

## 10.3 Construction of Sewer Line Across Drainage Reserves

REPORT BY THE DEVELOPMENT ENGINEER COORDINATOR  
TO 04 AUGUST 2021 ORDINARY MEETING  
GOV400088, GOV

### RECOMMENDATION

#### That Council:

1. **receive the report by the Development Engineer Coordinator and Manager Property and Revenue on the Construction of Sewer Line Across Drainage Reserves;**
2. **advise the applicant that a new linen plan needs to be prepared for the proposed sewerage line that removes Council from the schedule of easements in relation to Lot 8 DP122177 and Lot 35 DP 1199766; and**
3. **authorise the General Manager to enter into an access agreement or licence with the applicant if the need arises for construction of the sewer lines prior to finalizing the amended linen for registration.**

### Executive summary

The purpose of this report is for Council to endorse the instruction to the applicant to alter the linen plan in relation to DA0191/2015 to remove the reference to Council from the schedule of easements for the Council owned drainage reserves being Lot 35 DP 1199766 and Lot 8 DP 1221711 (the Reserves).

### Disclosure of Interest

Nil

### Detailed report

A development application was lodged for a subdivision at 196 Robertson Street Mudgee, DA 0191/2015.

The subdivision requires the creation of a series of easements to enable the construction of a sewerage line for the estate from Bruce Road to Sawyers Place. The schedule of easements as submitted with the linen plan is:

Number of Item shown on The intention panel on the plan	Identity of easement ,profit a Prendre, restriction or positive Covenant to be created an Referred to in the plan	Burdened lot(s) Or parcels(s)	Benefited lot(s),roads Bodies or Prescribes Authorities.
1	Easement to Drain Sewage 3 Wide	1/1000497 2/1000497 3/1204702 8/1221711 & 35/1179766	Mid-Western Regional Council

The easement is to run through land in 3 different ownerships apart from Council's Reserves.

The Reserves are drainage reserves vested in Council. Lot 35 DP 1199766 is classified as *Operational Land* and Lot 8 DP 1221711 is classified as *Community Land*.

The Reserves have been included in the schedule for the creation of an easement by the consultants for the developer. This is the result of Council conditioning that the applicant acquire an easement from the property owners concerned.

In this case it is not necessary to create an easement over Council's land. Council is able to rely on section s51 of the Local Government Act 1993 (the Act) which states that a Council can use a drainage reserve for any purpose that is not inconsistent with use for drainage purposes subject to the Environmental Planning and Assessment Act and any planning instrument applying to the land.

There is no clause in the Act or in Council's LEP to the contrary.

Consequently, it will be necessary for the applicant to have the Deposited Plan linen redrafted removing the notation referring the need to create an easement over the Reserve areas.

Whilst this adjustment is being made it may be necessary for the applicant to enter into an access agreement or license agreement to construct the sewer line in the interim.

## Community Plan implications

<b>Theme</b>	<b>Protecting Our Natural Environment</b>
Goal	Provide total water cycle management
Strategy	Provide a water and sewer network that balances asset conditions with available resources and community needs

## Strategic implications

### Council Strategies

Not Applicable

### Council Policies

Not Applicable

### Legislation

Local Government Act 1993

Conveyancing Act 1919 (NSW)

Environmental Planning and Assessment Act

## Financial implications

Nil

## Associated Risks

Nil

DON COTTEE  
DEVELOPMENT ENGINEER COORDINATOR

GARRY HEMSWORTH  
DIRECTOR OPERATIONS

27 July 2021

*Attachments:* Nil

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER