



PUBLIC COPY

Business Papers 2021

MID-WESTERN REGIONAL COUNCIL

ORDINARY MEETING
WEDNESDAY 13 OCTOBER 2021

*A prosperous and progressive
community we proudly call home*





PO BOX 156
MUDGEES NSW 2850

86 Market Street MUDGEES
109 Herbert Street GULGONG
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850
Fax: (02) 6378 2815
Email: council@midwestern.nsw.gov.au

6 October 2021

Dear Councillor,

MEETING NOTICE
Ordinary Meeting
13 OCTOBER 2021
Public Forum at 5.30pm
Council Meeting commencing at conclusion of Public Forum

Notice is hereby given that the above meeting of Mid-Western Regional Council will be held in the Council Chambers, 86 Market Street, Mudgee at the time and date indicated above to deal with the business as listed on the Meeting Agenda.

In order to comply with Government guidelines on social distancing, the meeting will be closed to the public to minimize numbers in the Council Chambers. The meeting will be live streamed on Council's website.

Members of the public may address Council at the Public Forum, which is held at 5.30pm immediately preceding the Council meeting. Speakers who wish to address Council are invited to register by 4.00pm on the day prior to the Council meeting by contacting the Executive Assistant to the Mayor and General Manager.

Any person attending the Public Forum may bring one support person only to ensure compliance with the current venue capacity requirement of 1 person per 4m² in indoor areas. Please note only one speaker and their support person will be allowed in the Chamber at a time.

Yours faithfully

A handwritten signature in black ink, appearing to be "BRAD CAM", written over a horizontal line.

BRAD CAM
GENERAL MANAGER

AGENDA

Item 1:	Apologies.....	7
Item 2:	Disclosure of Interest.....	7
Item 3:	Confirmation of Minutes.....	7
	3.1 Minutes of Ordinary Meeting held on 15 September 2021.....	7
Item 4:	Matters in Progress	8
Item 5:	Mayoral Minute.....	10
	Nil	
Item 6:	Notices of Motion or Rescission.....	11
	6.1 Parking Contribution Fund.....	11
Item 7:	Office of the General Manager	12
	7.1 MRT Quarterly Report: April to June 2021	12
Item 8:	Development	23
	8.1 DA0059/2022 - Extension to Animal Pound - Mudgee Waste Facility 31 Blain Road, Caerleon, Lot 107 DP 44920.....	23
	8.2 DA0415/2021 - Shop Top Housing (3 Commercial premises and 3 dwellings) - 23 Lewis Street, Mudgee - Lot 1 DP 59498	42
	8.3 MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee	81
	8.4 Planning Proposal 705 Springfield Lane, Gulgong (Lots 277-282, 285, 286 DP 755433, Lots 64, 70, 71, 138 DP 755434, Lots 15-17 DP 1172228), Rezone to R5 Large Lot Residential and Change Minimum Lot Size to 12Ha - Post Exhibition	128
	8.5 Planning Proposal 540 Buckaroo Road, Buckaroo (Lot 2 DP 1227923) - Additional Permitted Use, Bulk Storage and Reload Facility.....	132
	8.6 Monthly Development Applications Processing and Determined.....	138
	8.7 Australia Day Awards.....	148
Item 9:	Finance	151
	9.1 Environmental Upgrade Agreements.....	151

9.2	New and Amended Fees and Charges 2021/22.....	158
9.3	Monthly Budget Review - September 2021	162
9.4	Monthly Statement of Investments as at 30 September 2021.....	178
9.5	Community Grants Program - October 2021	185
9.6	Hardship Provision Policy - Review for COVID-19 Relief.....	196
9.7	Retail & Other Commercial Leases (COVID-19) Amendment Regulation NSW 2021.....	203
Item 10:	Operations.....	230
10.1	Exemption from Tendering – Provision of Hydrated Lime, Graymont Limited	230
10.2	Gate Application on the road reserve off Queens Pinch Road.....	233
Item 11:	Community	247
11.1	Mudgee Arts Precinct Project Update.....	247
11.2	Glen Willow Stage 2 Update	254
11.3	Exemption from Tender - Cudgegong Waters Park House.....	265
Item 12:	Reports from Committees.....	268
12.1	Local Traffic Committee Meeting Minutes - 17 September 2021	268
Item 13:	Urgent Business Without Notice	278
Item 14:	Confidential Session.....	279
	Nil	
Item 15:	Urgent Confidential Business Without Notice	281
Item 16:	Open Council.....	281
Item 17:	Closure.....	281

Item 1: Apologies

Item 2: Disclosure of Interest

In accordance with Section 451 of the Local Government Act 1993, Councillors should declare an interest in any item on this Agenda. If an interest is declared, Councillors should leave the Chambers prior to the commencement of discussion of the item.

Item 3: Confirmation of Minutes

3.1 Minutes of Ordinary Meeting held on 15 September 2021

Council Decision:

That the Minutes of the Ordinary Meeting held on 15 September 2021 be taken as read and confirmed.

The Minutes of the Ordinary Meeting are separately attached.

Item 4: Matters in Progress

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Indoor Pool Feasibility Study	Res 325/19 Ordinary Meeting 16/10/2019	That Council request that a further report be brought back to Council with an option to develop an indoor swimming facility at a new location in Mudgee.	Report has gone to Council and currently awaiting Feasibility Study.
Banner Poles Gulgong	Res 308/19 Ordinary Meeting 16/10/2019	That Council modify the banner poles on the outskirts of Gulgong so that the banners are more stable and less likely to tear.	To be reported to Council at a future meeting.
Cox Street Rail crossing	Res 64/20 Ordinary Meeting 18/03/2020	Council investigate the re-opening of the crossing over the rail line on Cox Street.	To be reported to Council at a future meeting.
Investigation of garbage collection service at Queen's Pinch Waste Transfer Station	Res. 66/20 Ordinary Meeting 18/03/2020	Staff investigate the feasibility of replacing the Waste Transfer Station on Queen's Pinch Rd with a garbage collection service.	To be reported to Council at a future meeting.
Section of Mebul Road to be Cleaned Up	347/20 Ordinary Meeting 18/11/2020	That a report be brought back to Council on the provision of additional maintenance to the area of road and roadside along the section of Mebul Road along the Cudgegong river at the old crusher site.	To be reported to Council at a future meeting.
Environmental Upgrade Agreements	Res 170/21 Ordinary meeting 21/06/2021	That a business plan be completed and a report be brought back to Council to ascertain the cost and benefit of endorsing Environmental Upgrade Agreements.	Report included this month. Please see Report 9.1 of this agenda.
Water Sharing Plan	Res 171/21 Ordinary Meeting 21/06/2021	That Council write to Water NSW (formerly State Water) and formally request that negotiations for a renewed Water Sharing Plan commence immediately.	To be reported to Council at a future meeting.
Kandos Lookout	203/21 Ordinary Meeting 21/07/2021	That Council do further investigation into the ownership of the site of the lookout at Kandos on the Bylong Valley Way with the possibility of developing it for a lookout again.	<u>Recommended for completion.</u>
Community Grants Program July 2021	215/21 Ordinary Meeting 21/07/2021	That Council investigate the purchase of the Angus Avenue building and potential long term lease to Cementa, and bring a report back to a future Council meeting.	To be reported to Council at a future meeting.
Tree Removal – Mortimer Street, Mudgee	231/21 Ordinary Meeting 4/08/2021	That a report be brought back to Council through the Local Traffic Committee in regard to improving the safety, including visual aspects, of	To be reported to Council at a future meeting.

