORD	ORIGIN
	EASTING	NORTHING			
SSM 21476	488732-193	6022670-289	B	2	SCIMS
SSM 21477	488797-695	6022758-163	B	2	SCIMS
SSM 54944	488745-246	6022246-272	C	4	SCIMS

SOURCE SCIMS 1st APRIL 2014
COMBINED SCALE FACTOR 0.999564 ZONE 55

- (WS) EASEMENT FOR WATER SUPPLY 3 WIDE
- (EP) EASEMENT FOR OVERHEAD POWERLINES 20 WIDE

Surveyor: Stuart M Mason Date of Survey: 2/4/2014 Surveyor's Ref: 216718SV02	PLAN OF SUBDIVISION OF LOT 2 IN DP558526	LGA: GREATER HUME Locality: JINDERA Subdivision No: 15.2007.124.1 <small>Lengths are in metres Reduction Ratio 1: 2500</small>	Registered:  16.01.2017	DP1143963
--	---	---	---	------------------

Req: R756887 / Doc: DP 1143963 P / Rev: 17-Jan-2017 / Sts: SC OK / Pgs: ALL / Prt: 29-May-2017 / 05 / Seq: 1 of 3
 Ref: 363741 / Src: M



JAMES G. SLOAN

After Hours 6040 1109

B.Comm.LL.B

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E-mail address: James.Sloan@jgs.com.au**ABN: 92 729 285 709****TEL: (02) 6041 1122**

FAX: (02) 6041 1207

MOBILE: 0402 052 536

My Ref: JGS:jh:7035

Your Ref: CJK:SLG:P10036333

25 July 2019

Mr Colin Kane
Director Environmental & Planning
Greater Hume Council
PO Box 99
HOLLBROOK NSW 2644
Also by email mail@greaterhume.nsw.gov.au

Dear Sir,

DEVELOPMENT APPLICATION: 10.2019.89.1

I act for Russell and Jane Holland who reside at 192 Quartz Hill Road, Jindera on the land contained in Lot 6 DP560472.

I refer to your letter of 12 July 2019 regarding the Development Application 10.2019.89.1 made by K A Felton in regard to a proposed 2 Lot Subdivision of Lot 21 in DP1143963.

The subject land adjoins my clients' northern boundary. My clients' house is located relatively close to their northern boundary.

I note the intention is to create a two Lot Subdivision. Instead of dividing the land in half, it is intended that the boundary be created between the two lots of the subdivision to have a "dog leg" which I understand is to ensure that a power pole currently located on the property is in the proposed Lot 1 rather than Lot 2.

My clients are not opposed to subdividing Lot 21. But they say the subdivision boundary should be in the centre all the way to the southern boundary. By creating the "dogs leg" (which is apparently to ensure that the power pole is on the proposed lot 1), will result in the encouragement of owners of the proposed lot 1 to construct a residence in the area of the "dog leg" very close to the southern boundary and my clients' northern boundary and house.

This is a rural residential area. My clients, like most of the residents in the area, desire that their home is not adversely impacted upon by other homes built in close proximity. By allowing this subdivision "dog leg" around the power pole will encourage a potential owner of lot 1 to build a house very close to my clients' residence. This is undesirable and not in keeping with the objectives of the relevant zoning. If the subdivision boundary between lots 1 and 2 is a straight line from the northern to the southern boundary of lot 21, the potential owners of the proposed lot 1 would be more likely to


.../2

build their residence towards the centre of the land rather than close to my clients' residence.

Accordingly, I am instructed to request that if the subdivision is to be granted, it be on the basis that the dividing line between the two lots be a straight line from north to south creating two lots of approximately equal area without any need for a "dog leg".

Please let me have your response at your earliest convenience.

Yours faithfully

A handwritten signature in black ink that reads "James G. Sloan." The signature is written in a cursive style with a large initial 'J' and a period at the end.

JAMES G SLOAN



9 August 2019

By email: ckane@greaterhume.nsw.gov.au

Our Reference
191712

Colin Kane
Director Environment & Planning
Greater Hume Shire Council
PO BOX 99
HOLBROOK NSW 2644

Dear Colin

Advice on withholding owners consent

I refer to your telephone conversation with Alice Menyhart of 29 July 2019.

1. Instructions

- 1.1 We are instructed to provide advice regarding the ability of the Land and Environment Court to give consent, on behalf of the Council as landowner, to the making of a development application for the purpose of a solar farm partly on a public road that is owned by the Council.

2. Summary of Advice

- 2.1 The Council is able to withhold its consent as an owner to the making of a development application on land owned by the Council. However, there is case law which suggests that to do so arbitrarily may be considered by the Court to have been for an improper purpose.

- 2.2 In any appeal of a development application for State significant development, the Land and Environment Court (**the Court**) has the functions of the consent authority. For State significant development, the consent authority will be the Independent Planning Commission (**the Commission**) or the Minister and not the Council. However, in our view, it is arguable that, in the relevant statutory context, the Court may still be able to grant owner's consent on behalf of the Council.

- 2.3 The developer could apply for an easement over the Council's road:

- (a) to the Supreme Court under s.88K of the *Conveyancing Act 1919*; or
- (b) to the Court in any appeal of a refusal to grant development consent.

If an easement is granted there is an implied (and can be express) obligation that the Council will give its consent to the making of a development application consistent with the purpose for which the easement was granted.

- 2.4 If development consent is granted for the development by the Court, the Commission or the Minister, the Council cannot withhold its consent to the road works under s.138 of the *Roads Act 1993* if they are substantially consistent with the consent granted.

3. Background

- 3.1 There are a number of solar farm developments taking place in the Council's Local Government Area.
- 3.2 We are instructed that these solar farm developments are State significant development. We have assumed for the purpose of this advice, however, that the development is not State significant infrastructure.
- 3.3 A development application for a solar project has recently been made and is seeking to connect to an existing substation by constructing cables under a Council road. We have assumed for the purpose of this advice that the Council is the appropriate roads authority for this road and that the fee simple in the road is vested in the Council under s.145 of the *Roads Act 1993*.
- 3.4 We are instructed that, if the Council refuses to give its consent, then the developer will probably seek to have the Council's decision reviewed by the Court.
- 3.5 Please let us know if any of the above information is incorrect, as this may affect our advice.

4. Advice

Power to withhold owner's consent

- 4.1 As Council is aware, a land owner's consent to the making of a DA is an essential requirement for the making of a valid development application, without which any resulting development consent will be invalid. The requirement operates to give the owner of land effectively a right of veto over the approval of the development: *Mulyan Pty Ltd v Cowra Shire Council* [1999] NSWLEC 212. However, the right of the Council as the owner of a public road to withhold consent is not as broad as that of a private person. In *Sydney City Council v Claude Neon Ltd* (1989) 67 LGRA 181 at [729] the Court held that:

'the council does not have a right arbitrarily to withhold its consent as the ordinary owner of private land might do. If the proposed development is one which ought to be approved, then the council ought to give its consent. Its failure to do so simply because it wished to frustrate the right of the adjoining owner to obtain approval...would be a use of its power for an improper purpose'.

- 4.2 The Court's decision in *Clause Neon* was made in the course of considering whether the granting of development consent by the Council for development to be carried out on Council-owned land impliedly incorporated the Council's consent as landowner to the making of the development application. The Court held that it did and that the Council's granting of development consent 'necessarily and implicitly imports consent to the making of the application'. However, the Court's conclusion that the withholding of consent arbitrarily would be a use of its power for an improper purpose means, in our view, that there would be a significant risk that any such decision might be successfully challenged in Class 4 judicial review proceedings. The Council's inability to refuse approval to the works under s.138 of the *Roads Act 1993* (discussed below at [4.16]), lends further support to this conclusion.

Ability of the Court to grant owner's consent

- 4.3 Ordinarily, if a council is the consent authority for a DA to which it has not given its consent as owner of the land and that application is either expressly refused or deemed to be refused then, in any appeal, the Court will be able to give consent to the making of the application 'on behalf of the Council'. It is well established that the Court has this power pursuant to section 39 of the *Land and Environment Court Act 1979 (the LEC Act)*: *Sydney City Council v Ipoh Pty Ltd* [2006] NSWCA 3000. That provision is now contained in s.8.14 of *Environmental Planning and Assessment Act 1979 (the EPA Act)* and is as follows:

'In addition to any other functions and discretions that the Court has apart from this subsection, the Court has, for the purposes of hearing and disposing of an appeal under

this Division, all the functions and discretions which the consent authority whose decision is the subject of the appeal had in respect of the matter the subject of the appeal.'

4.4 We are instructed that the solar development currently being proposed is State significant development. Under s.4.5 of the EPA Act, the consent authority for State significant development is the Commission (if the development is of a kind for which the Commission is declared to be the consent authority by an environmental planning instrument) or the Minister (if the development is not of that kind). Therefore, in this case the consent authority will not be the Council and, in any appeal the *'person or body whose decision is the subject of the appeal'* will be the Minister or the Commission.

