



Late
Reports

Submitted to Council: 27 September 2017

..... General Manager Mayor



LATE REPORT 1

Ref: WO/2017/1701

Title: Affix Common Seal - Crown Lands Offer of Licence
Author: Senior Manager – Water, Sewer and Waste
Previous Items: Nil
Attachment: WI/17/10505 – Letter of Offer

CSP Ref: 6.3 – *Water supply and sewerage services will be physically and environmentally sensitive.*

or

6.3.1.6.3 – Reduce the volume of effluent discharged into the Apsley River by the completion of the Sewerage Treatment Plant Upgrade.

Introduction:

To proceed with the refurbishment of the existing maturation pond as per the programmed Sewer Treatment Plant upgrade work the pond needs to be emptied of old effluent water. The EPA will not allow the old water to be discharged into the Apsley River due to levels of copper; hence Council has requested approval from Crown Lands to temporarily irrigate the water over the land known as ‘Sugarloaf Hill’.

Report:

An offer of a licence has been authorised by Crown Lands and will remain open for 40 days (from 15 September). To accept the offer of the licence, the licence document must be executed under Council’s Common Seal.

RECOMMENDATION:

That Council approve the affixing of the Common Seal to all documentation relating to the Crown Lands offer of licence FURTHER THAT the affixing of the Common Seal be attested to by the Mayor and the General Manager.

Submitted to Council: 27 September 2017

..... General Manager Mayor

Walcha Council
Ordinary Council Meeting
27 September 2017



Lands & Forestry

File Reference: 17/08209
Account No: RI 587308

PO Box 2215, DANGAR NSW 2309
Phone: 1300 886 235
Fax: (02) 4925 3517
cl.licences@crowland.nsw.gov.au
www.crowland.nsw.gov.au

15 September 2017

Walcha Council
PO Box 2
WALCHA NSW 2354

Dear Sir/Madam

Re: OFFER OF LICENCE PROPOSED LICENSEE: Walcha Council

I refer to previous correspondence concerning the grant of a licence. An offer of a licence is now made to authorise the use or occupation of land. The purpose and conditions are set out in the licence offer document herewith and the offer will remain open for a period of 40 days from the date of this letter.

To accept the offer of the licence, the licence document must be signed and witnessed by each party to the application in the spaces provided on the front page (or where the proposed Holder is a corporation, execution under its common seal) and returned (in full) to this office within the period of 40 days, together with payment as set out below. If you fail to respond within that period the offer will lapse.

In considering the terms and conditions set out in the licence offer it is suggested that you should have particular regard to clauses making provision for the purpose, rent, term and revocation. Also, your specific attention is invited to clauses (if any) included in the licence relating to insurance, and any special conditions that may be included at the end of the licence.

Please note that acceptance of the licence offer does not constitute the creation of a licence. The licence is not granted until after receipt of the signed licence offer documents indicating agreement to be bound by the terms, conditions and provisions of the licence and formal execution on behalf of the Minister. The licensee's copy of the licence offer document will be returned for record purposes and compliance with the terms and conditions.

Please be advised that undertaking any activities not authorised by this licence, may result in regulatory action.

PAYMENTS REQUIRED

Short Term Rental \$241.50

Amount Payable \$241.50

Payment Options;

- * Cheque made payable to Department of Industry
- * BPay Biller Code 53108 Reference 128933413
- * Credit Card payment by Visa or Mastercard only. Payment can be made at www.crowland.nsw.gov.au or 1300 886 235 (option 1, option 1) with reference 128933413 (Please note credit card payments will be subject to a 0.4% surcharge with a maximum limit of \$10,000)

If you have any queries in relation to your application please use the above contact details.

Yours faithfully
Leanne Saffy
Department of Industry - Lands and Forestry Business Centre

TNOFFB01

Submitted to Council: 27 September 2017

..... General Manager Mayor



DESCRIPTION OF LANDS

PART 1	Local Govt. Area	WALCHA		
	County	VERNON		
	Parish	WALCHA		
	Suburb	WALCHA		
	Status:	Lot	Section	DP
	Crown land located near	242		DP: 756502
	Crown land being part	382		DP: 756502

PART 2	Plan/diagram: Schedule 3	Area: 1500m2
---------------	--------------------------	--------------

TEXT DESCRIPTION: Crown land being bed & bank of Apsley River (Reserve 56146 from sale or lease generally, notified 11 May 1923 and Reserve 1011268 for future public requirements, notified 3 February 2006) adjacent to Lot 242 DP 756502 and north eastern part of Lot 382 DP756502 (Reserve 16916 travelling stock, notified 17 December 1892) as shown by red dots indicating pumpsite and red line indicating pipeline in schedule 3 diagram.

Note - a Table of Contents appears at the end of this Licence (6.001)

***** End of Description of Land (Crown Land) *****

Submitted to Council: 27 September 2017

..... General Manager Mayor



1. Definitions

In this Licence unless the contrary intention appears:

"CLA" means the Crown Lands Act 1989

"Commencement Date" means the date on which this Licence is stated to commence.

"Holder" means the person described as the Holder on the front page of this Licence.

"Improvements" means all buildings structures facilities works and pontoons situated on or in the land or which under the terms of this Licence are to be situated on or in the land.

"Land" means the land specified in Parts 1 and 2 of this Licence under the heading "DESCRIPTION OF LAND" (including any submerged land and waterway) or where the context so admits any part thereof.

"Licence" means this Licence including the Schedules and Annexures hereto.

"Minister" means the Minister referred to on the front page of this Licence as the Minister and where not repugnant to the context includes the Successors of Minister and the servants and agents of the Minister.

"Pontoon" means a floating landing stage.

"Premises" means the Land the Improvements and the Holder's Plant and where the context so permits any part of the foregoing.

"RA" means the Roads Act 1993

"Rent" means the rent provided for in this Licence.

"Term" means the period commencing on the "Commencement Date" and terminating on the "Termination Date".

"Termination Date" means the date on which the Licence is revoked or ceases to have effect in accordance with the provision of this Licence. (6.002)

2. Plurals and Genders

- (a) Words importing the singular number shall include the plural and vice versa.
- (b) Words importing the masculine gender shall include the feminine or neuter and vice versa.
- (c) Any reference to a person shall be deemed to include a reference to a corporation and vice versa. (6.004)

Submitted to Council: 27 September 2017

..... General Manager Mayor



3. Contra Proferentum

No rules of construction shall apply to the disadvantage of a party on the basis that that party was responsible for the preparation of this Licence or any part of it. (6.005)

4. Headings Plans and Code Numbers

- (a) Headings (and subheadings within clauses) marginal notes the matter appearing in Column 1 of Schedule 1 and the Table of Contents have been inserted for guidance only and shall be deemed not to form any part of the Licence.
- (b) Any plan or diagram attached or annexed to this licence, which purports to depict the land shall be deemed not to form any part of the licence unless that plan or diagram is referred to in PART 2 in the DESCRIPTION OF LAND.
- (c) The code number appearing at the end of each clause of the Licence shall be deemed not to form part of the Licence. (6.006)

5. Clauses and Schedules

References to Clauses Parts and Schedules are references to clauses parts and schedules of this Licence. (6.007)

6. Statutes

- (a) A reference to a statute statutory instrument or ordinance includes amendments to that statute statutory instrument or ordinance whether by subsequent statutes statutory instruments or ordinances or otherwise and any statute statutory instrument or ordinance passed in substitution for the statute statutory instrument or ordinance referred to or incorporating any of its provisions.
- (b) A reference to a statute includes a reference to any regulation made thereunder. (6.008)

7. Joint and Several Covenants

Any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally. (6.009)

8. Severability

Any provision of this Licence which is prohibited or unenforceable in any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or inability to enforce without invalidating the remaining provisions of such provision in any other jurisdiction. (6.010)

9. Applicable Law

This Licence shall be construed and interpreted in accordance with the law of New South Wales. (6.011)