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
		the pedestrian crossing in Mortimer Street on the northern side outside Woolworths	
Mudgee Lookout at Caerleon Estate	284/21 Ordinary Meeting 15/09/2021	That Council allocate \$5,000 to obtain a valuation on a 1 hectare block of land within the Caerleon Estate with a view to using it as a lookout over the Mudgee Valley, and that a report be brought back to Council.	To be reported to Council at a future meeting.

Item 5: Mayoral Minute

Nil

Item 6: Notices of Motion or Rescission

6.1 Parking Contribution Fund

NOTICE OF MOTION LISTED BY CR PERCY THOMPSON
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, GOV400088

MOTION

That Council re-establish a parking contribution fund.

Background

With the development in Mudgee we need a fund for the development of more parking spaces in Mudgee and other areas.

Officer's comments

Council adopted the Mid-Western Regional Contributions Plan 2019 in June 2019. The Plan provides for both Section 7.11 and Section 7.12 contributions. The collection of Section 7.12 contributions can be used for civic improvements, which includes items such as parking, line-marking, signage and street beautification. If Council identifies a parking project, it could direct Section 7.12 funds towards the project.

Item 7: Office of the General Manager

7.1 MRT Quarterly Report: April to June 2021

REPORT BY THE GENERAL MANAGER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, F0770077

RECOMMENDATION

That Council receive the report by the General Manager on the MRT Quarterly Report April to June 2021.

Executive summary

As per the funding and performance agreement entered into in July 2017 between Mudgee Regional Tourism (MRT) and Council, MRT is required to report quarterly to Council on their performance.

Disclosure of Interest

Nil.

Detailed report

The MRT report for the fourth quarter of the 20/21 financial year has been delivered to Council in accordance with the funding and performance agreement. The report is attached for Council's consideration.

Community Plan implications

Theme	Building a Strong Local Economy
Goal	An attractive business and economic environment
Strategy	Promote the Region as a great place to live, work, invest and visit

Strategic implications

Council Strategies

A key strategy in the Mid-Western Region Community Plan is to promote the Region as a great place to live, work, invest and visit. This strategy recognises the important role that tourism plays in building a strong local economy.

Council has a contract with MRT for the supply of tourism services within the Mid-Western Local Government Area. The term of this contract is for four years ending on 30 June 2021. Under this contract, MRT must provide quarterly reports to Council.

Council Policies

Not applicable.

Legislation

Not applicable.

Financial implications

This report is for information purposes only, as per Council's contractual arrangement with MRT. There are no additional financial implications.

Associated Risks

This report is for information purposes only, as per Council's contractual arrangement with MRT.

BRAD CAM
GENERAL MANAGER

27 September 2021

Attachments: 1. MRT Quarterly Report Q4 2020-21.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



2020-21 Quarterly Report

Q4: Apr to Jun 2021

prepared for

MID-WESTERN REGIONAL COUNCIL

PURPOSE

Mudgee Region Tourism (MRT) tables this report to the Mid-Western Regional Council (MWRC) as a requirement of the contract between MWRC and MRT 2017–22, an agreement subject to the following key performance indicators and as referenced in Appendix 1 of the Contract.

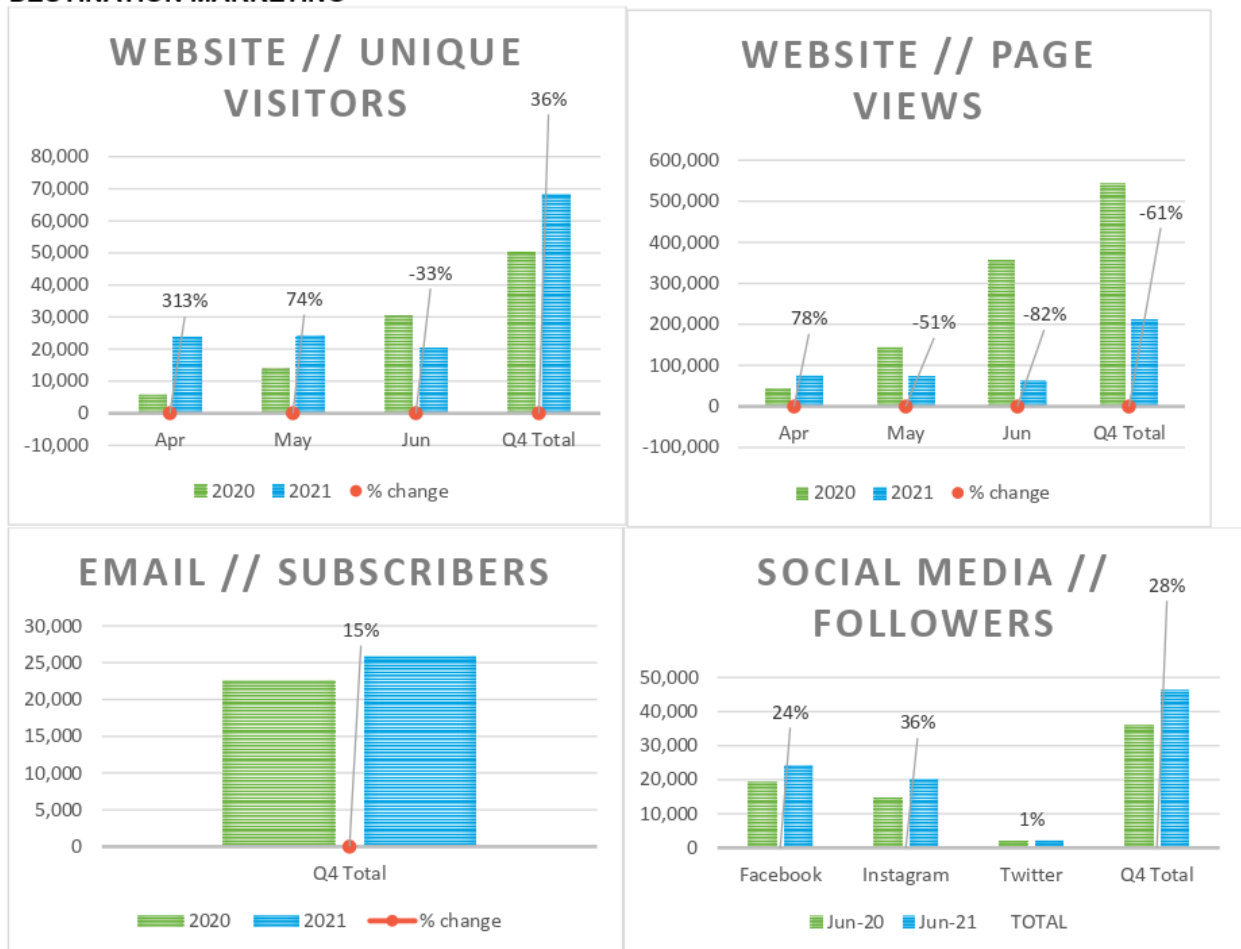
BOARD + EXECUTIVE TEAM

- Mudgee named NSW Top Tourism Town following successful submission/public vote bid
- Strong results for 2021–22 Partnership Drive, income up 27%
- Production of the new 2021–22 Mudgee Region Magazine and Map
- Governance Audit recommendations in process
- Continued working with MWRC to refine retail and back-office fit-out requirements at new Mudgee Arts Prescient
- Attended the Mudgee Region Gallery Brand platform consultation
- Hosted quarterly events meeting with MRT, MWRC, MWA and MFF
- Virtually presented at the LGNSW Destination and Visitor Economy Conference

GRANTS + FUNDING

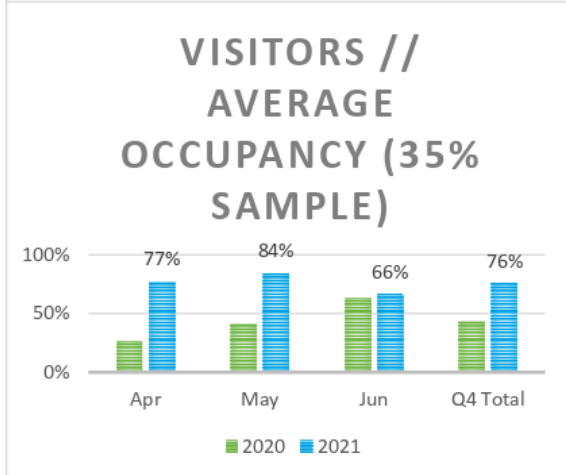
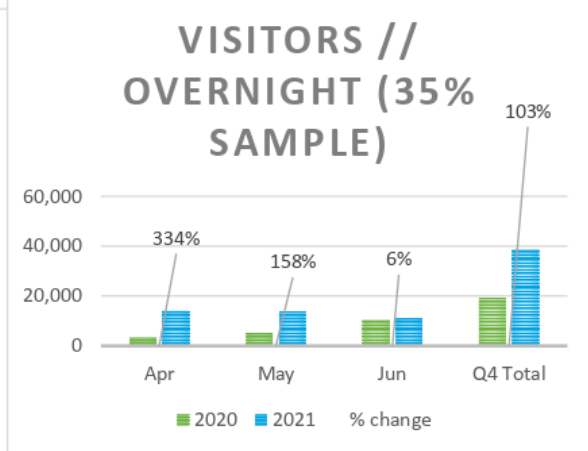
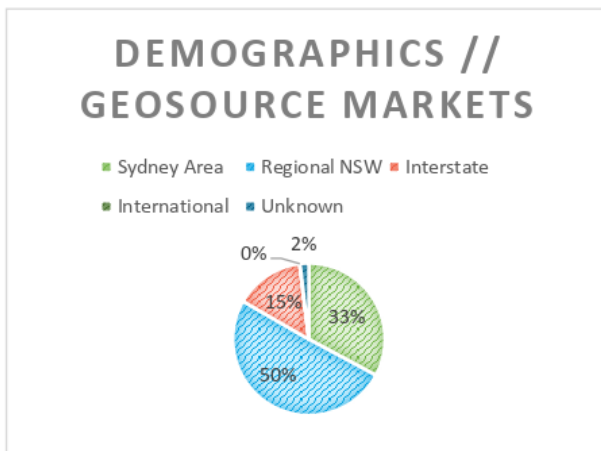
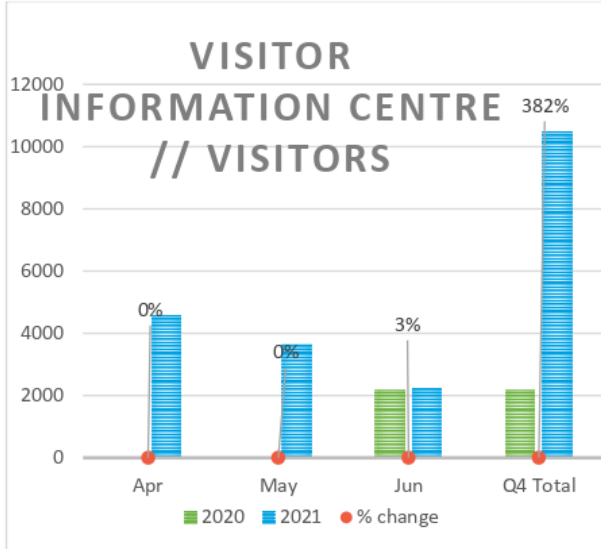
- Building Better Regions Fund (BBRF) application submitted for the development of three strategic plans (Tourism School of Excellence, Industry Engagement and Wellness Sector). Successful applicants to be announced mid-2021 – outcome pending
- Bushfire Local Economic Recovery Fund (BLERF) application submitted to continue our Feel the Love campaign in the Mudgee Region across the next two years – our submission was announced successful in July

DESTINATION MARKETING



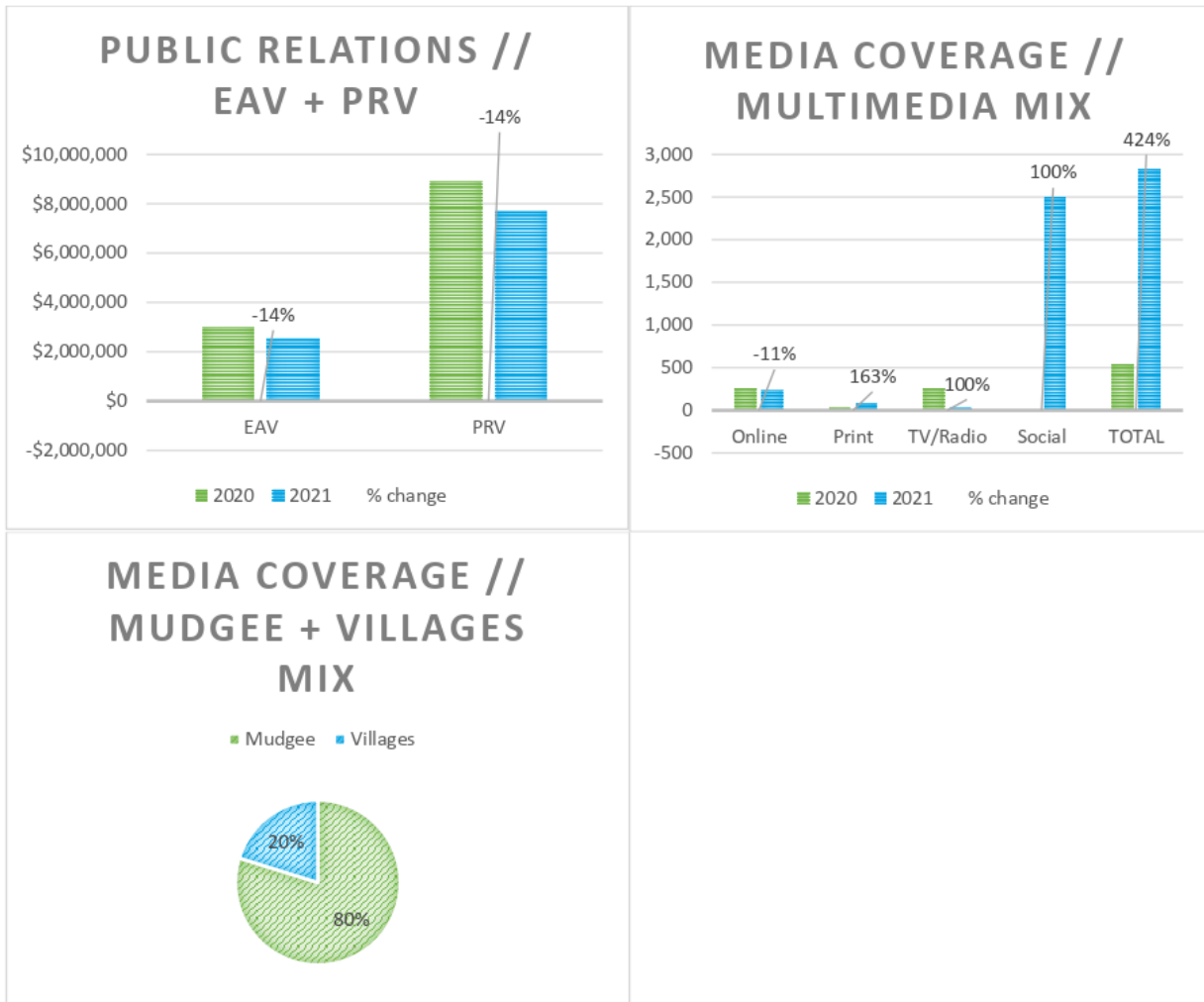
- Unique website visitation up (36%) + page views down (-61%) due to an easier navigation platform on the new site (reducing time spent searching for information on multiple pages)
- Email subscribers up (15%) + Social Media followers up (28%)
- Promotional activity via communications plan, media outreach + hosting, EDM campaign, social media strategy and print collateral distribution
- FTL campaign final TVC campaign activated x six weeks across the WIN network
- *Australian Traveller* magazine tip-on of *Mudgee Region* magazine (20k copies)