4.5 We are only aware of one case in which a similar issue has arisen. In *CEAL Limited v Minister for Planning and Ors* (2007) 159 LGERA 232, road upgrades were required to a Council road but consent had not been provided by the Council. In that case it was submitted by the applicant (at 241) that:

Although the amended development application had sought development consent for the road upgrading, it had not been accompanied by the consent in writing of the owner of the road, the Council. Section 39(2) of the Land and Environment Court Act 1979 (the LEC Act) did not apply as the "person or body whose decision" was subject to the appeal within the meaning of that provision was the Minister not the Council. Accordingly, the court could not exercise the Council's functions as the owner of the road to give owner's consent to the development application (a function which, I note, the court could have exercised if the Council were the consent authority whose decision was subject to the appeal — see, for example, Sydney City Council v Ipoh Pty Ltd (2006) 149 LGERA 329).

4.6 This was not a central issue in the appeal and the Court was not required to decide whether it was correct. However, the Court did appear to accept the submission, going on to find a different function of the Council, namely giving of consent under s.138 of the *Roads Act 1993*, was not exercisable by the Court because this was a function of the Council (as the relevant roads authority) and not the Minister as the consent authority: at [28].

4.7 As the issue has not been squarely decided by the Court there is some uncertainty about whether the Court will take the same approach discussed, but not finally decided, in the CEAL case. It seems to us that it would also be open to the Court to decide that, having regard to the Council's inability to withhold approval under s.138 of the *Roads Act 1993* for works necessary to implement a development consent for State significant development, the Court should be able to exercise the function of the Council to provide the owner's consent to the making of the application. This would also be consistent with the views expressed in the *Clause Neon* case (discussed above) that refusal to provide owner's consent simply to frustrate the determination of an otherwise meritorious application may be susceptible to legal challenge for having been done for an improper purpose.

Creation of an Easement

4.8 The developer may obtain a right to compel the Council to grant owner's consent if it can obtain an easement over the Council's land for the purpose of the development.

4.9 An easement is exercised over land for the benefit of other land. For the creation of an easement, the servient tenement (in this case, the Council's land) must 'accommodate' the dominant tenement (the developer's land). The separate lots will often, but need not, be contiguous (i.e. sharing a common border). We understand that the lots in the application the subject of your request for advice are, or are almost, contiguous and, in our view, in these circumstances an easement for the proposed cables would 'accommodate' the developer's land.

4.10 Under s.88K of the *Conveyancing Act 1919*, the Supreme Court may make an order imposing an easement over land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement. The same power is given to the Court under s.40 of the LEC Act where it:

- (a) has determined to grant or modify a development consent pursuant to proceedings on an appeal under EPA Act, or
- (b) proceedings on an appeal under the EPA Act with respect to the granting or modification of a development consent are pending before the Court.
- 4.11 The relevant questions on an application under s.88K of the *Conveyancing Act 1919* or s.40 of the LEC Act were summarised by the Court in *Khattar v Wiese* [2005] NSWSC 1014 at [2][±] as:
- (a) Is the proposed easement reasonably necessary for the effective use or development of the applicant's land that will have the benefit of the easement (s 88K(1))?
- (b) Will the use of the applicant's land having the benefit of the easement not be inconsistent with the public interest (s 88K(2)(a))?
- (c) Can the owner of the land to be burdened by the easement, and each other person having an estate or interest in that land, be adequately compensated for any loss or other disadvantage that will arise from imposition of the easement (s 88K(2)(b))?
- (d) Have all reasonable attempts been made by the applicant to obtain the easement or an easement having the same effect, but have been unsuccessful (s 88K(c))?
- (e) If yes to each of the foregoing questions, should the court exercise its discretion to impose an easement (s 88K(1))?
- (f) Unless there are special circumstances of the case, what compensation is appropriate to be ordered (s 88K(4))?
- (g) Is there any reason why the costs of the proceedings should not be paid by the applicant (s 88K(5))?
- 4.12 We do not have sufficient information about the project or the background to the matter to advise on the likelihood that a court would grant the easement under the above considerations. The making of an order to create an easement over the road in question is, however, clearly a possibility.
- Effect of an easement on owner's consent*
- 4.13 Granting an easement and obtaining owner's consent are two different issues. However, if an easement is granted there is an implied obligation imposed on the owner of the servient tenement (the land burdened by the easement) to give its consent to the making of an application for consent to undertake works within the easement, being works for the purpose for which the easement was granted. This obligation may be made an express term of the easement: *Rainbowforce Pty Limited v Skyton Holdings Pty Limited and Ors* [2010] NSWLEC 2 at [196]; *117 York St. Pty Ltd v Proprietors of Strata Plan No 16123* (1998) 43 NSWLR 504 at [522] but will be implied if not express.
- 4.14 Therefore, if the developer obtained an easement for the purpose of the laying of the cables, with the consent of the Council or by an application to a court, the Council could not withhold its consent to a development application for the solar project which required use of those cables.
- Consent under s.138 of the Roads Act 1993**
- 4.15 As the Council is aware, under s.138 of the *Roads Act 1993* a person must not carry out a work in, on or over a public road, or dig up or disturb the surface of a public road without the consent

[±] Applied by Preston CJ in *Rainbowforce Pty Limited v Skyton Holdings Pty Limited and Ors* [2010] NSWLEC 2.
191712_006.docx

of the appropriate roads authority. The development will therefore need s.138 consent from the Council in addition to owner's consent.

- 4.16 An application can be made for consent by any person under s.139 of the *Roads Act 1993*. Ordinarily, an application for development consent can be integrated development under s.4.46 of the EPA Act and also seek approval under s.138; however, State significant development cannot be integrated development and, as such, a s.139 application must be made separately to an application for development consent.
- 4.17 Ordinarily, the Council could refuse to grant s.138 approval and the applicant would have no right of review or appeal. However, s. 4.42 of the EPA Act provides that a consent under s.138 of the *Roads Act 1993* is an authorisation of a kind which cannot be refused if;
- (a) it is necessary for carrying out State significant development that is authorised by a development consent; and
 - (b) is to be substantially consistent with the consent.
- 4.18 As such, if the Minister or Commission, or the Court on appeal, grants development consent for the proposed solar project and the application for works on the Council road is consistent with that consent, then the Council will not be able to withhold approval to carry out those works under s.138 of the *Roads Act 1993*.

Please let me know if you wish to discuss this advice.

Yours sincerely

BRADLEY ALLEN LOVE



Alan Bradbury
Legal Director

Direct Line: 02 6274 0940
Email: alan.bradbury@ballawyers.com.au



Hume
Shire Council

The rural living alternative.

In reply please quote:

DJS:PE:P. 20387-0

Contact:

Dennis Salzke-Spurr

Hume Shire Council
ABN. 41 697 879 124

Offices

539-541 Kiewa Street
Albury NSW 2640

Correspondence

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Albury NSW 2640

Phone

(02) 6051 3900

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Website

www.humeshire.nsw.gov.au

CONSENT NO: 317-03/04

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address: **ESLER & ASSOCIATES
SURVEYORS
PO BOX 3055
ALBURY NSW 2640**

Being the applicant in respect of Development Application No 317-03/04

Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination by Hume Shire Council, as the consent authority, of the Development Application No 317-03/04 relating to the land described as follows:

**LOTS 1 & 2 DP431208 LOT 1 DP172573 LOTS 14/15 DP134614
LOTS 214 & 215 DP753731 JINDERAWALLA ROAD
PARISH OF CASTLESTEAD**

For the following development:

BOUNDARY ADJUSTMENT

The Development Application has been determined by **granting of consent** subject to the following conditions:

1. Consolidation and boundary adjustment shall be in accordance with the approved plan and the following conditions.
2. An instrument under Section 88B of the Conveyancing Act shall be imposed on the new titles created that prevent the construction of any additional dwellings as a result of this consolidation and boundary adjustment.

3. All easements necessary to ensure the supply of services and access shall be provided.
4. No trees shall be removed from the land without the written permission of Council.
5. This approval shall expire if the development hereby permitted is not commenced within five (5) years of the date hereof or any extension of such period the Council may allow.

The reason for the imposition of the above consent conditions is as follows:-

- i. to ensure compliance with the terms of the environmental planning instruments;
- ii. having regard to Council's duties of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as well as Section 80A which authorises the imposing of the consent conditions; and
- iii. having regard to the circumstances of the case and the public interest.

ENDORSEMENT OF DATE OF CONSENT: 21 APRIL 2004

IMPORTANT: You are advised to read these notes in addition to the Conditions of your consent.