10. Licence a "Holding" for purposes of the CLA

The Holder acknowledges that this Licence is a Holding within the meaning of the CLA and the Holder is a Holder within the meaning of that Act and the provisions of that Act relating to holdings and holders apply to this Licence and the Holder. (6.012)

Submitted to Council: 27 September 2017

..... General Manager Mayor



11. Performance of Functions etc

Any power authority duty or function conferred or imposed upon the Minister under this Licence may be exercised or performed by any person authorised by the Minister. (6.013)

12. Authorised Officer

Where under this Licence the Minister is empowered to authorise any person to perform or exercise any power authority duty or function under this Licence such person shall be validly authorised if he is authorised to exercise any power authority duty or function conferred by any Licence granted by the Minister or any Licence of a specified type or any Licence within a specified locality. (6.014)

13. Minister as Public Authority

The Minister and Holder acknowledge that nothing in this Licence can in any way restrict or otherwise affect the Minister's unfettered discretion as to the use of the Minister's statutory powers as a public authority. (6.015)

14. Approval by the Minister

- (a) In any case where pursuant to this Licence the doing or executing of any act matter or thing by the Holder is dependent upon the approval or consent of the Minister such approval or consent shall not be effective unless given in writing and may be given or withheld by the Minister in the Minister's absolute discretion and may be given subject to such conditions as the Minister may determine unless otherwise herein provided.
- (b) The Holder expressly agrees that any failure to comply with a condition imposed by the Minister will constitute a failure by the Holder to comply with a condition of this Licence. (6.016)

15. Opinion of the Minister

Any opinion to be formed by the Minister for the purposes of this Licence may be formed by the Minister on such grounds and material as the Minister determines to be sufficient after consultation if the Minister deems it necessary with any New South Wales Government Department or other public authority the Standards Association of Australia or any other body whose objects and functions are relevant. In forming any such opinion the Minister shall be deemed to be exercising merely administrative functions. (6.017)

16. Holder to pay Cost of Work

Whenever the Holder is required in this Licence to do or effect any act matter or thing then the doing of such act matter or thing shall unless this Licence otherwise provides be at the sole risk cost and expense of the Holder. (6.018)

17. Notices

- (a) All notices or communications required to be or which may be given or served by the Minister to or upon the Holder under this Licence or which may be convenient to be given or served in connection with this Licence shall be in writing and shall be sufficiently given or served if left at or sent by ordinary post addressed to the Holder at his address specified in Column 2 of Item 1 of Schedule 1 or at the Premises or at such other place as notified in writing by the Holder to the Minister.
- (b) All notices or communications required to be or which may be given or served by the Holder to or upon the Minister under this Licence or which may be convenient to be given or served in

Submitted to Council: 27 September 2017

..... General Manager Mayor



connection with this Licence shall be in writing and shall be sufficiently given or served if signed by the Holder or if the Holder is a corporation by the Secretary of the Holder or the person acting as such for the time being and if left at or sent by ordinary post addressed to the person specified in Column 2 of Item 2 of Schedule 1.

- (c) Any notice or communication given or served by post shall be deemed to have been duly given or served at the time when it would in the ordinary course be delivered. (6.019)

18. Manner of Payment of Rent and Other Moneys

The rent and other moneys payable in accordance with this Licence shall be paid to the Minister at the address specified in Column 2 of Item 3 of Schedule 1 or to such other person or at such other address as the Minister may from time to time direct by notice in writing served on the Holder. (6.020)

19. Time to be of the Essence

The Minister and the Holder expressly agree that where in any provision of this Licence the Holder is given or allowed a specified time within which to undertake or do any act or thing or any power is conferred or any event occurs after the lapsing of a specified time time shall be the essence of the contract in that regard. (6.021)

20. Whole agreement

The conditions covenants and provisions contained in the Licence expressly or by statutory implication and any provision of the CLA which apply to this Licence cover and comprise the whole of the agreement between the parties hereto and it is expressly agreed and declared that no further or other covenants or provisions whether in respect of the Premises or otherwise shall be deemed to be implied herein or to arise between the parties hereto by reason of the invitation by the Minister to the Holder to submit a proposal for the redevelopment of the Premises or any document issued by the Minister prior thereto or by reason of the subsequent negotiations between the parties hereto or by reason or any promise representation warranty or undertaking given or made by any party hereto to another on or prior to the execution hereof or during the Term and the existence of any such implication or collateral or other agreement is hereby negated. (6.022)

21. Permitted Use

- (a) This Licence confers on the Holder a right to occupy the Premises for the purpose specified or referred to in Column 2 of Item 4 in Schedule 1.
- (b) The Holder will not use the Premises or allow them to be used for any purpose other than the purpose specified in Column 2 of Item 4 in Schedule 1. (6.023)

22. No Exclusive Possession

The Holder acknowledges that this licence does not confer exclusive Possession of the Premises upon the Holder. (6.023A)

23. Holder not to Commit Nuisance etc

The Holder will not at any time during the Term of this Licence:

- (a) carry on or permit to be carried on at the premises any noxious nuisance or offensive trade business.

Submitted to Council: 27 September 2017

..... General Manager Mayor



- (b) do or permit to be carried on at the premises any act matter or thing which results in nuisance damage or disturbance to the Minister or owners or occupiers of adjoining or neighbouring lands or buildings.
- (c) use the premises for any illegal activity. (6.024)

24. No Residence on Premises

The Holder will not reside or permit any other person to reside on the Premises other than as may be specified or referred to in Column 2 of Item 4A of Schedule 1. (6.025)

25. Premises not to be Used for Business Purposes

The Holder will not use the Premises or any part thereof for any business purpose calling or trade or permit any form of business calling or trade to be conducted therein. (6.026)

26. Commencement and Revocation of Licence (set Period)

- (a) This Licence shall commence on the date (and where a time is specified or referred to - the time) specified or referred to in Column 2 of Item 8 of Schedule 1 and shall continue in force until the date (and where a time is specified or referred to - the time) specified or referred to in Column 2 of Item 9 of Schedule 1 or until this Licence is revoked by the Minister.
- (b) The Minister may in his absolute discretion revoke this Licence at any time either before or after the date specified to in Column 2 of Item 9 of Schedule 1 by serving on the Holder a notice in writing revoking this Licence.
- (c) A revocation made under this clause shall take effect on the date specified in the notice or where no date is specified in the notice on the date on which the notice is served on the Holder.
- (d) Except as may be expressly provided for in this Licence the Holder acknowledges and agrees that the Holder will not be entitled to any compensation costs or damages in respect of the revocation of this Licence notwithstanding that the Licence is revoked before the date specified or referred to in Column 2 of Item 9 of Schedule 1. (6.029)

27. Licence Granted subject to Aboriginal Land Claim

- (a) The Holder is granted this licence subject to a possible Aboriginal Land Claim over this land provided in s36 of the Aboriginal Land Rights Act 1983.
- (b) Notwithstanding any other provision of this Licence, this Licence shall terminate in the event that the Minister determines that the land is claimable Crown land or a Court determines that the land is claimable Crown land.
- (c) Except as may be expressly provided for in this Licence the Holder acknowledges and agrees that the Holder will not be entitled to any compensation costs or damages in respect of the termination of this Licence by operation of this clause. (6.029C)

28. Short Term Occupation Payment

The Holder will pay to the Minister on the Commencement Day the rent specified or referred to in Column 2 of Item 70 of Schedule 1. (6.034)

Submitted to Council: 27 September 2017

..... General Manager Mayor



29. Continuing Obligation

The obligation of the Holder to pay the Rent shall be a continuing one during the term of this Licence and shall not abate in whole or in part or be affected by any cause whatsoever. (6.037)

30. Holder to Pay Other Charges

The Holder will pay all other fees charges and impositions which are at any time during the Term payable in respect of the Premises or on account of the use and occupation of the Premises by the Holder. (6.040)

31. Goods and Services Tax

(a) Definitions

In this clause the expressions "GST", "supply", and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

(b) Amounts GST Exclusive

With the exception of any amount payable under this clause, unless otherwise expressly stated all amounts stated to be payable under this Licence are exclusive of GST.

(c) Responsibility for GST

- (i) Despite any other provision in this Licence, if GST is imposed on any supply made under this Licence, the recipient must pay to the supplier an amount equal to the GST payable on the taxable supply.
- (ii) The recipient must pay the amount referred to in subclause (c)(i) in addition to and at the time payment for the taxable supply is required to be made under this Licence.

(d) Valuer/Umpire to return GST Exclusive Value

Any valuer or umpire returning a valuation must return a GST exclusive market value for it in any case where the valuation is for the purpose of determining a supply value to which GST is to be added under this Licence. (6.040A)

32. Holder not to Impose Liability on Minister

Subject to any other provision of this Licence the Holder will not without the written consent of the Minister by any act matter or deed or by failure or omission cause or permit to be imposed on the Minister any liability of the Holder under or by virtue of this Licence. (6.042)

33. Holder not to undertake development without consent notwithstanding any other provision of this Licence

The Holder will not undertake any development within the meaning of the Environmental Planning and Assessment Act 1979 contrary to the provisions of that Act or in breach of any restriction condition or prohibition imposed by an Environmental Planning Instrument or condition of a development consent. (6.043)

34. Development Consent

The Holder will not undertake any activity on or within the Premises for which consent is required under the Environmental Planning and Assessment Act 1979 or any Instrument made thereunder

Submitted to Council: 27 September 2017

..... General Manager Mayor



Licence No.: RI 587308
Page: 9

without first obtaining such consent and in accordance with any condition or requirement of that consent. (6.044)

35. Compliance with Statutes

- (a) The Holder will comply with the requirements of all statutes regulations or by-laws and requirements of all relevant public and local authorities in so far as they apply in relation to the use and occupation of the premises.
- (b) The Holder will forthwith on being served with a notice by the Minister comply with any notice or direction served on the Minister by a competent authority relating to the destruction of noxious animals or plants or pests or the carrying out of repairs alterations or works on or to the Premises. (6.045)

36. Work Health and Safety

The Holder must comply with the *Work Health and Safety Act 2011* (NSW), the *Work Health and Safety Regulation 2011* (NSW) and all other requirements of any other legislation or statutory authority in this regard whilst on the Premises. (6.046)

37. Holder not to deal with Licence or part with possession of Premises

Subject to any other provision of this Licence the Holder will not during the Term of this Licence transfer or create any interest in the Licence or authorise or permit any person to occupy the Premises. (6.047)

38. Revocation on the Request of the Holder

The Holder may at any time by notice served on the Minister request that this Licence be revoked and the Minister if he is satisfied that the Holder has complied with the conditions and provisions of this Licence or the CLA will as soon as practicable comply with such a request. (6.051)

39. Interest on Overdue Money

The Holder shall pay interest on any money due and payable under this Licence to the Minister at the rate prescribed from time to time under the provisions of Section 148 of the CLA and any such interest shall for the purposes of this Licence be deemed to be Rent in arrears. (6.052)

40. Failure to pay money or Undertake Works

- (a) Where under this Licence the Holder is required to pay any money to a third party and neglects to do so for a period of 14 days after the money became due and payable it shall be lawful for but not obligatory upon the Minister (and without prejudice to any rights and powers arising from such default) to pay such money as if it were the Holder and the Holder will reimburse the Minister in respect of any such payments on demand.
- (b) Where under this Licence the Holder is required to do or cause to be done any work or thing and the Holder neglects to do the work or thing for a period of 14 days after that work or thing was due or required to be done it shall be lawful for but not obligatory upon the Minister (and without prejudice to any rights and powers arising from such default) to do or effect such work or thing as if the Minister were the Holder and for that purpose the Minister the Minister's officers agents contractors and workmen may enter upon the whole or any part of the Premises and there remain for the purposes of doing or effecting any such work or thing and the Holder will reimburse the Minister for the cost of the doing or effecting the work or thing on

Submitted to Council: 27 September 2017

..... General Manager Mayor



demand. For the purposes of this clause the word cost shall include any sums paid for any insurance indemnities under the laws relating to workers compensation.

- (c) The Holder expressly agrees that any money or cost payable to the Minister under this clause shall constitute a debt owed by the Holder to the Minister and may be recovered by the Minister accordingly.
- (d) Where the Premises has a common boundary with other land owned leased or held by the Holder (hereinafter called the "other land"). The Holder irrevocably grants to the Minister the Minister's officers agents contractors and workmen a licence to enter upon the said other land for the purpose of gaining access to the Premises or for the purpose of undertaking any work or thing authorised permitted or contemplated by this Clause.

In exercising any power conferred by this subclause the Minister the Minister's servants employees and agents will not be liable for any reasonable damage suffered or occasioned to the other land or anything constructed thereon.
- (e) The Holder expressly agrees that the provisions of this clause shall continue after the expiration or sooner determination of this Licence and the Minister may make any payment or effect any work or thing authorised by this clause after the expiration or sooner determination of this Licence as if such expiration or sooner determination had not taken place. (6.053)

41. Indemnity

- (a) For the purposes of this clause the term Minister shall include Her Majesty the Queen Her heirs and Successors the State of New South Wales the Minister and the agents servants employees and contractors of Her Majesty Her Majesty's Heirs and Successors the State of New South Wales and the Minister.
- (b) The Holder agrees that the Holder will indemnify and keep indemnified the Minister from and against all actions suits claims and demands of whatsoever nature and all costs charges and expenses in respect of any accident or injury to any person or property which may arise out of the use of the Premises or the construction or maintenance of works as may be authorised under the Licence notwithstanding that the conditions of this Licence shall in all respects have been observed by the Holder or that any such accident or injury shall arise from any act or thing which he may be authorised or compelled to do hereunder except to the extent that any such claims and demands arise from any negligence or wilful act or omission on the part of the Minister.
- (c) The Holder expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or other determination of this Licence in respect of any act deed matter or thing happening before such expiration or determination except to the extent that any such claims and demands arise from any negligence or wilful act or omission on the part of the Minister. (6.054)

42. Release of the Minister from Liability

- (a) For the purposes of this clause the term Minister shall include Her Majesty The Queen Her Heirs and Successors the State of New South Wales the Minister and the agents servants employees and contractors of the Minister Her Majesty Her Majesty's Heirs and Successors the State of New South Wales and the Minister.
- (b) The holder agrees to occupy use and keep the Premises at the risk of the Holder and hereby releases to the full extent permitted by law the Minister from all claims and demands of every kind resulting from any accident damage or injury occurring therein and the Holder

Submitted to Council: 27 September 2017

..... General Manager Mayor



EXPRESSLY AGREES that the Minister shall have no responsibility or liability for any loss of or damage to fixtures and/or personal property of the Holder or any agent or servant of the Holder or of any member of the public whilst in or upon the Premises.

- (c) The Holder expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or other determination of this Licence in respect of any act deed matter or thing happening before such expiration or determination. (6.055)

43. Insurance - Public Risk

The Holder will (without in any way limiting the liability of the Holder under any other provision of this Licence) forthwith take out and thereafter during the Term keep current a public risk insurance policy for the amount specified in Column 2 of Item 19 of Schedule 1 for any one claim (or such other reasonable amount as the Minister may from time to time specify in writing to the Holder) whereby the Minister shall during the continuance of this Licence be indemnified against claims and demands of every kind arising from death or bodily injury or damage to property arising out of the Holder's use of the Premises. (6.057)

44. Provisions Re Policies

- (a) The following provisions apply to all policies of insurance required to be effected by the Holder under this Licence:
 - (i) Where the Minister serves a notice on the Holder directing the Holder to enter into a policy with an insurer approved by the Minister the policy is to be entered into with an insurer approved by the Minister. The Minister shall specify a list of approved insurers in any notice served under this paragraph. Where the Minister does not serve a notice as provided for in this paragraph policies of insurance shall be entered into with an insurer carrying on business in Australia.
 - (ii) Where a provision of this Licence specifies an amount for which a policy is to be entered into for (or makes provision for such an amount to be specified) then the policy shall be entered into for the amount specified. Where a provision does not specify the amount for which a policy is to be entered into for the policy shall be entered into for an amount sufficient to cover the risks likely to be encountered having regard to the type of activity undertaken on the Premises and the nature of the Premises.
 - (iii) All policies are to contain conditions and exclusions commonly effected in relation to the type of activity undertaken on the Premises and the nature of the Premises provided that the Minister may by notice served on the Holder direct the Holder to enter into a policy containing specified provisions or which does not contain specified provisions or exclusions and the Holder shall use his best endeavours to comply with the direction.
 - (iv) All policies are to be taken out in the names of the Minister and the Holder for their respective rights and interests and in the name of such other parties having an insurable interest as the Minister may require.
 - (v) Duplicate or certified copies of the policies and all renewal certificates and endorsement slips are to be lodged by the Holder with the Minister if required by the Minister.
 - (vi) All premiums payable in respect of policies and renewals of policies are to be paid punctually by the Holder and the receipt for each premium payable in respect of each policy (or other proof of payment to the Minister's satisfaction) is to be produced by the Holder to the Minister at the request of the Minister.



- (vii) Where the Minister has served a notice on the Holder under paragraph (i) the Holder will use all reasonable endeavours to ensure that the insurer which issues a policy advises the Minister of any failure by the Holder to renew any policy or pay any premium in respect thereof.
 - (viii) The Holder will not at any time during the Term do or bring upon the Premises anything whereby any insurance relating to the Premises against damage by fire and other risks may be rendered void or voidable. If the Holder does or brings anything upon the Premises whereby the premium on the insurance shall be liable to be increased the Holder will obtain insurance cover for the increased risk and pay all additional premiums (if any) required to be paid.
 - (ix) The Holder will use all reasonable endeavours to ensure that full true and particular information is given to the insurer with which the insurances are effected of all matters and things the non-disclosure of which might in any way prejudice or affect any policy of insurance or the payment of all or any moneys thereunder.
- (b) The Minister in his own name or as the attorney of the Holder in the name of the Holder shall be entitled to institute all proceedings against any insurer which issues a policy of insurance required by this Licence to recover from it any amount for loss damage or injury or other money payable under any indemnity in favour of the Minister. The Holder hereby appoints the Minister the attorney of the Holder for the purpose as aforesaid.
- (c) The Holder expressly agrees that the provisions of subclause (b) continue in force after the Termination Date. (6.065)

45. Construction Of Improvements Not Permitted

- (a) For the purposes of this clause "Improvement" means any building structure facility work or pontoon.
- (b) The Holder will not construct effect erect or undertake any Improvements on the Premises. (6.066)

46. Premises to be kept in clean and tidy condition

The Holder will at all times during the Term keep the Premises in a clean and tidy condition and will (subject to any other provision of this Licence) on the Termination Date leave the Premises in a clean and tidy condition. (6.088)

47. Minister's Right to Enter Inspect and Repair

The Minister and the Minister's agents may at all reasonable times upon giving to the Holder reasonable notice (except in the case of emergency when no notice shall be required) enter upon the Premises and view the state of repair thereof and may serve upon the Holder a notice in writing of any defect (the repair of which is the Holder's obligation hereunder) requiring the Holder within fourteen days to repair the same. (6.090)

48. Certain Trees and Vegetation not to be Interfered with

The Holder will not damage harm kill or destroy the trees and vegetation specified in Column 2 of Item 42 of Schedule 1. (6.105)

Submitted to Council: 27 September 2017

..... General Manager Mayor



49. Relics

- (a) Unless authorised to do so by a permit under Section 87 or a consent under Section 90 of the National Parks and Wildlife Act 1974 and subject to observance and compliance with any conditions imposed on the grant of such permit or consent the Holder will not knowingly disturb destroy deface or damage any aboriginal relic or place or other item of archaeological significance within the Land and shall take every precaution in drilling excavating or carrying out other operations or works in the Land against any such disturbance destruction defacement or damage.
- (b) If the Holder becomes aware of any aboriginal relic or place or other item of archaeological significance within the Land the Holder will within 24 hours notify the Director General National Parks and Wildlife Service of the existence of such relic place or item.
- (c) The Holder will not continue any operations or works on the Land likely to interfere with or disturb any relic place or item referred to in subclause (b) without the approval of the Director General National Parks and Wildlife Service and the Holder will observe and comply with all reasonable requirements of the Director General in relation to the carrying out of the operations or works. (6.107)

50. Artefacts

All fossils artefacts coins articles of value articles of antiquity structure and other remains or things of geological historical or archaeological interest discovered on or under the surface of the Premises shall as between the Minister and the Holder be deemed to be the absolute property of the Minister and the Holder will as authorised by the Minister watch or examine any excavations and the Holder will take every precaution to prevent such articles or things being removed or damaged and shall immediately upon discovery thereof notify the Minister of such discovery and carry out at the reasonable expense of the Holder the Minister's orders as to the delivery up or disposal of such articles or things. (6.108)

51. Minister not liable to provide Access

The Holder acknowledges that the Minister is not liable to provide access to the Premises over other land held by the Minister or any other land. (6.121)

52. Holder not to remove Materials

- (a) The Holder will not mine remove extract dig up or excavate any sand stone gravel clay loam shell or similar substance or permit any other person to undertake any such action without the prior consent in writing of the Minister and subject to such conditions as the Minister may determine.
- (b) Subclause (a) shall not apply to any removal digging up or excavation as may be necessary to construct or undertake any improvement authorised by or under this Licence provided that any such removal digging up or excavation is undertaken in accordance with the requirements of that authority.
- (c) The Minister and the Holder expressly agree that a failure by the Holder to comply with any condition imposed pursuant to subclause (a) shall constitute a failure by the Holder to comply with a provision or covenant of this Licence. (6.194)



Licence No.: RI 587308
Page: 14

53. Minister May Grant Licences to Extract Material

- (a) The Minister may during the Term grant a Licence to any person over the land specified in Column 2 of Item 66 of Schedule 1 to mine remove extract dig up or excavate any sand stone gravel clay loam shell or similar substances.
- (b) Upon the grant of a Licence under this clause the Holder will be entitled to the compensation specified in Column 2 of Item 67 of Schedule 1.
- (c) The Holder agrees that he will not hinder interfere or prevent any person authorised under this clause from entering upon the Premises together with such servants employees agents or contractors and equipment as may be necessary in exercising the rights conferred on him by any Licence authorised to be granted under this clause.
- (d) The Minister may authorise any person (hereinafter called "the Licencee") who is granted a licence in accordance with the provisions of subclause (a) to construct such gates roads bridges and other works as may be necessary and the Holder will not hinder the Licencee in undertaking such work. (6.195)

54. Holder to Yield Up

The Holder will forthwith upon the revocation of this Licence peaceably surrender and yield up to the Minister the Premises in good condition reasonable wear and tear excepted together with all conveniences amenities and appurtenances relating thereto clear and free from rubbish and in good and substantial repair order and condition in every case having regard to the age of what is being surrendered or yielded up. (6.199)

55. No Right to Purchase etc

The Holder expressly acknowledges that the grant of this Licence does not confer a right to purchase the land or to the grant of a lease or to the grant of a further licence. (6.200)

56. Special Conditions

The special conditions specified or referred to in Column 2 of Item 71 of Schedule 1 shall be deemed to be conditions and provisions of this Licence. (6.201)

***** End of Licence Clauses *****

Submitted to Council: 27 September 2017

..... General Manager Mayor



SCHEDULE 1

Item	Paragraph No	Column 1 (description of variable particulars)	Column 2 - (particulars)
1	17	Holder's Address for service of notices	2W Hamilton St WALCHA NSW 2354
2	17	Minister's Address for service of notices	Department of Industry - Lands and Forestry PO Box 2185 DANGAR NSW 2309
3	18	Address for payment of rent	Department of Industry - Lands and Forestry PO Box 2155 Dangar NSW 2309
4	21	Purpose for which Premises may be used	Pipeline, Pump (2) (temporary for sewerage waste water)
4A	24	No Residence on Premises	No residence
8	26	Commencement Date	11th September 2017
9	26	Expiry Date	11th March 2018
19	43	Insurance - Public Risk	\$20 Million
42	48	Trees and vegetation to be preserved	All trees & vegetation on the land except noxious plants
66	53	Land over which Licence to extract Materials may be granted	Whole
67	53	Compensation in the event that Licence to extract Material is granted	Nil
70	28	Short Term Occupation Payment	\$241.50
71	56	Special conditions or provisions	Annexed as Schedule 2

***** End of Schedule 1 *****

Submitted to Council: 27 September 2017

..... General Manager Mayor



SCHEDULE 2

57. Land Subject to Aboriginal Land Claim (ALC)

The land is subject to a claim pursuant to the Aboriginal Land Rights Act 1983 (ALR Act 1983), being Claim number 44853 lodged with the Aboriginal Land Rights Registrar on 25 July 2017. Should investigations reveal that the land was claimable Crown land within the meaning of the ALRA when the claim was made the land will be granted to the relevant Aboriginal Land Council and the licence will be terminated from the date of the grant.