VISITOR STATISTICS



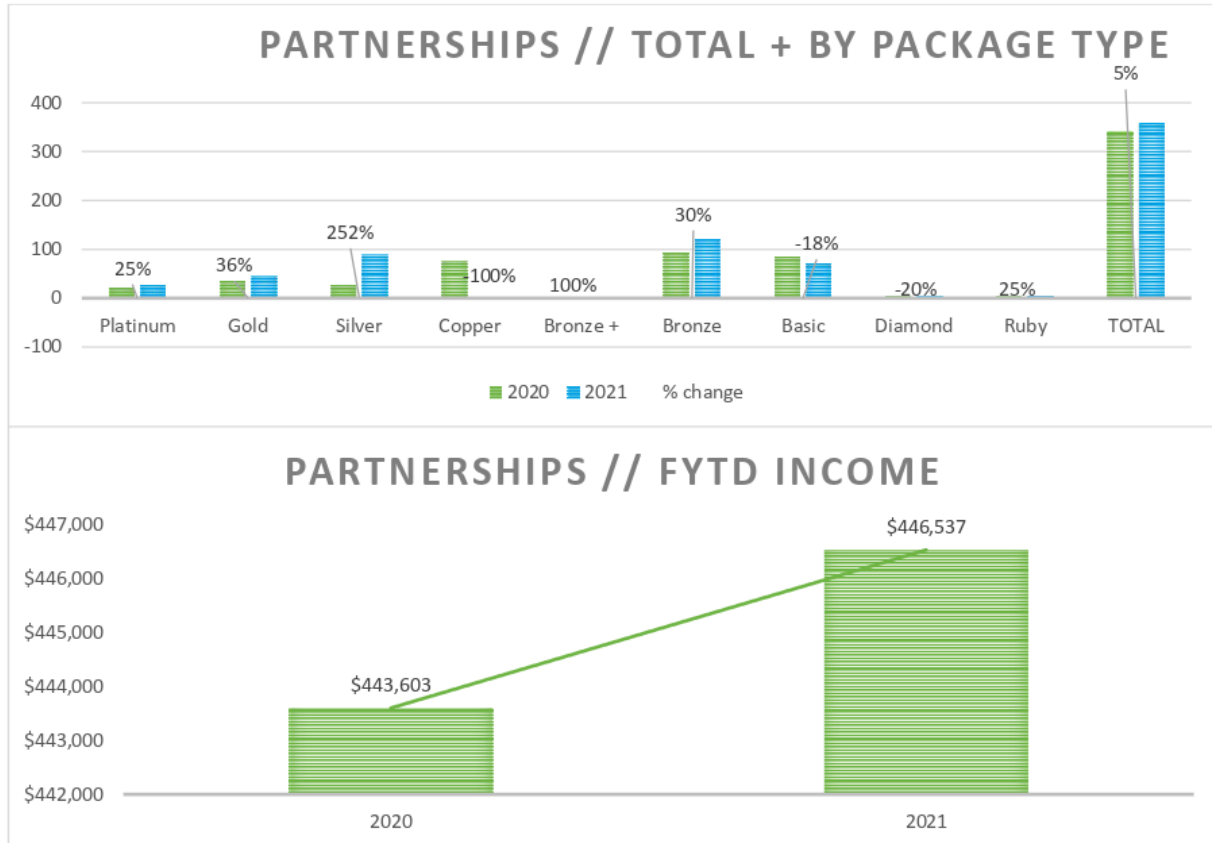
- VIC visitors increasing exponentially over the quarter (382%); call + online chat (with chat introduced mid-2020) up 20%
- Regional NSW strongest geo-source market (50%) followed by Sydney Region (33%)
- Overnight visitors up (103%)
- Average occupancy up (75%); Q4 average occupancy 76%
- May saw our highest recorded average monthly occupancy (since 2015) average monthly occupancy for the region at 84%
- A positive response from visitors with 87% indicating they will return within 12 months

PUBLIC RELATIONS // MEDIA COVERAGE



- Media coverage/articles – to access our digital press room click [here](#)
- High value media coverage again in Q4 despite both Estimated Advertising Value (EAV) and Public Relations Value (PRV) being down exponentially (14%, respectively)
- Total articles up (424%). Note: articles in April + May 2020 were down significantly due to COVID-19
- Maintained a media coverage of 20% for villages outside of Mudgee coverage; exceeding the target of 15% of total coverage

PARTNERSHIPS



- Total partnership packages up (5%)
- Partnership income up (1%). Note: FY21 reduced partnership package fees to support the local industry during the COVID-19 crisis
- Note: Copper packages were not offered in FY21 and Bronze Plus packages were introduced

2020–25 DESTINATION MANAGEMENT PLAN GOALS + ACTIVITY

Goal	Measurable Objectives (over the period 2020 to 2025)	Progress or action taken, as at Ju
A. Leverage existing visitor markets to encourage increased length of stay and yield	Increase the visitor economy spend by 20% or 200,000 visitor nights	46% increase in overnight visitation FYTD on previous year FY20 COVID19 travel restrictions in place.
B. Encourage greater regional disbursal to share the benefits of tourism across the entire Mudgee Region	Increase in participation in events and tickets sales at museums and attractions by 10% in centres such as Gulgong, Kandos and Rylstone	Due to COVID19 restrictions, event and attraction ticket sales are down.
C. Strengthen the appeal of the region year-round to contribute to the viability of local businesses and to support vibrant communities	Increase in positive sentiment achieved as measured by an analysis of social media and online media sentiment Increase in digital content delivered for multichannel distribution relating to low and shoulder seasons	Due to COVID-19, a sentiment report was not completed in 2020. A sentiment report is planned for 2021. MRT are aiming for an increase in positive sentiment from 2019 baseline NPS (Net Promoter Score) or 50. Note: Mudgee Region's NPS rating in 2019 was already significantly higher than competitors (Orange Region = 40, Margaret River = 38, Hunter Valley = 29, Shoalhaven = 25, Southern Highlands = 23). Mudgee named NSW Top Tourism Town. <i>Australian Traveller</i> magazine tip-on package included online editorial + social coverage through the Australian Traveller website and social channels.
D. Focus on higher-yield markets by enriching the experience offer	Increase in the number of higher-yield products, tours and experiences listed on the Australian Tourism Data Warehouse (ATDW) and on online booking platforms	MRT launched a new destination website in Oct 2020. The new platform requires Bronze members and above to be listed on ATDW so content can be managed by the business owner and pulled through automatically to visitmudgeeregion.com.au. This project increased ATDW listings significantly (180% – baseline 80). There are 224 local businesses now listed on ATDW. MRT will continue to work with local industry to increase our region's digital presence.
E. Enhance collaboration and partnerships to support the visitor economy	Increase partnership engagement and resulting financial contribution to MRT by 10%	5% increase in partnership packages + 5% increase in financial contribution FYTD. FY22, partnership packages are up 2% with a 27% increase in financial contribution.

FINANCIAL PERFORMANCE**1. Nature of Report**

a. This is the financial report for the fourth quarter of the MRTI 2020–21 financial year, given to Mid-Western Regional Council (MWRC) under the reporting format as agreed under the contract executed between MWRC and MRTI.

b. The report demonstrates the preliminary trading result for the financial quarter ended June 30th, 2021.