- 1) Section 97 of the Environmental Planning and Assessment Act confers on the applicant who is not satisfied with the determination of the consent authority a right of appeal to the Land and Environment Court exercisable within 12 months of receipt of this notice.
- 2) If you are dissatisfied with the determination of the consent authority, Section 82A of the Environmental Planning and Assessment Act 1979 gives the applicant a right of review by Council within 28 days of the date of determination.
- 3) This consent shall be effective and operative from the endorsement date of this consent; however should an appeal be lodged against Council's determination of the application, the consent shall cease to be, or shall not become operative, until that appeal is determined. See Section 83 of the Act.
- 4) For information about the circumstances in which this consent may lapse; about commencement of a development granted consent; about extension of the consent; and about the circumstances in which

CONSENT NO: 317-03/04

Council may require completion of the development, see Section 95 of the Act.

- 5) For information about the procedure for the modification of this consent by Council, see Section 96 of the Act.
- 6) Any person who contravenes this notice of determination of the abovementioned development application shall be guilty of a breach of the Environmental Planning and Assessment Act, 1979, and shall be liable to a monetary penalty and for a restraining order which may be imposed by the Land and Environment Court.


.....
DENNIS SALZKE-SPURR
MANAGER ENVIRONMENTAL SERVICES

21 April 2004

15 Rural (Agriculture) Zone**(1) Purpose**

The purpose of the Rural (Agriculture) Zone is:

- (a) to identify land used for agricultural purposes, and
- (b) to implement Council's strategic directions for rural land, and
- (c) to encourage the sustainable use of land for agriculture, and
- (d) to avoid fragmentation of agricultural land in areas where large scale independent farm businesses are the predominant land use, and
- (e) to allow for farm restructuring, and
- (f) to encourage the continued use of rural land for agricultural purposes, and
- (g) to encourage protection and enhancement of the bio-diversity of the area, and
- (h) to recognise the complexities of family farm ownership, financing and management, and
- (i) to promote economic development that is compatible with rural activities, and
- (j) to encourage development of new sustainable rural enterprises, and
- (k) to ensure that land use and development does not place an unreasonable burden on Hume's infrastructure and services.

(2) Development with consent and prohibited development

DEVELOPMENT	CONDITION
-------------	-----------

CONSENT REQUIRED**Dwelling**

- (1) A lot may be used for a dwelling if:
 - (a) it was created by development consent for subdivision under a previous or current environmental planning instrument and is at least 0.4 hectares, or
 - (b) it is at least 100 hectares and is located in that part of the zone shown on the map as "inner", or
 - (c) it is at least 400 hectares and is located in that part of the zone shown on the map as "outer", or
 - (d) it exists as a single lot in the same configuration as it was at 31 July 1987 and no adjoining lot was in the same ownership and is at least 0.4 hectares, or
 - (e) it exists as one of a number of adjoining lots in the same ownership as at 31 July 1987 and no dwelling exists on any other lot and is at least 0.4 hectares, or
 - (f) it is at least 100 hectares and was created before 31 July 1987, and is located in that part of the zone shown on the map as "outer".
- (2) A dwelling with on-site effluent treatment and disposal shall not be located within:
 - (a) 100 metres of the Murray River, or
 - (b) 100 metres of the full supply level of Lake Hume, or
 - (c) 40 metres of any other watercourse.

Note. Development shall be in accordance with the Guidelines for Living in Rural Areas Development Control Plan.

DEVELOPMENT	CONDITION
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CONSENT REQUIRED (CONT.)

Subdivision

- (1) In areas shown on the map as the "outer" area, each lot created must be at least 400 hectares.
- (2) In areas shown on the map as the "inner" area, each lot created must be at least 100 hectares.
- (3) Despite subclauses (1) and (2), consent may be granted for the excision of a lot of less than 2 hectares for use by a retired farmer.
- (4) Despite subclauses (1) and (2), consent may be granted to create a lot of any size for:
 - (a) public or community purposes, or
 - (b) the purpose of consolidation with another lot, or
 - (c) the purpose of rearranging lot boundaries and if the number of lots is not increased, or
 - (d) any purpose permissible in the zone (except dwellings).

Note. Applications for subdivision under subclause (3) will need to satisfy the criteria relating to retired farmers contained within the Guidelines for Living in Rural Areas Development Control Plan..

Any development that:

- (a) is designated development, or
- (b) is not included elsewhere in this section of this Table as development that requires consent,

Note. This plan provides that designated development (being development that is specified in Schedule 3 to the Environmental Planning and Assessment Regulation 2000) can only be carried out with development consent. Development does not cease to be designated development because it is ancillary to development that may be carried out without development consent.

but is not development that:

- (c) is exempt development, or
- (d) is included in the "Prohibited" section of this Table as development that is prohibited.

DEVELOPMENT	CONDITION
-------------	-----------

PROHIBITED

Junk yard

Residential flat building , other than to accommodate rural workers.

Shop, other than a general store.

Warehouse, other than in association with a rural industry.

Any development that is not included in the "Consent required" section of this Table because it is excluded by a condition.

11 JUN 2019

TOWN PLANNING + URBAN DESIGN CONSULTANTS



4 June 2019

Greater Hume Council
 P O Box 99
 HOLBROOK NSW 2644

Attention: Colin Kane, Director of Environment & Planning

Dear Colin,

**VARIATION OF RESTRICTIVE COVENANT TO PERMIT A RURAL DWELLING
 WALLA WALLA-JINDERA ROAD, WALLA WALLA**

We act for the landowner in this matter and have been instructed to seek Council's consent to vary a restrictive covenant preventing the erection of a dwelling on a rural lot near Walla Walla. The variation is necessary as it prevents application of the current planning provisions that would allow a dwelling on the land.

The land subject to the covenant is Lot 1 in DP1079397 (see attached) and has an area of 75.45 hectares. It is currently zoned RU1 Primary Production under Greater Hume Local Environmental Plan 2012 (GHLEP) and was created by a (re)subdivision in 2004 (Ref: 317-03/04) under the previous planning instrument (Hume Local Environmental Plan 2001).

A dwelling is currently permissible on the lot under the GHLEP as it is vacant and was *"created before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement"* (clause 4.2A(3)(b)). A dwelling was permissible under the previous planning instrument as it was a lot *"created by development consent for subdivision under a previous or current environmental planning instrument and is at least 0.4 hectares"* (clause 15(2)).

The restrictive covenant (see attached) was imposed as a condition of consent on the subdivision that created the lot, to prevent this process (boundary realignments) from being used at the time to create rural lots with the opportunity for a dwelling that otherwise would not qualify.

The GHLEP has since replaced the instrument under which the consent was granted and must now be given preference in consideration of the permissibility of dwellings within rural zones.

Clause 1.9A of the GHLEP provides for the suspension of covenants in the event a restriction conflicts with the planning provisions (e.g. preventing something that is permissible). Council can disregard a covenant in these circumstances, unless it has been imposed by the Council itself, as is the case here.

However, on the covenant Council is nominated as the *"authority empowered to release, vary or modify the restriction on use"*. Hence Council can acknowledge the permissibility of a dwelling under the current GHLEP by using its authority to release the lot from the restriction. It is important to

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 habitatplanning.com.au

TOWN PLANNING + URBAN DESIGN CONSULTANTS

note that in doing so, Council is not in any way breaching the provisions of the current planning instrument.

I trust that the above information is adequate for you to recommend to Council that the restrictive covenant be set aside in this instance.

Yours faithfully,



Warwick Horsfall

Director

encl Title & covenant

cc Cameron Odewahn

Land and Property Information Division

ABN: 84 104 377 806

GPO BOX 15

Sydney NSW 2001

DX 17 SYDNEY

Telephone: 1300 052 637

Land & Property
Information

A division of the Department of Finance & Services

TITLE SEARCH

Title Reference: 1/1079397

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 1/1079397

SEARCH DATE	TIME	EDITION NO	DATE
25/11/2013	3:57 PM	3	31/3/2006

LAND

LOT 1 IN DEPOSITED PLAN 1079397
 AT WALLA WALLA
 LOCAL GOVERNMENT AREA GREATER HUME SHIRE
 PARISH OF CASTLESTEAD COUNTY OF HUME
 TITLE DIAGRAM DP1079397

FIRST SCHEDULE

CAMERON KEITH ODEWAHN (TA AC211903)

SECOND SCHEDULE (3 NOTIFICATIONS)

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- LAND EXCLUDES MINERALS BY THE CROWN GRANT OF PORTION 244 AND IN THE AREA GRANT OF 11.39 HA (28 ACRES 0 ROODS 22 PERCHES) AFFECTING THE PARTS SHOWN SO INDICATED IN THE TITLE DIAGRAM
- DP1079397 RESTRICTION(S) ON THE USE OF LAND

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 25/11/2013

* ANY ENTRIES PRECEDED BY AN ASTERISK DO NOT APPEAR ON THE CURRENT EDITION OF THE CERTIFICATE OF TITLE.
 WARNING: THE INFORMATION APPEARING UNDER NOTATIONS HAS NOT BEEN FORMALLY RECORDED IN THE REGISTER.