Except as may be expressly provided for in this licence You acknowledge and agree that You will not be entitled to any compensation, costs or damages, in respect of the termination/variation of this licence by operation of this clause.

58. Native Title*

Native title under the *Native Title Act 1993 (Cth)* ("**NTA**") may exist with respect to the Land. To the extent that the Holder is permitted to do something under this Licence, then the Holder's right to do the activity prevails over any native title rights and interests and the existence of those native title rights do not prevent the Holder from doing the activity. In such a case, if the act is wholly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, that native title continues to exist in its entirety but the rights and interests have no effect in relation to the act. For some activities under the Licence, you must first obtain the Minister's Consent. In those cases, the Minister may only be able to consent to those acts if that consent can be given in accordance with the *NTA*.

*These notes do not form part of this Licence's terms and conditions.

59. Noxious Weeds or Environmental Hazard

The work must not contribute to the further spread of noxious weeds. Should any additional noxious weeds or other environmental hazard be present on the site, NSW DoI - Lands and Forestry must be immediately informed. All weed material removed from site should be disposed in the appropriate manner.

60. Consents

The Proponent shall obtain all necessary consents relative to the proposal that go beyond the surveyed boundaries of the Crown land. Fences are not to be relied upon to define the boundary. The boundary may need to be identified by a registered surveyor.

61. Threatened Species and Ecological Communities

In the event that issues relevant to wildlife corridors, the existence of threatened species, populations and/or or ecological communities and/or aboriginal artefacts (if any) arise in the area, the advice of the Office of Environment and Heritage should be obtained. Specifically, advice is to be sought regarding the "assessment of significance" (Part 5A of the Environmental Planning and Assessment Act 1979) and any requirement for a Species Impact Statement (Division 2 Part 6 of the Threatened Species Conservation Act 1995).

Submitted to Council: 27 September 2017

..... General Manager Mayor



Licence No.: RI 587308
Page: 17

62. Protection of Waterway

No water, fluids or waste is to be directed from the licenced site or associated development into the nearby waterway. No activity is to be conducted which may cause any pollution or erosion to adjoining lands & waterway.

63. Notification of Works

Dol Lands and Forestry is to be notified in writing (or email) within fourteen (14) days of when the works have been completed and occupation has ceased.

***** End of Schedule 2 *****

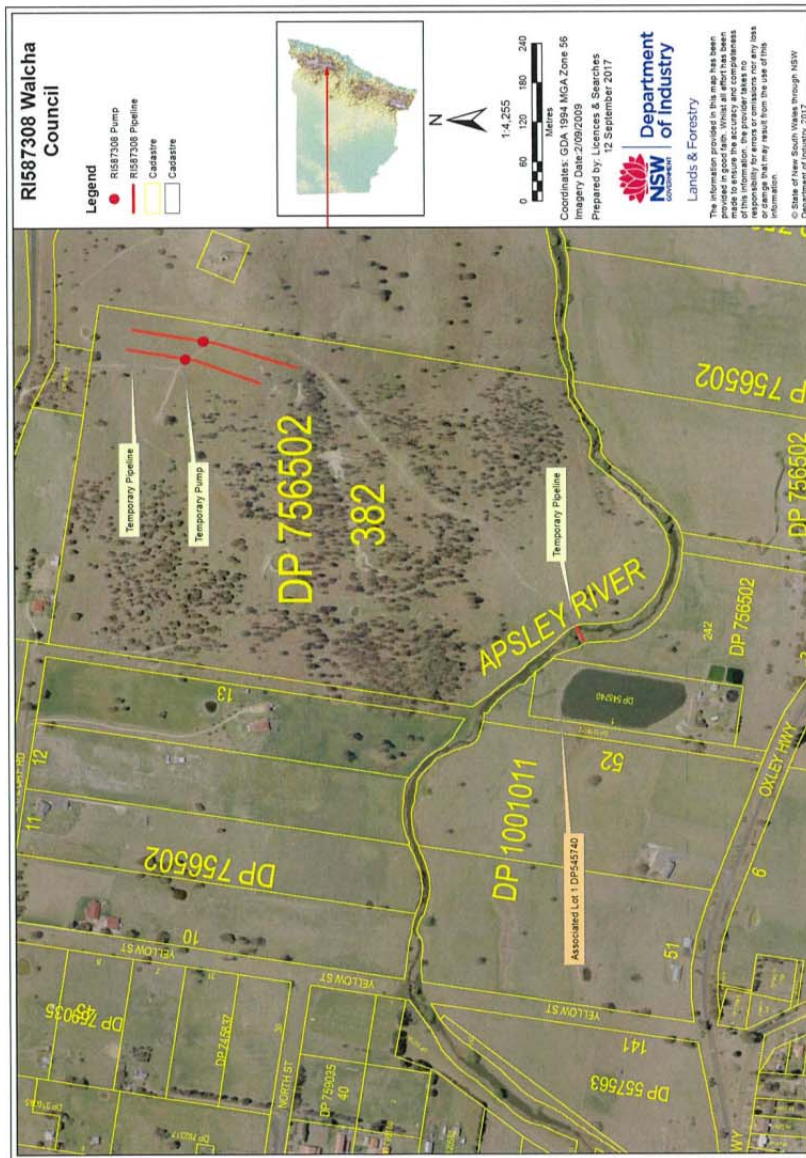
Submitted to Council: 27 September 2017

..... General Manager Mayor



Licence No.: RI 587308
 Page: 18

SCHEDULE 3



Submitted to Council: 27 September 2017

..... General Manager Mayor



TABLE OF CONTENTS

1.	Definitions.....	3
2.	Plurals and Genders.....	3
3.	Contra Proferentum	4
4.	Headings Plans and Code Numbers.....	4
5.	Clauses and Schedules.....	4
6.	Statutes.....	4
7.	Joint and Several Covenants.....	4
8.	Severability.....	4
9.	Applicable Law	4
10.	Licence a "Holding" for purposes of the CLA	4
11.	Performance of Functions etc.....	5
12.	Authorised Officer.....	5
13.	Minister as Public Authority.....	5
14.	Approval by the Minister	5
15.	Opinion of the Minister	5
16.	Holder to pay Cost of Work.....	5
17.	Notices	5
18.	Manner of Payment of Rent and Other Moneys	6
19.	Time to be of the Essence	6
20.	Whole agreement	6
21.	Permitted Use.....	6
22.	No Exclusive Possession.....	6
23.	Holder not to Commit Nuisance etc	6
24.	No Residence on Premises	7
25.	Premises not to be Used for Business Purposes	7
26.	Commencement and Revocation of Licence (set Period)	7
27.	Licence Granted subject to Aboriginal Land Claim.....	7
28.	Short Term Occupation Payment.....	7
29.	Continuing Obligation	8
30.	Holder to Pay Other Charges.....	8
31.	Goods and Services Tax	8
32.	Holder not to Impose Liability on Minister	8
33.	Holder not to undertake development without consent notwithstanding any other provision of this Licence	8
34.	Development Consent	8
35.	Compliance with Statutes	9
36.	Work Health and Safety.....	9
37.	Holder not to deal with Licence or part with possession of Premises	9
38.	Revocation on the Request of the Holder	9
39.	Interest on Overdue Money	9
40.	Failure to pay money or Undertake Works.....	9
41.	Indemnity.....	10
42.	Release of the Minister from Liability	10
43.	Insurance - Public Risk	11
44.	Provisions Re Policies	11
45.	Construction Of Improvements Not Permitted.....	12
46.	Premises to be kept in clean and tidy condition	12
47.	Minister's Right to Enter Inspect and Repair	12
48.	Certain Trees and Vegetation not to be Interfered with.....	12
49.	Relics	13
50.	Artefacts	13
51.	Minister not liable to provide Access.....	13
52.	Holder not to remove Materials.....	13
53.	Minister May Grant Licences to Extract Material.....	14
54.	Holder to Yield Up	14