2. Accounting Conventions

a. The attached P&L and Balance Sheet have been prepared from the Xero General Ledger with no external intervention other than formatting.

b. Accrual accounting is used under GAAP.

Overall Result

a. Operating Profit/Net Income \$52K, \$10K ahead of budget.

3. Trading Income

Retail trading income at end Q4 \$204K, \$27K ahead of budget.

4. Total Income

Overall revenue \$39K ahead of budget.

Gross Profit \$16K ahead of budget.

5. Total Expenses

Total expenses under budget \$24K.

a. The organisation continues to be under financial control.

6. Cash Funds

At the end of Q4 of the 2020–21 Financial Year, Cash-on-Hand is the primary current asset \$523K (primarily due to 2021–22 Partnership pre-payments).

7. Balance Sheet

a. A balance sheet is included as part of this report.

CONSOLIDATED – JUNE YTD VS BUDGET YTD

Consolidated - June YTD vs Budget YTD

PROFIT & LOSS	2020/2021	Budget	Budget Variance (\$)	Budget Variance (%)
Revenue				
Retail Sales	\$204,474	\$177,260	\$27,214	15.35%
Ticket and Booking Income	\$8,548	\$2,500	\$6,048	241.91%
Partnership Income	\$446,537	\$440,501	\$6,036	1.37%
Mid Western Regional Council	\$632,763	\$632,763	\$0	0.00%
Grants & Other Income	\$146,500	\$146,500	\$0	0.00%
Total Revenue	\$1,438,822	\$1,399,524	\$39,298	2.81%
Cost of Sales				
COGS Mudgee	\$140,793	\$120,788	\$20,005	16.56%
COGS Partnership	\$8,061	\$5,700	\$2,361	41.42%
COGS Ticketing	\$825	\$300	\$525	175.09%
Total Cost of Sales	\$149,680	\$126,788	\$22,892	18.06%
Gross Profit	\$1,289,142	\$1,272,736	\$16,406	1.29%
Expenses				
Bank and Professional / Consultant Fe...	\$33,874	\$33,284	\$590	1.77%
Computer & IT Expenses	\$15,306	\$21,980	-\$6,674	-30.37%
Depreciation	\$16,550	\$20,841	-\$4,291	-20.59%
Partner Costs	\$20,393	\$21,000	-\$607	-2.89%
Operating Costs	\$42,460	\$43,558	-\$1,098	-2.52%
Regional Marketing	\$195,311	\$209,000	-\$13,689	-6.55%
Staff & Board Costs (not Salaries & W...	\$28,363	\$31,000	-\$2,637	-8.51%
Staff Wages & Salaries	\$683,546	\$663,742	\$19,804	2.98%
Magazine and Map	\$202,214	\$218,022	-\$15,808	-7.25%
Total Expenses	\$1,238,018	\$1,262,427	-\$24,409	-1.93%
Operating Profit	\$51,124	\$10,309	\$40,815	395.92%
Other Income				
DNSW Get Connected	\$1,170	\$0	\$1,170	-
Earnings Before Interest & Tax	\$52,294	\$10,309	\$41,985	407.27%
Net Income	\$52,294	\$10,309	\$41,985	407.27%

BALANCE SHEET – JUNE 2021

BALANCE SHEET	Jun 2021
ASSETS	
Cash & Equivalents	
Visa Debit Cards	\$3,275
NAB 14-080-1731	\$518,842
NAB Savings Acc	\$540
Total Cash & Equivalents	\$522,658
Accounts Receivable	
Trade Debtors	\$56,068
Trade Debtors - Sub Account	-\$2,195
Total Accounts Receivable	\$53,874
Inventory	
Stock On Hand Mudgee	\$21,304
Stock on Hand - Consignment	\$192
Total Inventory	\$21,496
Other Current Assets	
ING Management Account	\$7
Float	\$200
Undeposited Funds	-\$887
Retail POS System Clearing Account	\$1,862
Membership Fees Clearing Account	\$61,750
Prepayments [13505]	\$18,780
123Tix Ticket Sales	\$1,046
Prepayment Partnership Drive	\$26,983
Prepayment COGS Membership Paym...	\$3,311
Prepayment - Office Relocation	\$53,216
FBT Prepayment	\$6,083
Total Other Current Assets	\$172,352
Total Current Assets	\$770,379
Fixed Assets	
Accum Depn M V	-\$25,626
Plant & Equipment	\$53,556
Accum Dep - P&E	-\$18,412
Accum Dep - Intangible Assets	-\$46,263
Office Equipment	\$2,014
Total Fixed Assets	-\$34,731
Investments or Other NCAs	
Motor Vehicle	\$53,227
Web update	\$91,836
Total Investments or Other NCAs	\$145,063
Total Non-Current Assets	\$110,332
Total Assets	\$880,711
LIABILITIES	
Accounts Payable	
Trade Creditors	\$65,769
Tax Liability	
PAYG Withholding Tax	\$10,766

Item 8: Development

8.1 DA0059/2022 - Extension to Animal Pound - Mudgee Waste Facility 31 Blain Road, Caerleon, Lot 107 DP 44920

REPORT BY THE TOWN PLANNER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, DA0059/2022

RECOMMENDATION

That Council:

- A. receive the report by the Town Planner on DA0059/2022 - Extension to Animal Pound - Mudgee Waste Facility 31 Blain Road, Caerleon - Lot 107 DP 44920; and
- B. approve DA0059/2022 - Extension to Animal Pound - Mudgee Waste Facility 31 Blain Road, Caerleon - Lot 107 DP 44920 subject to the following conditions and statement of reasons:

APPROVED PLANS

1. The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.

Title / Name:	Job No.	Drawing No.	Revision / Issue:	No. in set	Date [dd.mm.yyyy]:	Prepared by:
Site Detail	21.89	3	B	4	24-9-21	Not specified
Proposed and Existing Floor Plan	21.89	1	B	4	24-9-21	Reliable Drafting Service
Elevations and Section	21.89	2	B	4	24-9-21	Not specified

GENERAL

2. A total of five (5) car parking spaces are to be provided within the site of the development and comply with AS 2890.1: 2004 and the following requirements:
 - a) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - b) Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009;
 - c) All car parking spaces are to be line-marked and provided with a hard standing, all weather compacted gravel surface and must be maintained in a satisfactory condition at all times;
 - d) Off street parking is to be encouraged by the placement of prominent signs indicating the available of parking.
3. The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Maritime Services (RMS) guidelines and Australian

Standard AS 2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.

4. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act 1993* for the installation of an On Site Sewer Management System is to be obtained from Mid-Western Regional Council.
6. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$25,000 or more.

Note: The amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.

Note: Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction Certificate is to be issued by a Private Certifier, the long service levy must be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.

7. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
8. Pursuant to clause 94 of the *Environmental Planning and Assessment Regulation 2000*, the existing building shall be brought into partial conformity with the following Performance Requirements of the BCA, Volume 1:
 - DP4 – Exits must be provided to allow occupants to evacuate safely, with their number, location and dimensions appropriate to the travel distance, the number, mobility and other characteristics of occupants, the function or use of the building, the height of the building and whether the exit is from above or below ground level.
 - DP6 – In order to allow occupants to safely evacuate the building, paths of travel to exits must have dimensions appropriate to the number, mobility and other characteristics of occupants; and the function or use of the building.
 - EP1.2 – Fire extinguishers must be installed to the degree necessary to allow occupants to undertake initial attack on a fire appropriate to the function or use of the building; and, any other fire safety systems installed in the building; and, the fire hazard.
 - EP4.1 – To facilitate evacuation, the building shall be provided with a system that ensures a level of visibility sufficient to enable exits, paths of travel to exits and any obstacles along a path of travel to an exit to be identified; and, activates instantaneously upon the failure of an artificial lighting system, to the degree necessary, appropriate to – the function of the building, the floor area of the building and the distance of travel to an exit.
 - EP4.2 – To facilitate evacuation, suitable signs or other means of identification, must, to the degree necessary, be provided to identify the location of exits; and, guide occupants to exits; and, be clearly visible to occupants; and, operate in the event of a power failure of the main lighting system for sufficient time for occupants to safely evacuate.

Plans and specifications demonstrating conformity shall be submitted to and approved by the certifying authority prior to the issue of a construction certificate for the building works.

PRIOR TO COMMENCEMENT OF WORKS – BUILDING

9. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- a) the appointment of a Principal Certifying Authority and
- b) the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

10. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE

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

- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
- c) the name, address and telephone number of the principal certifying authority for the work; and
- d) the sign shall be removed when the erection or demolition of the building has been completed.

12. If the work involved in the erection/demolition of the building:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- b) building involves the enclosure of a public place.

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

13. The development site is to be managed for the entirety of work in the following manner:

- a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
- b) Appropriate dust control measures;
- c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
- d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

BUILDING CONSTRUCTION

14. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
15. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the *Plumbing Code of Australia*.
16. Construction work noise that is audible at other premises is to be restricted to the following times:
 - Monday to Saturday - 7.00am to 5.00pmNo construction work noise is permitted on Sundays or Public Holidays.
17. All mandatory inspections required by the *Environmental Planning & Assessment Act 1979* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
18. All stormwater is to discharge a minimum 3m from the building and disposed of in such a way as to not adversely affect the adjoining properties.
19. This approval does not provide any indemnity to the owner or applicant under the *Disability Discrimination Act 1992* with respect to the provision of access and facilities for people with disabilities.
20. All building work is to comply with the requirements of the *Access to Premises Standard*.
21. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.
22. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

23. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
24. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

ONGOING

25. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
26. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
27. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Division 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
4. If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning & Assessment Act 1979*.

Executive summary

OWNER/S	Mid-Western Regional Council
APPLICANT:	Mid-Western Regional Council
PROPERTY DESCRIPTION	31 Blain Road, Caerleon; Lot 107 DP 44920
PROPOSED DEVELOPMENT	Extension to animal pound
ESTIMATED COST OF DEVELOPMENT:	\$180,000
REASON FOR REPORTING TO COUNCIL:	Council is the owner or manager of the land and the development exceeds a construction value of more than \$150,000.
PUBLIC SUBMISSIONS:	Nil.

Council is in receipt of Development Application DA0059/2022 that seeks approval for an extension to the existing animal pound, located at Mudgee Waste Depot 31 Blain Road CAERLEON NSW 2850, Lot 107 DP 44920, received by Council on 12 August 2021.

The existing animal pound is located within the Mudgee Waste facility located on Blain Road to the north west of the Mudgee Township. The pound is located within a fenced off area at the eastern side of the entrance to the Mudgee Waste Facility. Figure 1 shows an aerial image of the existing pound and its surrounds.

The pound was approved under DA0383/2012 and currently contains a small office, toilet, pet food storage room and animal cage partitions. It is proposed to extend the existing building by an additional 85.4m² with the new floor space to contain an office area for Council rangers, reception area and kitchenette. The extension will be cladded with colorbond sheeting with the roof line and colours to match the existing building. The existing internal fence line will also be adjusted to accommodate the new extension. A full set of the proposed plans is available in Attachment 1.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 7 September 2021. During the notification period, no submission/s were received.

The proposed development has been assessed in accordance with Council's Development Control Plan 2013 (DCP 2013) and the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012). The proposed development is considered generally consistent with Council's planning controls.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that Council is the owner or manager of the land and the development exceeds a construction value of more than \$150,000.

The application is recommended for Approval.



Figure 1 - Aerial image of existing pound and surrounds (Source: Extract from plans provided with the application)

Disclosure of Interest

Council is the applicant for the proposed development.

Detailed report

The application has been assessed in accordance with **Section 4.15** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.15(1)(a) Requirements of Regulations and Policies

(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LANDIt is noted that the land may be contaminated given the current and historic use of the overall site for waste disposal purposes. The proposal, however, is considered to be a non-sensitive land use and relates to a small extension for a use already in place. In this regard, the potential contamination status of the land is considered to not adversely impact on the continued use of the pound for this purpose. Therefore, no further investigations in relation to contamination are required.

STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2020

SEPP (Koala Habitat Protection) applies to the proposal as Mid-Western Regional Council is listed within Schedule 1 of the SEPP and the area of land associated with the proposal is greater than 1 hectare in size including adjoining land within the same ownership.

However, the proposal does not involve the clearing of any trees and therefore no further consideration is warranted.

MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as a:

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned SP2 Infrastructure (Waste Management Facility) and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned SP2 Infrastructure pursuant to MWRLEP 2012. The proposal, being an extension to an existing lawful animal boarding or training establishment is considered to be a suitable ancillary use to a waste or resource management facility and is therefore permissible with consent in the zone.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

SP2 Infrastructure

1. *To provide for infrastructure and related uses.*

Comment The proposal provides for an infrastructure related use.

2. *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Comment The proposal is not incompatible with or that may detract from the provision of infrastructure.

3. *To protect the water storage of Windamere and Burrendong Dams.*

Comment Not applicable, the proposal will not impact on Windamere or Burrendong Dam.

Clause 4.3 Height of buildings

The subject site is not mapped for a maximum height limit.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.

Clause 5.10 Heritage Conservation

No items of aboriginal significance or a heritage item are recorded on the site or in the vicinity. Notwithstanding this, a condition will be placed upon the consent ensuring that work is ceased should an item be discovered during construction.

Clause 5.21 Flood planning

The subject site is not identified as being within the flood planning area in accordance with Council's maps and the Floodplain Study and Management Plan. No further consideration is necessary.

Clause 6.1 Salinity

The proposal only involves minimal earthworks and is not expected to significantly affect the process of salinisation.

Clause 6.3 Earthworks

The proposal involves only minor earthworks to prepare the site for the development. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.5 Terrestrial biodiversity

The development footprint is likely partially located within an area of 'Moderate Biodiversity Sensitivity'. However, no vegetation is proposed to be removed as a result of the proposed development and, therefore, the impacts to be addressed in accordance with this clause are not considered significant/relevant.

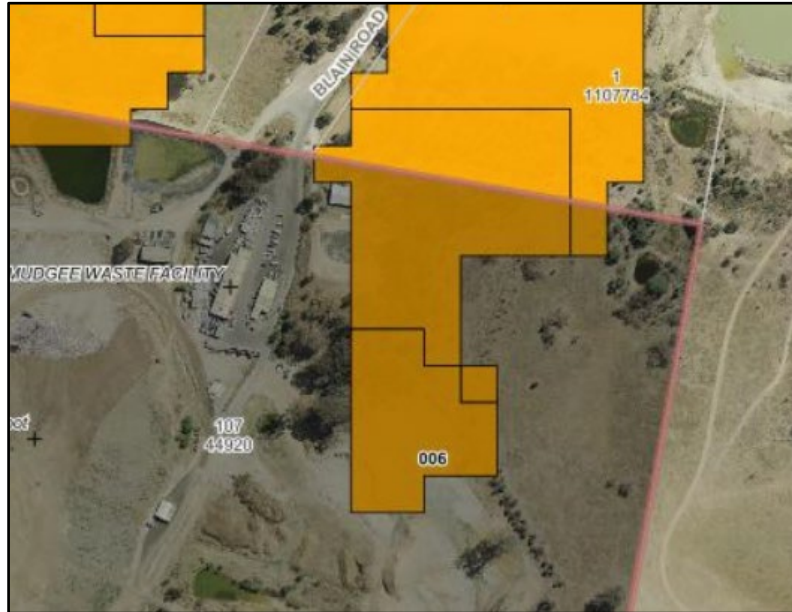


Figure 2 - Terrestrial Biodiversity mapping

Clause 6.8 Airspace operations – Mudgee Airport

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development including the following:

- Water supply provided via existing water tank connected to Mudgee water supply.
- Electricity is already connected to the building.
- Sewage will be managed via an existing on-site waste disposal system.