**INSTRUMENT SETTING OUT TERMS OF RESTRICTIONS INTENDED TO BE
CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919.**

(Sheet 1 of 2 sheets)

DP1079397Plan of subdivision of Lot 2 DP.431208,
Lots 214 & 215 DP.753731, Lots 7, 14 & 15
DP.134614, Lot 1 DP.172573 & land in C/T
Vol.6649 Fol.4 covered by Council's
Certificate No. 1/05 Dated 14 January,
2005**Full name and address of owner of the
land.**Mr Keith William Odewahn
"Dallaroo"
WALLA WALLA NSW 2659

And

Mr Alan Hubert Odewahn
"Bona Vista"
WALLA WALLA NSW 2659**PART 1****1. Identity of restriction to be created
and firstly referred to in the plan:**

Restriction on the use of land.

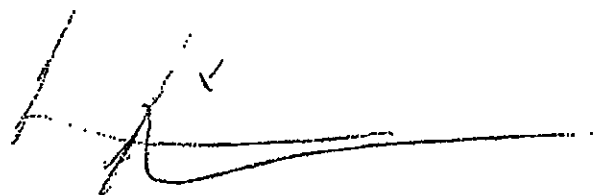
Schedule of Lots affected.**Lots Burdened.****Lots Benefited.**

Lots 1 and 2

Greater Hume Shire Council

PART 2**1. Terms of restriction firstly referred to in the plan.**No additional dwelling may be erected on the land as a result of the registration of
this plan.**Name of authority empowered to release, vary or modify the restriction on use
thirdly referred to in the plan.**

Greater Hume Shire Council.



**INSTRUMENT SETTING OUT TERMS OF RESTRICTIONS INTENDED TO BE
CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919.**

(Sheet 2 of 2 sheets)

Plan:

Plan of subdivision of Lot 2 DP.431208,
Lots 214 & 215 DP.753731, Lots 7, 14 & 15
DP.134614, Lot 1 DP.172573 & land in C/T
Vol.6649 Fol.4 covered by Council's
Certificate No.

DP1079397

Signed in my presence by **KEITH WILLIAM ODEWAHN** and **ALAN HUBERT ODEWAHN** who are personally known to me.

Signature of witness *Kerenza Melloney Brown*

Kerenza Melloney Brown
Law Clerk

568 Kiewa Street Albury 2640

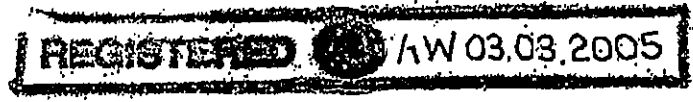
Name and qualification of witness (BLOCK LETTERS)

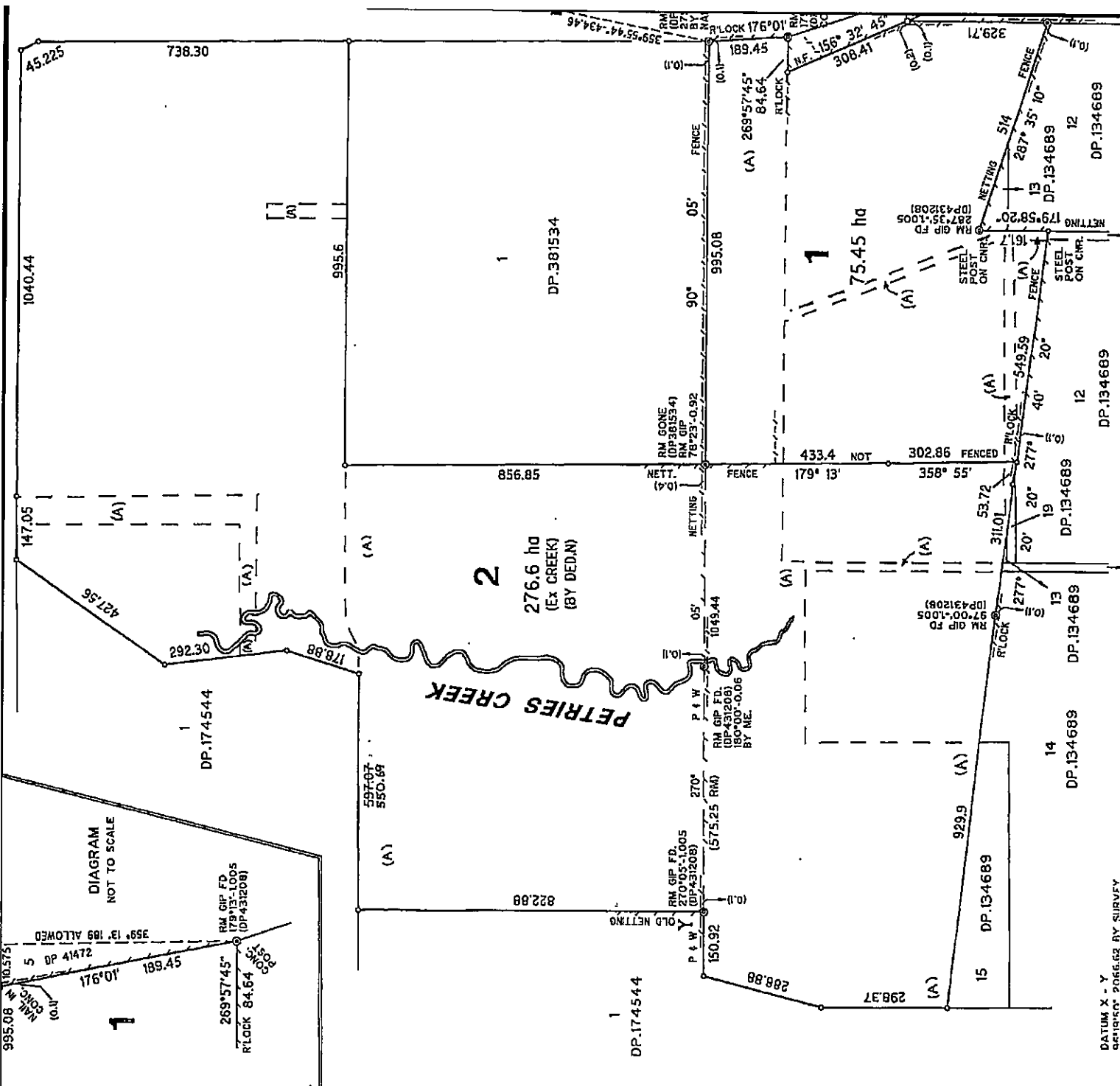
Proprietors *Keith William Odeahn*

Alan Hubert Odeahn

KEITH WILLIAM ODEWAHN
BY HIS ATTORNEY
CAMERON KEITH ODEWAHN
UNDER POWER OF
ATTORNEY BOOK 4440
No 614

Signed *WA* *MU*
Authorised Officer, Greater Hume Shire Council.





(Handwritten signature)
 KENN WILLIAMS
 HIS ATTORNEY CAMERON KENN
 602-440-120, 614

1 of 1
 /Doc:DP 1079397 P /Rev:03-Mar-2005 /Sts:SC:OK /Prt:25-Nov-2013 16:00 /Pg:ALT /Seq:1 of 1

Crown Lands Office Approval
FLAN APPROVED Subdivided Officer
Land District
Paper No.
Field Book pages

Subdivision Certificate
 I certify that the provisions of s.1091 of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:
 * the proposed *Subdivided Officer* set out hereina and
 * the subdivision for these purposes in accordance with s.231H of the Environmental Planning and Assessment Act 1979.
 * Authorised Registrar/General Manager/Assistant-Certifier
 General Authority: *Graeme Henry, Steve Campbell*
 Date of Enforcement: *14 February 2005*
 Accreditation No.: *1105*
 Subdivision Certificate No.: *DP 1079397-P*
 File No: *2004/217/53-58*

DATUM X - Y
 2066.62 BY SURVEY



A Co-educational Christian Day and Boarding School

2 August 2019

Colin Kane
Greater Hume Shire
By email – ckane@greaterhume.nsw.gov.au

Dear Colin

Greetings

With reference to the attached invoice for the Complying Development Certificate for our new Teaching and Learning Hub, we request that Council considers waiving all or part of the Section 7.12 Contribution for this project.

As one of only two secondary schools in the Greater Hume Shire, we feel that it is vital to continue to improve the facilities at the College; by doing this, we encourage families to educate their children in the local area, rather than putting them on a bus to Albury. The modern day teenager (and parent) have certain expectations of their school facilities which did not exist nearly 50 years ago when a number of our current buildings were constructed, so we are excited to be replacing one of these buildings with our new state-of-the-art Teaching & Learning Hub.

We have been fortunate to secure Commonwealth Funding for the HUB Project in the form of a BGA Grant, but despite this, our project budget is very tight. If the S7.12 Contribution is waived, we will be able to reallocate that money to other areas within the Project, and ultimately achieve a finished project which better achieves the purposes for which it is being built.

I acknowledge the support of Council in the past, particularly with the construction of our New Girls Boarding House (Grosse House) in 2015, when the s94A fees were waived. We remain grateful that this occurred, and hope that we can continue to enjoy the support of Council as we update our buildings and facilities.

Sincerely

A handwritten signature in cursive script that reads 'Donald Walkley'.

Donald Walkley
PRINCIPAL

Procurement Policy

Document Name	Document Version Number	Review Date
Procurement Policy	1.0.5	August 2023
Date Adopted	Minute Number	Status
Click Here to Enter Date	Insert Minute Number Here	Revised

Purpose

The purpose of this policy is to:

- Establish a framework to guide Council, employees, volunteers and agents involved in procurement activities to meet legislative requirements; manage risk and achieve best value for Council.
- Create an environment where Council's purchasing practices are, and are seen to be ethical, accountable, transparent and effective.

Scope

The policy and attendant methods, procedures and practices apply to all Council staff and all persons undertaking procurement on behalf of Council.

The Procurement Policy encompasses all facets of Council operations, including Management Committees established under section 355 of the Local Government Act 1993 and Reference Committees of Council.

Council will ensure staff and Committee volunteers receive training adequate for them to understand the Procurement Policy and to correctly apply procurement procedures.

This policy *does not* apply to goods and services purchased:

- From internal Council sources
- In an emergency
- By contractors or sub-contractors of Council.

Definitions

Procurement	The obtaining of goods and services for use by Council to enable it to carry out its functions under the Local Government Act 1993.
Quotation	A quotation is the estimated or actual market price of the supply of a work, good or service supplied to Council by a supplier after a verbal or written request from a Council Officer.
Council Officer	Any person authorised by Council to purchase goods or services on behalf of Council. This includes employees, volunteers and other agents acting on behalf of Council.

Policy Content

Value for Money

Council will use public funds to obtain the best return and performance from those funds.

Procurement Policy

Value for money is determined on a whole-of-life basis, and takes into consideration factors such as:

- the market maturity for the property or service sought
- the performance history of each prospective supplier
- the relative risk of each proposal
- the flexibility to adapt to possible change over the property or service lifecycle
- financial considerations including all relevant direct and indirect benefits and costs over the whole procurement cycle
- the anticipated price that could be obtained, or cost that may be incurred, at the point of disposal
- the evaluation of contract options (for example, contract extension options)
- the suitability of the product/service to be procured
- potential obsolescence of a product/service in the near future.

Additional factors include Council staff making decisions in an accountable and transparent manner.

Environmental Protection

Council is sensitive to environmental protection issues. The purchase of goods and services will support Council's environmental protection objectives.

Where appropriate, Council will evaluate quotations or tenders against environmental protection evaluation criteria. Where supplier's price, performance, quality, suitability and other evaluation criteria are comparable, the supplier who is assessed as having the best environmental protection capability will be preferred.

Where appropriate, evaluation criteria for quotations/tenders will include recycled materials and efficient energy consumption.

Ethical Behaviour and Fair Dealing

Ethical behaviour means procurement is conducted with due regard to Council's reputation such that an external observer would readily conclude Council's procurement behaviour complies with rules and standards for correct procurement practice. Fair dealing means treating all suppliers equally, providing them with equal opportunity and information, and assessing them without bias against evaluation criteria.

When procuring goods and services all Council officers will comply with the legislative and regulatory framework, attain a high level of professionalism and credibility with suppliers, act ethically and with integrity and fairness.

Please refer to Council's Statement of Business Ethics.

Conflict of interest

- Council staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict with their Council duties.
- Councillors and Council staff shall not participate in any action or matter associated with the arrangement of a contract (i.e. evaluation, negotiation, recommendation, or approval) where that person or any member of their immediate family has a significant interest, or holds a position of influence or power in a business where quotations or tenders are being sought.
- The onus is on the member of Council staff being alert to and promptly declaring an actual or potential conflict of interest to the Council.

Procurement Policy

- Council staff must declare to their manager any potential or actual conflict of interest, including any situation where a supplier has an association or relationship with the Council officer. Where an officer has a potential or actual conflict of interest, they are required to complete a declaration statement.

Local Purchasing

Staff undertaking procurement on Council's behalf must read the Local Preference Purchase Policy in conjunction with the Procurement Policy and Procedures.

Authorisation

Only Council Officers with appropriate authorisation and/or delegation will purchase goods and services on behalf of Council. Position descriptions for Council employees will specifically state the purchasing authority of each position and Council will maintain a purchase authorisation register.

Risk Management

Risk Management is the systematic positive identification of threats and the identification of opportunities for best use of resources. Throughout the procurement process, Council will ensure that risks associated with any transaction are identified and are treated in accordance with Council Risk Management Framework.

Methods of purchasing

Tender

Where the total value of goods and services sought exceeds the tender threshold, the Council will follow the statutory tender process.

The Council will not engage with order splitting to avoid exceeding the tender threshold.

Purchase orders

Except for items specifically excluded in other policies and procedures, all Council purchases of goods and services will require a valid purchase order to be generated prior to the purchase of the good or service.

Corporate Credit Cards

Council may permit the use of corporate credit or debit cards to purchase goods and services on behalf of Council. Such use will be subject to a specific policy. The Corporate Credit Card Use Policy will be consistent with this general policy and statutory requirements.

Petty cash

The use of petty cash for minor purchases (i.e. less than \$100) is encouraged. Whilst quotations are not required Council Officers will still follow the principle of best value.

Procurement Policy

PROCUREMENT AUTHORITY LEVELS

The following table is a guide to the various levels of procurement authority within Council. As indicated below, each procurement level has a pre-determined level of expenditure subject to the specific requirements of each Council Officers position.

Where a Council Officer has no procurement authority, they will be automatically allocated procurement level zero.

Procurement Level	Expenditure Value (Incl. GST)	Procurement tolerance limits	Council Officer
1	\$150,000.00 + \$250,000.00 +	Tender in accordance with Local Government Act and Regulations	General Manager
2	\$0 – \$149,999.99 \$0 – \$249,999.99	Seek public quotations from \$100,001 to \$149,999.99 \$249,999.99	Director
3	\$0 – \$100,000	Three written quotes between \$50,001 and \$100,000	Director
4	\$0 – \$50,000	Two written quotes between \$10,000 and \$50,000	Manager
5	\$0 – \$10,000	Direct negotiation to \$5,000, one written quote between \$5,001 and \$10,000	Supervisor/Coordinator
6	\$0 – \$2,500	Direct negotiation and use of local suppliers where ever possible.	Council Officer with delegated authority

Links to Policy

Local Preference Purchasing Policy
Corporate Credit Card Use Policy
Complaints Handling Policy
Contract Management Policy
Related Party Disclosure Policy
Fraud Control Policy
Gifts, Bribes and Benefits Policy
Statement of Business Ethics

Links to Procedure

Procurement Procedures

Links to Forms

Tendering checklist

References

Code of Conduct
GHSC Risk Management Policy and Framework

Responsibility

All Council Officers with the authority to purchase.

Document Author

General Manager

Relevant Legislation

Local Government Act 1993
Local Government (General) Regulation 2005
Work Health and Safety Act 2011
Work Health and Safety Regulations 2011
Government Information (Public Access) Act 2009

Associated Records

Nil

1. Purpose

To provide a comprehensive guide and checklist for the procurement of goods and services for Council's operations.

2. Scope

Greater Hume Shire Council Procurement procedures ensure expenditure of public funds results in the most advantageous outcomes for the community. These outcomes will be achieved when procurement is conducted by staff that appreciate and understand Council's Procurement Policy framework and confidently apply Council's Procurement Procedures.

These procedures must be read in conjunction with Council's Procurement Policy.

Principles

The Greater Hume Shire Council Procurement Policy reflects five fundamental principles in the Local Government Act 1993 governing the making of contracts, namely:

- open and effective competition
- value for money
- enhancement of the capabilities of local business and industry
- environmental protection, and
- ethical behaviour and fair dealing.

Council will use public funds to obtain the best return and performance from those funds.

Value for money

Value for money is determined on a whole-of-life basis, and takes into consideration factors such as:

- the market maturity for the property or service sought
- the performance history of each prospective supplier
- the relative risk of each proposal
- the flexibility to adapt to possible change over the property or service lifecycle
- financial considerations including all relevant direct and indirect benefits and costs over the whole procurement cycle
- the anticipated price that could be obtained, or cost that may be incurred, at the point of disposal
- the evaluation of contract options (for example, contract extension options)
- the suitability of the product/service to be procured
- potential obsolescence of a product/service in the near future.

