RELEASE OF COVENANT 705111466 WHICH BINDS LOT 6 ON RP743980, LOT 4 ON RP736716 AND LOT 6 ON RP886633, KINGSTON ROAD WHYANBEEL – DIVISION 10.

Liam Nicholas: 19/3/3 – 81: #2054110

RECOMMENDATION

1. That Council has no objection to the release of Covenant 705111466 which binds Lot 6 on RP743980, Lot 4 on RP736716 and Lot 6 on RP886633.

2. That the applicants be advised that a new Deed of Agreement and Covenant will be required for Lots 6 on RP886633 and Lot 4 on RP743980 and that this is to be at no cost to Council.

Furthermore, the Mayor and Chief Executive Officer being delegated authority pursuant to section 472 of the Local Government Act 1993 to determine any and all future tenure matters associated with the subject parcels.

INTRODUCTION:

Michael & Nerida Pink (The Covenantors) own freehold lots Lot 6 on RP743980, Lot 4 on RP736716 and Lot 6 on RP886633, which are located at Kingston Road, Whyanbeel.

The Covenantors vide letter dated 25 March 2009 requested that Covenant 705111466 be released so that Lot 6 on RP743980 which is on the western side of Kingston Road, Whyanbeel could be sold. The remaining adjoining Lot 4 on RP743980 and Lot 6 on RP886633 which are on the eastern side of Kingston Road would be retained by the covenantors.

BACKGROUND:

The former Douglas Shire Council consented to the initial Covenant 701862931 under the provisions of Section 5.8 (3) (c) of the Local Government Planning and Environment Act 1990 to ensure that Lot 2 on RP736716 and Lot 6 on RP886633 were bound together and retained in the same ownership. The purpose of the covenant was so that there was no increase in the number of allotments in the area.

Further consideration was given by the former Douglas Shire Council to dispose of Lot 2 on RP736716 from the initial covenant, in return Lot 6 on RP743980 and Lot 4 on RP736716 were to be tied to Lot 6 on RP886633 and a new Covenant 705111466 issued by way of Deed of Agreement.
COMMENT

Development Assessment

Development Assessment has no issues in regard the release of Lot 6 on RP743980 from Covenant 705111466. As a result of the release a new Deed of Agreement and covenant will be required.

It is reasonable to separate Lot 6 on RP743960 as further reconfiguration is not allowable under the Planning Scheme or the Regional Plan, thus it would not increase the number of allotments.

Planning Strategies

Planning Strategies has no objection to the release of Lot 6 on RP743980 from Covenant 705111466.

CONSIDERATIONS:

Corporate and Operational Plans:

This report was prepared in accordance with Corporate Plan goal 1.1 (An integrated approach to planning by Council and stakeholders).

Statutory:

N/A

Policy:

N/A

Financial and Risk:

A new Deed of Agreement and Covenant will be required for Lot 6 on RP886633 and Lot 4 on RP743980 with it being at no cost to Council.

Sustainability:

N/A

CONSULTATION:

As per the comment section of this report.

OPTIONS:

1. That Council has no objection to the release of Covenant 705111466 which binds Lot 6 on RP743980, Lot 4 on RP736716 and Lot 6 on RP886633.
That the applicants be advised that a new Deed of Agreement and Covenant will be required for Lots 6 on RP886633 and Lot 4 on RP743980 and that this is to be at no cost to Council.

Furthermore, the Mayor and Chief Executive Officer being delegated authority pursuant to section 472 of the *Local Government Act 1993* to determine any and all future tenure matters associated with the subject parcels.

2. That Council objects to the release of Covenant 705111466 which binds Lot 6 on RP743980, Lot 4 on RP736716 and Lot 6 on RP886633.

**CONCLUSION:**

Council concur with the recommendation subject of this report.

**ATTACHMENTS:**

Map

L Giacomi  
*Team Leader Property and Administration*

L Kirchner  
*Manager Corporate Performance*

B Grosser  
*General Manager Corporate Performance*