Submitted to Council: 27 September 2017

..... General Manager Mayor

LATE REPORTS
September 2017 Business Paper Page 23

Walcha Council
Ordinary Council Meeting
27 September 2017



Licence No.: RI 587308
Page: 20

55. No Right to Purchase etc.....	14
56. Special Conditions.....	14
SCHEDULE 1	15
SCHEDULE 2	16
57. Land Subject to Aboriginal Land Claim (ALC).....	16
58. Native Title*.....	16
59. Noxious Weeds or Environmental Hazard	16
60. Consents	16
61. Threatened Species and Ecological Communities	16
62. Protection of Waterway.....	17
63. Notification of Works.....	17
SCHEDULE 3	18

Submitted to Council: 27 September 2017

..... General Manager Mayor



LATE REPORT 2

Ref: WO/2017/1675

Title: Local Development Data Analysis Annual Report
Author: Environmental Services Manager
Previous Items: Nil
Attachment: Nil

*CSP Ref: 8.1.2.1 – Provide high quality support to Council and Councillors.
8.1.2.1.1 – Keep Councillors aware of issues affecting Local Government.*

Introduction:

Each year, Council is required to submit a local development performance monitoring return to the NSW Department of Planning and Environment, which provides an annual overview of the performance of the NSW planning system and information on local and regional development determined by Council, private certifiers and regional planning panels.

The information provided includes the volume and value of various types of application, determination times, Council staffing, and who determined applications.

The following report is a summary of Walcha Council's data and a statistical analysis of local development.

Report:

Total Number of Applications

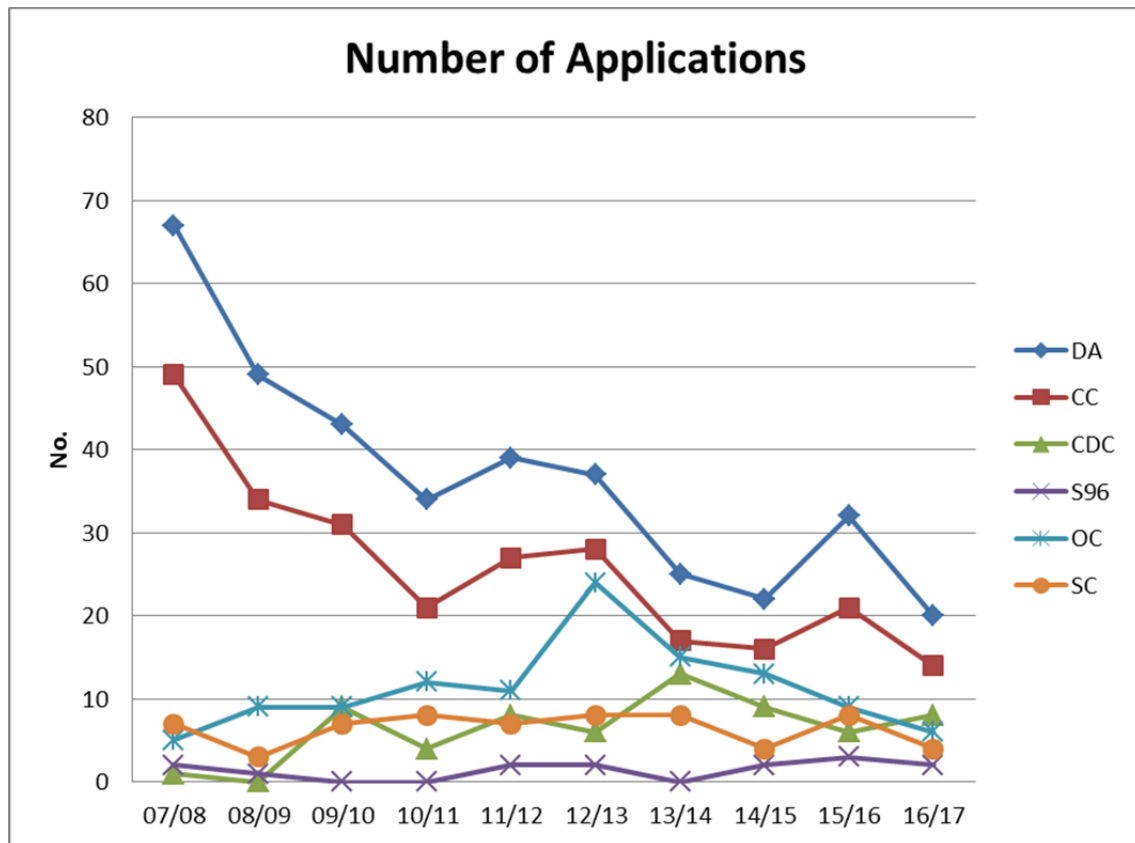
	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
DA	67	49	43	34	39	37	25	22	32	20
CC	49	34	31	21	27	28	17	16	21	14
CDC	1	0	9	4	8	6	13	9	6	8
S96	2	1	0	0	2	2	0	2	3	2
OC	5	9	9	12	11	24	15	13	9	6
SC	7	3	7	8	7	8	8	4	8	4
TOTAL	131	96	100	79	94	105	78	66	79	54

Key:

- DA – development application
- CC – Construction certificate
- CDC – complying development certificate
- S96 – Modification to development application
- OC – occupation certificate
- SC – subdivision certificate