Additional factors include Council staff making decisions in an accountable and transparent manner.

Conflict of interest

Council staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict with their Council duties.

Council staff shall not participate in any action or matter associated with the arrangement of a contract (i.e. evaluation, negotiation, recommendation, or approval) where that person or any member of their immediate family has a significant interest, or holds a position of influence or power in a business where quotations or tenders are being sought.

The onus is on the member of Council staff being alert to and promptly declaring an actual or potential conflict of interest to the Council.

Document Name	Version Number	Date of Issue	Review Date
CORP – Procurement Procedure	1.0.2	21 August 2019	

Council staff must declare to their manager any potential or actual conflict of interest, including any situation where a supplier has an association or relationship with the Council officer. Where an officer has a potential or actual conflict of interest, they are required to complete a declaration statement.

3. Definitions

Insert Content

4. Responsibility

This document applies to all staff with procurement authority within Council.

5. Procedure Instruction

Procurement Authority Levels

The following table is a guide to the various levels of procurement authority within Council. As indicated below, each procurement level has a pre-determined level of expenditure subject to the specific requirements of each Council Officers position.

Where a Council Officer has no procurement authority, they will be automatically allocated procurement level zero.

Procurement Level	Expenditure Value (Incl. GST)	Council Officer
1	\$150,000.00 + \$250,000+	General Manager
2	\$0 – \$150,000 \$0 - \$249,999.99	General Manager
3	\$0 – \$100,000 \$0 - \$249,999.99	Director
4	\$0 – \$50,000	Manager
5	\$0 – \$10,000	Supervisor/Coordinator
6	\$0 – \$2,500	Council Officer with delegated authority

Purchase Orders

- All purchases other than by petty cash and purchasing card require a purchase order to be entered into the Authority software purchasing module.
- A purchase order must be entered before supplies are ordered. Do not wait for an invoice to enter a purchase order.
- Requisitioning officers must ensure there is an approved budget before preparing a purchase order.
- Staff without access to the software may use a requisition book, with written requisitions given to the Purchasing Officer for entry into Authority by the following Monday (or next business day in the event of a public holiday).
- Staff entering purchase orders into Authority must complete training.
- Purchase orders must be approved by an Authorised Approval Officer
- A Requisitioning Officer who is also an Authorised Approval Officer may both enter and approve a purchase order within their delegated limit.

- For purchases above their delegated limit Requisitioning Officer's must seek approval from the Authorised Approval Officer in their department, section or group with the necessary delegated limit.
- Orders must not be split to bypass procurement limits or methods.
- The Requisitioning Officer must ensure the supplier quotes the purchase order number on invoices.
- The quoted price or the best estimate of the price, if quotations not required (exclusive of GST) is to be entered.
- Where the requisitioning officer is not known and no purchase order exists the invoice will be deemed an unauthorised purchase, payment will be declined and the invoice returned to the supplier referring to Council's policy requiring an approved purchase order to be quoted.
- All invoices must be formally reviewed by the Requisitioning Officer prior to payment.
- Purchases made using the Plant and Equipment, Quarries Products or General Contractors must be identified on the purchase order.
- Purchase orders raised for approved tenders (including Local Government Procurement) must include the tender number.

Insurance

Insurance Categories

When undertaking procurement for Council, Officers must take into consideration the specific insurance requirements applicable to the goods or services being procured. Insurance categories include:

- public liability;
- professional Indemnity;
- workers compensation or personal injury insurance (if a sole trader);
- motor vehicle (including plant & equipment); and
- works.

Please note where the procurement type requires the contractor to possess any of the above insurance types, under no circumstances are any goods to be supplied or services to commence until proof of insurance currency is provided.

Please note individual insurance requirements may vary according to the particular procurement activity being undertaken. For more information on insurance requirements and insurance amounts, please consult with the Risk/WHS Team.

Public Liability

Public liability insurance provides coverage for a contractor against claims such as personal injury and property damage.

Insurance coverage for public liability insurance shall be for a minimum of \$20,000,000.00 unless otherwise agreed by the Director and/or Risk/WHS Team.

Professional Indemnity

Professional Indemnity insurance provides coverage for a contractor against claims from third parties that there has been a breach of a professional duty owed to them as opposed to a breach of a general duty of care.

These claims are generally attributable to alleged negligent acts, errors or omissions by professional or qualified staff. These claims are generally financial in nature and do not involve personal injury or property damage.

Insurance coverage for professional indemnity insurance shall be for a minimum of \$20,000,000.00 unless otherwise agreed by the Director and/or Risk/WHS Team.

Workers Compensation

Workers Compensation provides coverage for a contractor's employee against accidents and injury in the workplace.

Workers Compensation is a mandatory insurance requirement for all employers in NSW.

Personal Accident / Illness Insurance

Contractors who are self-employed, sole traders or owner/ operators that do not have Workers' Compensation Insurance should be covered by Personal Accident/ Illness Insurance. The Contractor shall provide documentary proof of coverage (actual policy and "Certificate of Currency") with a copy being retained for Council's records.

Motor Vehicle

Motor vehicle insurance provides coverage for a contractor's motor vehicles, plant, equipment etc. against accident damage, fire, theft etc.

Insurance coverage for motor vehicle insurance should be suitable to the number of motor vehicles, plant and equipment required to undertake the procurement requirements.

Works

Works insurance provides coverage for civil construction type works and insures Council against loss or damage of whatever kind until the Contractor ceases to be responsible.

For further information on Works insurance, please consult with the Corporate Services Manager.

Local Purchasing

Staff undertaking procurement on Council's behalf must read the Local Preference Purchase Policy in conjunction with the Procurement Procedures.

Procurement Options

Preferred Suppliers

Greater Hume Shire Council ~~may utilise~~ a preferred supplier scheme for the purchase of certain goods and services. The purpose of this practice is to ~~gain price advantage through bulk buying power and to reduce the need for quotations by authorised purchasing~~ **streamline purchasing processes, increase transparency of purchasing whilst achieving best value for Council.**

Council uses the Vendor Panel purchasing platform.

Vendor Panel

VendorPanel will be used by Council employees when there is no preferred or pre-qualified supplier arrangement in place and where the planned expenditure is below \$250,000 (inclusive of GST). At the heart of this solution, Greater Hume Council is making it easier to engage with local suppliers and the open market, giving small to medium enterprises better access to Council opportunities and increase governance and transparency in our quotation process.

Preferred Supplier lists have also been established for the following procurements:

- Plant and equipment wet hire (with operator)
- Plant and equipment dry hire (without an operator)
- Quarry products
- Trade services

The preferred supplier lists can be used for quotation based or hourly rates based procurement.

~~The decision to add a supplier to the list is made through consultation between the relevant director and manager/coordinator of the function requiring the goods or services to be supplied. The need to add a supplier to the list arises when particular goods or services are being purchased regularly (i.e. more than twice in three months). When making a decision to add a supplier to the Preferred Suppliers List, at least three possible suppliers must be investigated and the following factors taken into consideration:~~

When assessing either quotation based or hourly rates based procurement the following factors should be considered:

- price of the goods or services to be provided
- quality of goods or services to be provided
- **suitability of the good or service for the particular job**
- warranties offered by supplier
- reliability of supplier
- delivery schedules
- payment terms
- capability of the organisation, including experience and track record
- development and promotion of local business and industry
- environmental accreditation / risks
- compliance with relevant OHS requirements.

~~Expressions of interest for Supplier to register for Vendor Panel must be publicly advertised at least on an annual basis. calling for fixed rates from contractors (including tradespeople), plant hire and projects (under the \$150,000 tender threshold) on an 'as required basis'.~~

The outcome of the Expression of Interest process will be available to staff via the Vendor Panel Portal and will be ~~conveyed to relevant staff and~~ monitored by the appropriate Director.

Hourly rates based procurement

Plant and Equipment

~~Expressions of interest must be publicly advertised at least on an annual basis, calling for fixed rates from contractors (including tradespeople), plant hire and projects (under the \$150,000 tender threshold) on an 'as required basis'.~~

The outcome of the Expression of Interest process will be conveyed to relevant staff and monitored by the appropriate Director.

Consulting Professionals

Expressions of interest must be sought at least on an annual basis calling for fixed hourly rates on an 'as required basis'. Services sought under this arrangement may include legal, town planning, survey and design, consulting engineering, etc.

In relation to plant and equipment hire and consulting professionals purchasing where possible fixed priced quotations should be sought, however in instances where this is not appropriate the performance of the contractors should be closely monitored by staff to ensure that Council is obtaining 'best value'.