Clause 6.10 Visually sensitive land near Mudgee

The building footprint is not located within the area identified within the visually sensitive land map.

4.15(1)(a) Requirements of Regulations and Policies

(ii) Draft environmental planning instruments (EPI)

No draft environmental planning instruments apply to the land to which the Development Application relates.

(iii) Any development control plans

MID-WESTERN REGIONAL DEVELOPMENT CONTROL PLAN 2013

An assessment is made of the relevant chapters and sections of the Mid-Western Regional Development Control Plan, 2013 (DCP 2013). Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 4.7 Tree Preservation Order

No trees to be removed.

Part 5.1 Car Parking

An animal boarding or training establishment does not have any specific car parking requirements under this section and therefore car parking is assessed individually on its merits. The existing consent for the pound required 3 car spaces to be provided to cater for one ranger, one customer and a volunteer.

The applicant has advised that a maximum of 4 staff members and a maximum of 1-2 customers are expected on site at any one time. Accordingly a total of five spaces is considered to be suitable to meet the needs of the extended facility. Should there be a need for additional parking, members of the public could rely on the parking area adjacent to the development site for the waste facility.

Part 5.2 Flooding

Not applicable.

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater.

Part 5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

Section 7.11 and 7.12 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

Pursuant to Council's Contributions Plan 2019, the development is exempt from the payment of Section 7.11 or 7.12 contributions as it relates to "Public infrastructure to be carried out by or on behalf of any public authority including Council."

Section 64 - Water/Sewer Developer Services Charges

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the development does not increase the demand or loading upon Council's infrastructure or require additional water, sewer or trade waste services to the land or building. No charges can therefore be applied under the plan.

4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iiia)

No Planning Agreements are applicable.

Regulations –4.15(1)(a)(iv)

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Clause 94 – Consent authority may require buildings to be upgraded

The proposal will involve works as described within Clause 94(1) and therefore 94(2) is to be considered.

94(2) requires Council to consider whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.

Council's Health & Building Surveyor has recommended a condition on the consent be included requiring upgrades to the building to bring it into partial conformity with the Building Code of Australia.

Likely impacts of the development – 4.15(1)(b)¹

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

(a) Context and Setting

The proposal is appropriate with regards to the surrounding context and setting.

(b) Access, Transport and Traffic

The implications of additional traffic and suitable access are discussed throughout this report. The proposal is considered appropriate.

(c) Public Domain

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

(d) Utilities

All relevant utilities are available or can be made readily available to the site.

(e) Heritage

Not applicable.

(f) Other Land Resources

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

(g) Water

No significant impact expected.

(h) Soils

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

(i) Air and Microclimate

The development is not expected to impact air quality or microclimatic conditions.

(j) Flora and Fauna

Not applicable.

(k) Waste

Not applicable.

(l) Energy

Not applicable.

(m) Noise and Vibration

Noise impacts relating to the pound use such as dog barking etc. was considered under the original development application and appropriate conditions were included in accordance with the acoustic report provided at that time. The proposed additions relate to additional office space, kitchenette and reception area and are unlikely to result in any new unreasonable noise sources.

(n) Natural Hazards

The site is identified as bushfire prone. The application is considered to meet the objectives for Class 5 to 8 Buildings specified under Section 8.3.1 of Planning for Bushfire Protection 2019 as follows:

- Existing safe access to /from the public road system for firefighters is already in place.
- Emergency and evacuation procedures for occupants of the development are already in place.
- Existing fire hose reel connected to a pressure pump is available in the event of a fire.

(o) Technological Hazards

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

(p) Safety, Security and Crime Prevention

Increased passive surveillance as a result of the proposed development.

(q) Social Impact in the Locality

Generally positive.

(r) Economic Impact in the Locality

Generally positive.

(s) Site Design and Internal Design

Adequate as discussed throughout this report.

(t) Construction

To comply with the BCA where relevant.

(u) Cumulative Impacts

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

Suitability of Site for Development – 4.15(1)(c)

(a) Does the proposal fit in the locality?

Yes. There are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

(b) Are the Site Attributes conducive to Development?

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

Submissions made in accordance with Act or Regulations – 4.15(1)(d)

(a) Public Submissions

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 7 September 2021. During the notification period, no submission/s were received.

The applicant lodged amended plans during the assessment process. However, the changes were not considered significant enough with regards to implications on adjoining neighbours and re-notification of the proposal was not considered necessary.

(b) Submissions from Public Authorities

No submissions were sought or received from public authorities.

The Public Interest – 4.15(1)(e)

(a) Federal, State and Local Government interests and Community interests

No significant issues in the interests of the public are expected as a result of the proposed development.

*CONSULTATIONS***Health & Building**

Council's Health & Building Surveyor has not raised any concerns with the proposal, subject to standard conditions.

Development Engineer

Council's Development Engineer has not raised any concerns with the proposal subject to standard conditions.

Heritage Advisor

Not required.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Mid-Western Regional Development Control Plan 2013.
Mid-Western Regional Contributions Plan 2019.
Mid-Western Regional Community Participation Plan 2019.
Mid-Western Regional Development Servicing Plans.

Council Policies

Not applicable.

Legislation

Mid-Western Regional Local Environmental Plan 2012.
Environmental Planning and Assessment Act 1979.
Environmental Planning and Assessment Regulation 2000.

Financial implications

Not Applicable.

Associated Risks

The recommendation of staff is to approve the development subject to conditions provided above. Should Council refuse the development application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

SARAH HOPKINS
TOWN PLANNER

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

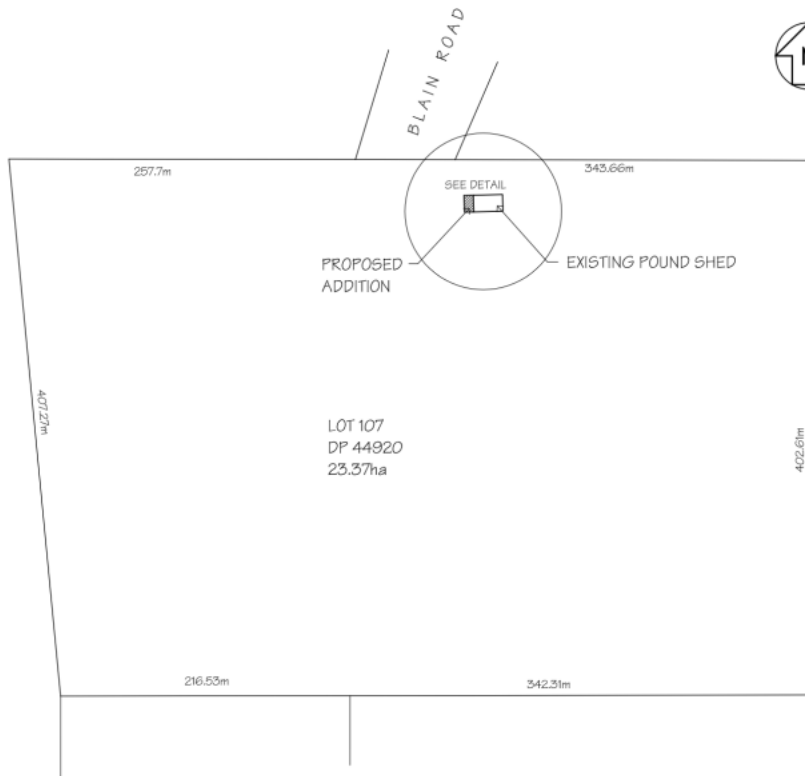
21 September 2021

Attachments: 1. Development Plans.