Submitted to Council: 27 September 2017

..... General Manager Mayor

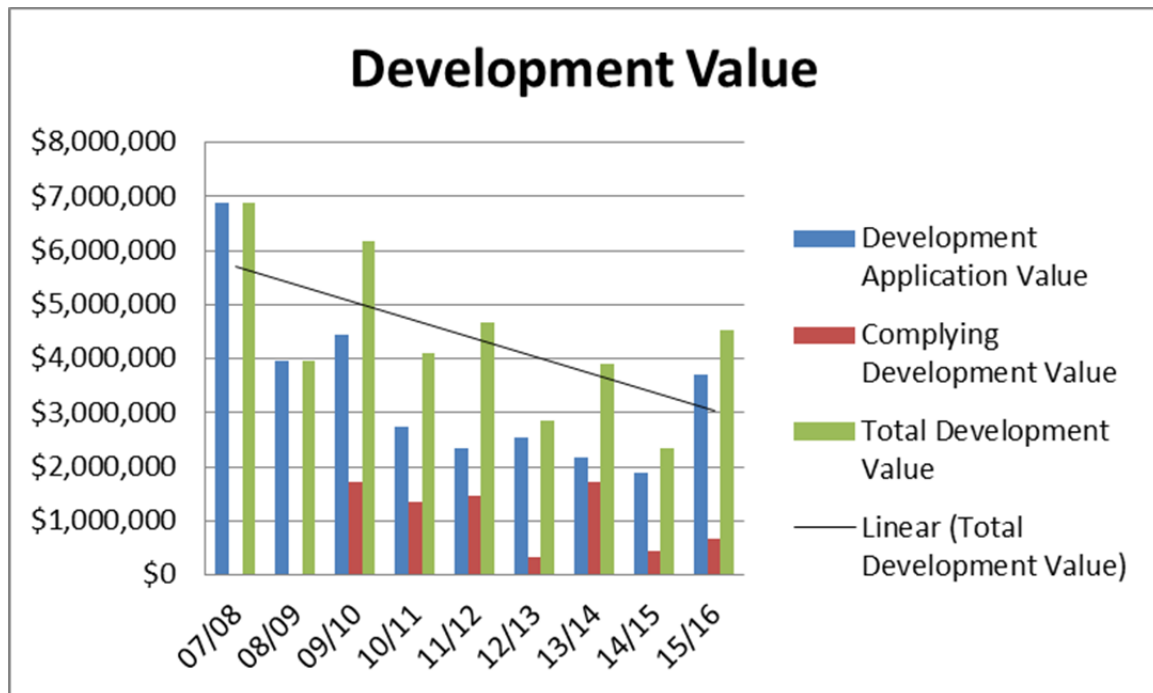


Total Development Value

	Total Development Value	Average Development Value	Development Application Value	Complying Development Value
07/08	\$6,879,720	\$98,281	\$6,879,720	\$0
08/09	\$3,966,227	\$79,324	\$3,966,227	\$0
09/10	\$6,171,167	\$118,676	\$4,450,423	\$1,720,744
10/11	\$4,090,866	\$107,654	\$2,730,318	\$1,360,548
11/12	\$4,669,666	\$95,299	\$2,341,986	\$1,462,680
12/13	\$2,868,406	\$66,707	\$2,547,406	\$321,000
13/14	\$3,898,742	\$102,598	\$2,175,260	\$1,723,482
14/15	\$2,342,351	\$75,560	\$1,894,851	\$447,500
15/16	\$4,526,040	\$110,391	\$3,698,140	\$659,900
16/17	\$4,538,795	\$151,293	\$4,024,495	\$324,300

Submitted to Council: 27 September 2017

..... General Manager Mayor



Category of Development Applications

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
07/08	17	13	0	1	0	0	11	0	8	0	0	3	1	15
08/09	7	8	0	0	0	0	5	0	3	1	0	0	2	11
09/10	17	6	0	0	0	0	0	2	7	0	2	1	1	7
10/11	13	5	0	0	0	0	2	1	1	0	0	1	1	10
11/12	18	4	2	0	0	0	1	0	4	0	0	0	0	12
12/13	18	6	0	0	0	0	0	0	2	0	1	1	0	11
13/14	11	2	0	0	0	0	0	0	3	0	0	0	0	9
14/15	4	3	1	0	0	0	1	0	5	0	0	1	0	9
15/16	15	6	0	1	0	0	0	0	1	0	0	3	0	9
16/17	8	9	0	0	0	0	0	0	1	1	0	0	1	2

Key:

1. Residential Alterations & Additions
2. Residential – Single New Dwelling
3. Residential – New Second Occupancy
4. Residential – New Multi Unit <20 Dwellings
5. Residential – New Multi Unit 20+ Dwellings
6. Residential – Seniors Living
7. Residential – Other (boarding houses, group homes, caravan parks)
8. Tourist (tourist and visitor accommodation)
9. Commercial / Retail / Office
10. Mixed
11. Infrastructure (transport, utilities, telecommunications)
12. Industrial (rural industry, warehouse & storage, extractive industry)
13. Community Facility (educational establishments, libraries, public recreation)
14. Other (subdivision)

Submitted to Council: 27 September 2017

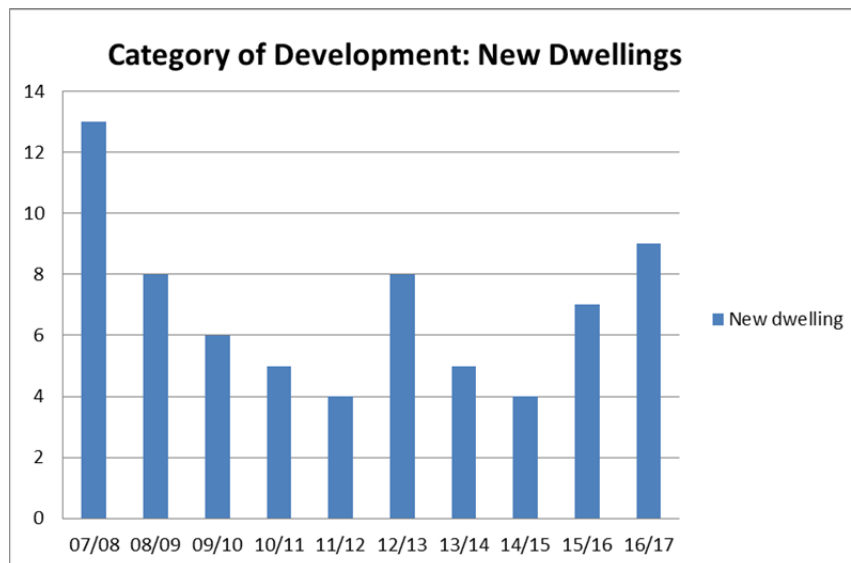
..... General Manager Mayor



Category of Complying Development Applications

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
07/08	0	0	0	0	0	0	1	0	0	0	0	0	0	0
08/09	0	0	0	0	0	0	0	0	0	0	0	0	0	0
09/10	4	0	0	0	0	0	0	0	0	0	0	0	4	1
10/11	3	0	0	0	0	0	0	0	1	0	0	0	0	0
11/12	6	0	0	0	0	0	0	0	1	0	0	0	0	1
12/13	4	2	0	0	0	0	0	0	0	0	0	0	0	0
13/14	7	3	0	0	0	0	0	0	1	0	0	0	1	1
14/15	6	1	0	0	0	0	0	0	1	0	1	0	0	0
15/16	5	1	0	0	0	0	0	0	0	0	0	0	0	0
16/17	8	0	0	0	0	0	0	0	0	0	0	0	0	0

1. Residential Alterations & Additions
2. Residential – Single New Dwelling
3. Residential – New Second Occupancy
4. Residential – New Multi Unit <20 Dwellings
5. Residential – New Multi Unit 20+ Dwellings
6. Residential – Seniors Living
7. Residential – Other (boarding houses, group homes, caravan parks)
8. Tourist (tourist and visitor accommodation)
9. Commercial / Retail / Office
10. Mixed
11. Infrastructure (transport, utilities, telecommunications)
12. Industrial (rural industry, warehouse & storage, extractive industry)
13. Community Facility (educational establishments, libraries, public recreation)
14. Other (subdivision)