If a 'one-off' purchase of a **good or service consultancy** is to be undertaken **and Vendor Panel cannot be used** then (e.g. ~~marketing plans~~) then quotations should be sought in accordance with Levels of Purchasing.

Compliance with procurement policy is not required for the following purchases:

- provision of utilities (electricity, telephone etc.)
- subscriptions to professional journals, associations etc.
- donations
- annual contributions (eg: LGNSW, RivJO, REROC, RRL, etc.).

Levels of purchasing

Value category (all values are inclusive of GST)	Procurement Conditions
Goods/Services between \$0 and \$5,000	<p>Council Officers are generally not required to request a quotation subject to the following conditions.</p> <ul style="list-style-type: none"> • The value of the item being procured is considered reasonable and consistent with normal market values for an item of the same or similar nature. • Where the same vendor is used on a regular basis, the Council Officer must perform regular reviews of comparable pricing and values to ensure 'best value for money' principles apply. • The goods or services must not be split into components or a succession of components for the purpose of enabling the procurement to be conducted under the conditions of this category. • All Council procurement policies and procedures are to be adhered to at all times. • In exceptional circumstances, Council Officers in the position of Director and above may approve variations to the conditions and procurement procedures applicable to this category. The rationale for the variation must be documented and authorised prior to purchase.
Goods/services between \$5,001 and \$10,000	<p>May be authorised by those staff who have been provided with the appropriate delegation by the General Manager subject to the following:</p> <ul style="list-style-type: none"> • one written quote required and must be attached to the purchase order. Staff must consider the reasonableness of the quotations received. <p>Where it is not practical to obtain the required number of quotations a 'Quotations Approvals Form – Form 2 must be completed and approved by the relevant director and in the case of a director, the General Manager.</p> <p><u>Recordkeeping</u></p> <p>If Vendor Panel cannot be used all quotations and if appropriate the Quotations Approvals Form – Form 2 must be attached to the purchase order.</p> <p>If using a Schedule of Rates Contract (eg: plant hire or consulting professionals) rather than quotations this should be noted on the purchase order.</p> <p><i>Please note where practicable fixed price quotations should be sought from Plant Hire and Consulting Professionals.</i></p>

Value category (all values are inclusive of GST)	Procurement Conditions
Goods/Services between \$10,001 and \$50,000	<p>May be authorised by those staff who have been provided with the appropriate delegation by the General Manager subject to the following:</p> <ul style="list-style-type: none"> two written quotes required and must be attached to the purchase order. Staff must consider the reasonableness of the quotations received. <p>Where it is not practical to obtain the required number of quotations a 'Quotations Approvals Form – Form2 must be completed and approved by the relevant director and in the case of a director, the General Manager.</p> <p>Recordkeeping</p> <p>If Vendor Panel cannot be used all quotations and if appropriate the Quotations Approvals Form – Form 2 must be attached to the purchase order.</p> <p>If using a Schedule of Rates Contract (eg: Plant hire or consulting professionals) rather than quotations this should be noted on the purchase order.</p> <p>The method of purchase must be noted on the purchase order (i.e. Tender no., VP No., Plant hire schedule of rates etc.)</p> <p>Please note where practicable fixed price quotations should be sought from Plant Hire and Consulting Professionals.</p>
Goods/services between \$50,001 and \$100,000	<p>May be authorised by those staff who have been provided with the appropriate delegation by the General Manager subject to the following:</p> <ul style="list-style-type: none"> three written quotes required and must be attached to the purchase order. Staff must consider the reasonableness of the quotations received. <p>Where it is not practical to obtain the required number of quotations a 'Quotations Approvals Form' - Form 2 must be completed and approved by the relevant director and in the case of a director, the General Manager.</p> <p>It may be appropriate to prepare a specification for the procurement of Goods and Services at this level. If you require advice with regard to the preparation of a specification please contact the General Manager or Director Corporate and Community Services.</p> <p><u>Recordkeeping</u></p> <p>If Vendor Panel cannot be used all quotations and if appropriate the Quotations Approvals Form – Form 2 must be attached to the purchase order.</p> <p>If using a Schedule of Rates Contract (eg: plant hire or consulting professionals) rather than quotations this should noted on the purchase order.</p> <p>The method of purchase must be noted on the purchase order (i.e. Tender no., VP No., Plant hire schedule of rates etc.)</p> <p><i>Please note where practicable fixed price quotations should be sought from Plant Hire and Consulting Professionals.</i></p>

Value category (all values are inclusive of GST)	Procurement Conditions
<p>Goods/Services between \$100,001 and \$149,999.99 \$249,999.99</p>	<p>May be authorised by those staff who have been provided with the appropriate delegation by the General Manager subject to the following:</p> <ul style="list-style-type: none"> Public quotations being sought through advertisement in a newspaper circulating throughout the shire (eg: Border Mail) <p>When seeking public quotations advertisements should be placed in the Border Mail, Daily Advertiser and Eastern Riverina Chronicle.</p> <ul style="list-style-type: none"> A specification must be prepared for all procurements of Goods and Services greater than \$100,000. If you require advice with regard to the preparation of a specification please contact the General Manager or Director Corporate and Community Services. <p><u>Recordkeeping</u></p> <p>Where public quotations are called it is essential that all documentation relating to the project (specification, quotations, evaluation, etc.) must be placed on InfoXpert. It is essential that the documents are placed in an appropriate location and therefore communication with Records is essential before public quotations are called.</p> <p>The method of purchase must be noted on the purchase order (i.e. Tender no., VP No., Plant hire schedule of rates etc.)</p> <p>Where it is possible that one or more of the tendered prices could exceed \$150,000 \$250,000, tenders must be invited in accordance the Local Government Act, 1993 and the Local Government Tendering Regulations.</p> <p>In exceptional circumstances sourcing of quotations directly can be authorised by the General Manager Council.</p>
<p>Goods/services greater than \$150,000 (inc. GST) \$250,000 (inc.GST)</p>	<p>Public tenders shall be invited in accordance with the Local Government Act, 1993 and the Local Government Tendering Regulation.</p> <p>Compliance with the Tender Checklist is mandatory.</p> <p>When generating the purchase order the tender no. must be included.</p>

Assessment Process

The following guide provides a guide to the assessment types applicable to each category of procurement.

Value category	Assessment Type
Goods/Services between \$0 and \$4,999	Informal
Goods/services between \$5,000 and \$9,999	Informal
Goods/services between \$10,000 and \$49,999	Informal
Goods/services between \$50,000 and \$99,999	Formal
Goods/services between \$100,000 and \$149,999 \$249,999.99	Formal
Goods/services greater than \$150,000 (inc. GST) \$250,000 (inc. GST)	Formal

Informal Assessments

An 'informal assessment' is an assessment that is conducted without the usual requirements of written or documented evidence of either the process (assessment, weightings, scores etc.) or outcome (Director report, Committee report etc.). Procurement categories requiring an informal assessment only have been classified in this manner due to their lower expenditure value and generally lower risk factor.

Although evidence of an assessment is not required, it does not necessarily mean that an assessment is not required.

No matter what the procurement category may be, Council Officers must still assess each submission to determine which offer represents the 'best value for money' for Council. The level at which this assessment is conducted must be commensurate with the value, risk and complexity of the goods or services being procured.

Where the goods or services being procured may possibly present some level of risk to Council, Council Officers are encouraged to undertake the formal assessment process.

Formal Assessments

A 'formal assessment' is an assessment that requires written and documented evidence of the process (assessment, weightings, scores etc.) and outcome (Director report, Committee report etc.). Procurement categories requiring a formal assessment have been classified in this manner due to their higher expenditure value and generally higher risk factor.

Please note, when conducting any procurement involving a formal assessment process, the quantitative and qualitative selection criteria must be established by the assessment panel prior to the procurement request being distributed.

Formal assessments consist of the following key assessment areas:

- Compliance check.
- Qualitative analysis; and
- Quantitative analysis.

Evaluation Criteria and Weightings

- a) Selection criteria shall be determined prior to calling Quotations and included in the documentation.
- b) The criteria must be determined in such a way that all potential bidders are assessed on an equal basis and nobody is prejudiced against.
- c) Criteria should not be based on price alone. Attention has to be drawn also to the quality of work, expertise, experience of staff, financial capacity, past relationship with Council and other factors that the Evaluation Panel considers appropriate. Weightings can be assigned to various criteria to facilitate more objective assessment. Council will set preferences for quality assured tenders.
- d) The criteria should be included as a part of the commercial requirements so that all bidders know clearly the basis on which they are assessed.
- e) The criteria should not be amended, after quotations have been issued. If conditions do change so that change of criteria is necessary, the Evaluation Panel must ensure that all bidders are properly notified. If there are substantial changes to the quotation specifications or criteria, fresh quotations be called.
- f) Prior to close of Quotations, the Evaluation Panel shall meet to determine the weighting to be applied to the advertised criteria.
- g) ~~With no special reason, local supplier preference should not be adopted. In case such preference is taken, it must be made through a formal resolution of the Evaluation Panel with the reasoning behind properly documented. The specification then should clearly document how this policy is to be operated and it must be stated explicitly in the evaluation criteria.~~
- h) The established criteria should be consistently used throughout the evaluation stage.
- i) Any quotation/tender documentation must include information on the Local Preference Purchase Policy.

The following example forms the basis for the criteria for comparative evaluation of tenders and quotations.

Criteria	Weighting %
Relevant Experience Previous work of this type, references	0 – 10%
Past Performance	0 – 10%
Technical Skills <i>People, systems, specific abilities</i>	0 - 10%
Management Skills and Systems <i>Organisation, insurances, financial viability, quality system, WHS systems</i>	0 - 10%
Methodology <i>Program of works, KPI's, Division into sub contracts, innovative procedures to be used</i>	0 - 10%

Criteria	Weighting %
Time Performance Likelihood of meeting time frames	0 – 10%
Price	60%
TOTAL (selected criteria not to exceed 100% - Price must be 60%)	100%

Tender Selection Criteria

The lowest price is not automatically accepted, the tender evaluation process applies weighting for criteria such as, skills, quality, experience and previous performance in a manner to ensure value for money.

To assess tenders, the criteria/s intended to encapsulate the quality of the product or the competence of the tendering organisation to undertake a particular task/job. The selection criteria are used to rate each of the tenders.

The criteria is a combination of the following:

- relevant experience;
- appreciation of the task;
- past performance;
- management and technical skills;
- management systems;
- methodology;
- product life maintenance costs
- quality
- price, or
- other criteria that relate to the service being contracted.

The tender evaluation should have a combination of at least four of these criteria plus the price.

The selection criteria **MUST** be nominated in the tender document, so that a tenderer is aware how the tender will be evaluated.

Relevant Experience

Previous experience of the tenderer must be assessed, to achieve the intended outcomes of the project. Recent experience is more valuable than historic experience. Information required should include a list of relevant projects undertaken and for each project provide:

- description and relevance to the tendered project;
- role of the tenderer;
- project cost; and
- duration of project.

Past Performance

The tendering organisation's performance in completing past projects to the quality standards required, time performance, within budget, claims history, project management, and product value must be assessed.

Extension to the contract completion date and claims for variations also give an indication of performance capability. Similarly, the satisfaction of previous clients regarding the management of the project and project outcome provide useful subjective information on performance of the tenderer.

The information required should include the following information on each project:

- project name;
- client's project manager (name and phone/fax numbers);
- quality standards, target performance levels;
- tender price, variations and final cost;
- completion date and extensions of time granted; and
- details of OHS&R records.

Technical Skills

The competence of key management, professional and technical personnel that the tenderer proposes to employ on the project needs to be assessed with particular emphasis on the skills and experience in technical areas comparable to the project.

The information required should include the following details of the proposed project team:

- names;
- function;
- technical expertise; and
- CV's to be provided.

Management Skills and Systems

The availability within the tenderers organisation of personnel with appropriate management skills together with effective management systems and methods appropriate to the successful management of the project.

The information required should include the following:

- quality system;
- project management tools;
- program software;
- environmental management system; and
- WHS management system.

Methodology

The procedures or innovative methods the tenderer proposes to use to achieve the specified end results, or the special processes detailed in tender documents. The tenderer should be able to demonstrate its capability to bring the contract to a satisfactory conclusion by describing the methodology of approach to accomplish the project's required outcomes.

The information required shall include the following:

- program of works;
- key performance indicators;
- division of works into subcontracts;
- innovative procedures to be used;
- reporting and recording systems; and
- Quality Plan.

Documentation to assist in complying with Procurement Procedures

These documents can be found on Infoxpert at the following location:

In the Corporate Services area of the Document Control Register

Documents include Forms 1 & 2 referred to above, successful & unsuccessful tender letters, quotation forms, evaluation forms etc.

The development of templates will be ongoing so that over time procedures are streamlined as far as possible.

It is expected that staff will review these folders from time to time to ensure that the relevant documentation is being used.

Guidance notes

- All purchasing tolerance levels referred to in the table above are **GST INCLUSIVE**.
- If quotations are sought which are likely to be close to the upper limit of a purchase tolerance level then it would be prudent to obtain the required number of quotes for the next tolerance level. For example, if you are of the opinion that a purchase is likely to be around \$49,000 I would recommend seeking three quotations. This will ensure that the procurement process is timely.
- If an officer has any doubt that the cost of a purchase may exceed ~~\$150,000~~ **\$250,000** (inc. GST) then tenders should be called. If public quotations are sought for a purchase expected to be greater than \$100,000 and one or more of the quotations submitted exceed ~~\$150,000~~ **\$250,000** then tenders **must** subsequently be called.

TENDERING

- All staff involved in tendering must read and conduct tenders in accordance with the Tendering Guidelines for NSW Local Government.
- All tenderers must be advised of Council's Local Preference Purchase Policy
- All tender documents must be approved by the relevant Director prior to advertising.

When To Tender

The requirements for calling tenders are specified in Section 55(1) of the Local Government Act 1993 as follows:-

Sec 55 (1) What are the requirements for tendering?

A council must invite tenders before entering into any of the following contracts:

- a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council,*
- a contract to carry out work that, under some other contract, the council has undertaken to carry out for some other person or body,*
- a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council,*
- a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body,*
- a contract for the provision of goods or materials to the council (whether by sale, lease or otherwise),*
- a contract for the provision of services to the council (other than a contract for the provision of banking, borrowing or investment services),*
- a contract for the disposal of property of the council,*
- a contract requiring the payment of instalments by or to the council over a period of 2 or more years,*
- any other contract, or any contract of a class, prescribed by the regulations.*

The requirement to call tenders does not apply to the contracts specified in Section 55(3) of the Local Government Act 1993 as follows:-

- *A contract entered into by Council with the Crown (whether a right of the commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown*
- *A contract entered into by Council with another Council*
- *A contract for the purchase or sale by Council of land*
- *A contract for the leasing of land by Council*
- *A contract for purchase or sale by Council at public auction*
- *A contract for the purchase of goods, materials or services specified by the State Contracts Control Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified*
- *A contract for the employment of a person as an employee of Council*
- *A contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, Council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders)*
- *A contract for which, because of provisions made by or under another Act, Council is exempt from the requirement to invite a tender*
- *A contract made in the case of emergency*
- *A contract involving an estimated expenditure or receipt of an amount of less than \$150,000 or such other amount as may be prescribed by the regulations.*

Prescribed organisations

In certain circumstances the requirement to tender is not required if Council is availing itself of a contract from a prescribed person under section 55 of the Local Government Act (eg: Local Government Procurement of Procurement Australia). Staff utilising Local Government Procurement or Procurement Australia should still ensure that Council is receiving best value.

Please note: When using prescribed organisations for purchases greater than \$150,000 an information report outlining the successful bid and the evaluation of the quotations must be present to the next meeting of Council.

Procedures to tender

It is Council's preference that all tenders are called electronically through Tenderlink. On occasions it may be appropriate to receive tenders in hard copy form at the Tender Box, located at the Customer Service Centre, 39 Young Street (PO Box 99), Holbrook NSW 2644.

A **Tendering Checklist** must be completed for all tenders called in accordance with section 55 of the Local Government Act 1993.

The tendering checklist is available on InfoXpert in the Document Control Register Doc ID: 154153

6. Training

Insert Content

7. Links to Policy

Procurement Policy

Local Preference Purchasing Policy

8. Links to Other Procedures

Insert Content

9. Links to Forms

Insert Content

10. References

Insert Content

11. Relevant Legislation

Insert Content

12. Associated Records

Insert Content

30 July 2019

Mr Steven Pinnuck
General Manager Greater Hume Council

Dear Steve

Thank you for your time on Friday.

Holbrook Landcare Network is celebrating its 30th year on Friday 1 November with a series of afternoon talks followed by a dinner in Holbrook.

We are expecting numerous high-profile guests as well as many people who have supported this iconic landcare group over the years.

Our recently purchased building in the main street will be a focal point during the celebrations and we are very keen to smarten up its tired façade with signage and a coat of paint before 1 November.

To this end, we are hoping that the Greater Hume Shire Council would consider making a contribution to the cost of the work estimated to be \$4,000 (signage quote from Signarama in Albury, plus paint), which will also make a difference to the overall streetscape of a town on the move.

Holbrook Landcare will be contributing some funds raised through our membership activities toward the works however we would greatly appreciate any assistance Council can give us and look forward to hearing from you.

Yours sincerely

Sarah Trescowthick.
Chair Holbrook Landcare Network.