Submitted to Council: 27 September 2017

..... General Manager Mayor

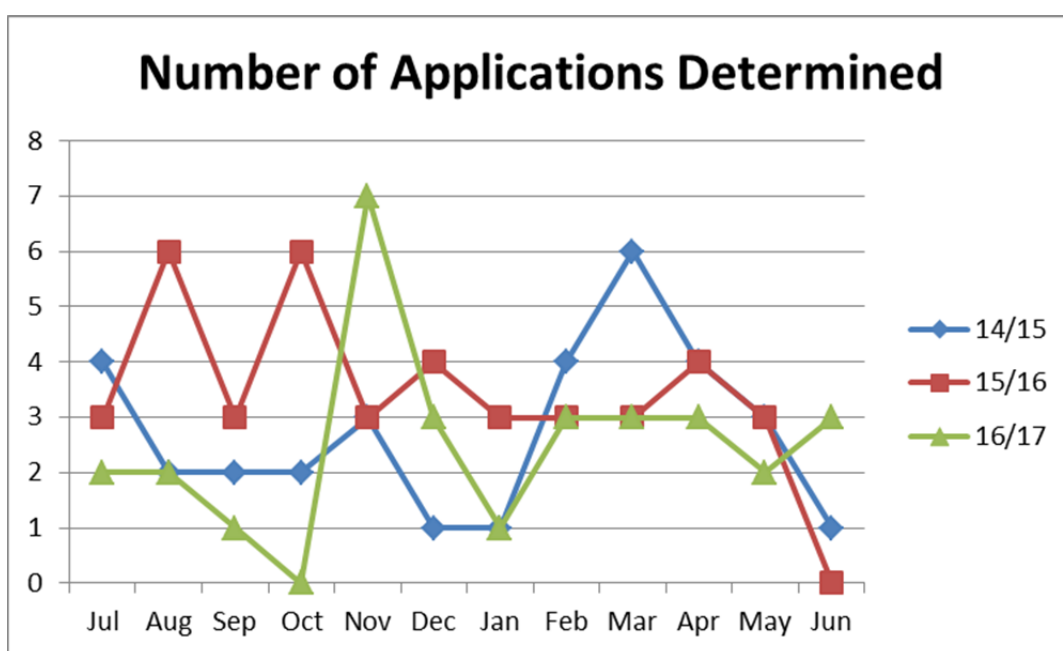


Monthly Comparison of Number of DA Determinations

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
07/08	4	5	8	6	10	7	9	2	6	2	7	2
08/09	6	3	1	5	7	2	8	0	4	1	8	5
09/10	5	6	2	4	1	3	4	4	3	1	4	5
10/11	1	0	0	5	8	4	0	1	0	5	7	2
11/12	2	3	2	7	6	1	1	4	3	2	6	4
12/13	3	6	1	7	3	1	5	1	5	0	2	5
13/14	7	1	2	4	2	1	0	5	0	0	0	3
14/15	4	2	1	2	2	1	1	3	3	3	1	1
15/16	3	6	3	6	3	2	3	2	1	3	3	0
16/17	2	2	1	0	3	1	1	2	3	2	2	3

Monthly Comparison of Number of CDC Determinations

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
07/08	0	0	0	0	0	1	0	0	0	0	0	0
08/09	0	0	0	0	0	0	0	0	0	0	0	0
09/10	1	0	3	0	0	0	0	0	1	1	3	0
10/11	0	0	0	1	2	0	0	0	0	1	0	0
11/12	1	0	0	3	1	0	0	0	3	0	0	0
12/13	0	0	0	1	1	1	0	1	0	0	1	1
13/14	0	1	2	0	0	2	2	1	1	1	0	3
14/15	0	0	1	0	1	0	0	1	3	1	2	0
15/16	0	0	0	0	0	2	0	1	2	1	0	0
16/17	0	0	0	0	4	2	0	1	0	1	0	0



Submitted to Council: 27 September 2017

..... General Manager Mayor



Determination Time of Development Applications

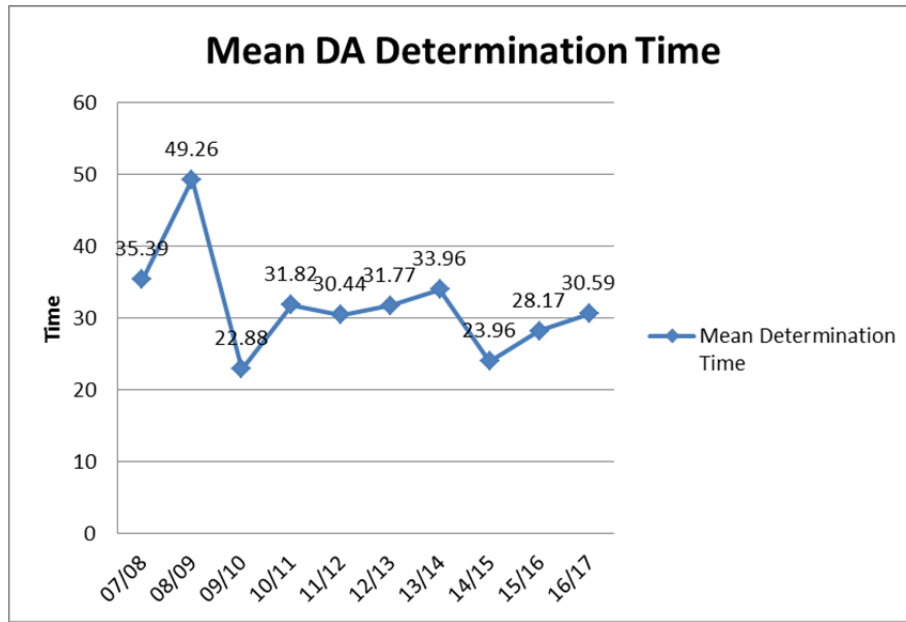
	Mean Determination Time	Median Determination Time	Mean Determination Time less Referral / STC Days	No. of FTE Staff
07/08	35.39	33	21.89	0.2
08/09	49.26	33.5	21	0.2
09/10	22.88	21	19	0.2
10/11	31.82	28	19.12	0.2
11/12	30.44	28	18.37	0.2
12/13	31.77	22	19.21	0.2
13/14	33.96	31	31.84	0.2
14/15	23.96	20	16.21	0.2
15/16	28.17	27	23.91	0.2
16/17	30.59	28	29.91	0.2

Determination Time of Complying Development Applications

	Mean Determination Time	Median Determination Time
07/08	15	15
08/09	N/A	N/A
09/10	7.44	9
10/11	7.75	8
11/12	6.88	7.5
12/13	9.67	8.5
13/14	5.62	7
14/15	13.56	15
15/16	5.83	7.5
16/17	10.25	10

Submitted to Council: 27 September 2017

..... General Manager Mayor



Number & Type of Determination Decisions of Development Applications

	Council Staff	Councillors	Approval	Refusal
07/08	64	5	68	1
08/09	40	10	50	0
09/10	32	11	42	1
10/11	31	3	34	0
11/12	36	4	40	0
12/13	36	3	39	0
13/14	24	1	25	0
14/15	24	0	24	0
15/16	34	1	35	0
16/17	21	1	22	0

Number & Type of Determination Decisions of Complying Development Applications

	Council Staff	Private Certifier	Approval	Rejected
07/08	1	0	1	0
08/09	0	0	0	0
09/10	7	2	8	1
10/11	4	0	4	0
11/12	7	1	6	2
12/13	6	0	6	0
13/14	10	3	13	0
14/15	9	0	9	0
15/16	6	0	6	0
16/17	8	0	8	0

Submitted to Council: 27 September 2017

..... General Manager Mayor



Key Issues

Whilst the number of occupation certificates, S96 applications, and subdivision certificates have remained steady over the last 10 years; the number of development applications lodged has declined slightly, this could be due to a slight increase in the number of complying development applications and also the introduction of the State Environmental Planning Policy (Exempt and Complying Development) Codes 2008 (Codes SEPP), which specifies a number of development types that have minimal environmental impact as exempt development i.e. not requiring development consent.

Overall in NSW development activity has been increasing each year, by 7.2% in 2014/2015 from 2013/2014; and 18.9% in value in 2014/2015 from 2013/2014, totalling \$34.10 billion dollars worth of new development approved; Walcha attributes 0.007% to this development. Close to 60% of development occurs in the Sydney region.

The time taken to approve development applications also appears to be increasing each year, with the State taking on average 71 days gross during 2014/2015, compared to Walcha taking on average 24 days to determine a DA, this timeframe remains steady, with Walcha taking an average of 32 days to determine a DA over the previous 10 year period. Gross days are the total number of days as opposed to net days which take into account days taken for stop-the-clock and referrals to State agencies. NSW takes an average of net 48 days to determine a development application and Walcha takes an average of net of 16 days.

The average gross times for residential DA determinations was 66 days in NSW in 2014/2015; residential development accounts for almost ¾ of development across NSW. In Walcha it accounts for 50-60% of development, however last year there was a large increase to 83 % of development being for residential development.

On average 58 DAs were determined per FTE (full-time equivalent) Council staff. Walcha has 0.2 full-time equivalent staff and determined 22 development applications, or on average 37 development applications per year; equal to 110 and 185 DAs per FTE respectively. 16 Councils recorded more than 100 development determination per FTE staff.

2014/2015 was the last Local Development Performance Monitoring Publication released by the NSW Department of Planning and Environment.

RECOMMENDATION: That Council note the report

Submitted to Council: 27 September 2017

..... General Manager Mayor