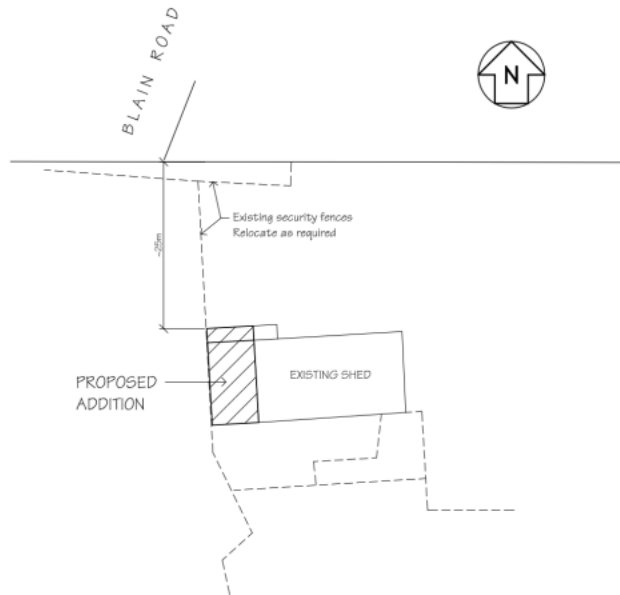
APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER





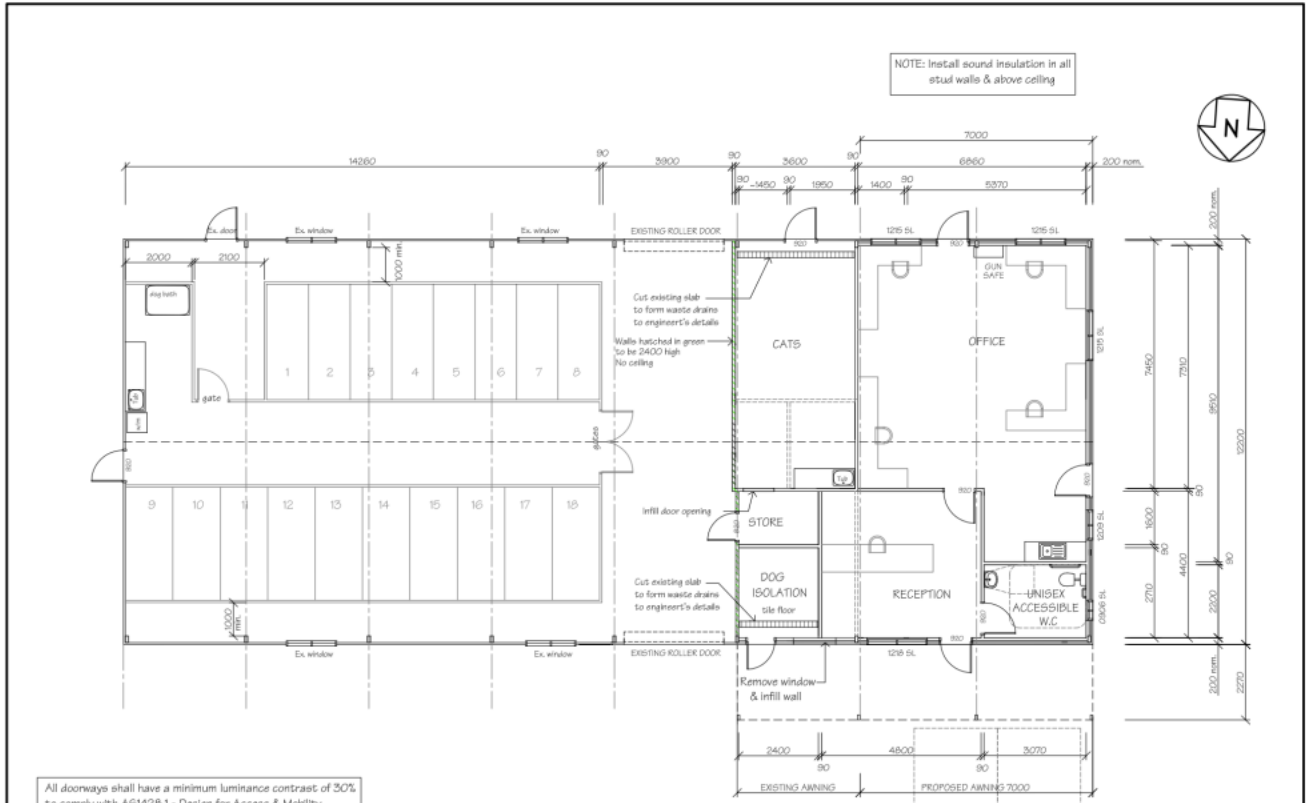
SITE PLAN
 SCALE 1:2500



SITE DETAIL
 SCALE 1:500

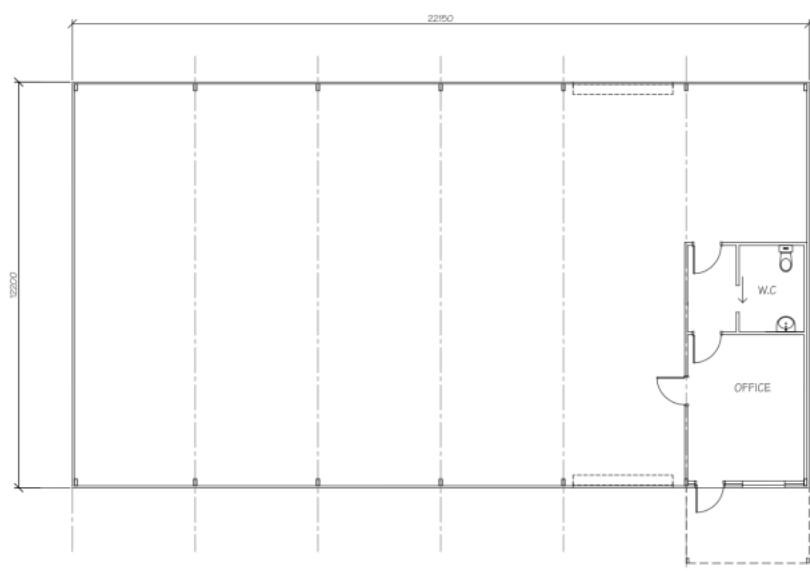
* SEDIMENT & EROSION CONTROL MEASURES TO COUNCIL REQUIREMENTS ARE TO BE IN PLACE PRIOR TO THE COMMENCEMENT OF WORK.
 PROVIDE SEDIMENT FENCE ON DOWNHILL SIDE OF ALL EXCAVATIONS & STOCKPILES
 PROVIDE A WASHDOWN BAY TO COUNCIL REQUIREMENTS.

Project:			
PROPOSED ALTERATIONS & ADDITION COUNCIL POUND 21 BLAIN ROAD, CAERLEON			
Job No.	DWG. No.	Amtd.	No. in set
21.89	3	B	4
Scale: AS SHOWN	Date: 24-9-21	File: 2189.dwg	



All doorways shall have a minimum luminance contrast of 30% to comply with AS1428.1 - Design for Access & Mobility
Minimum width of the area of luminance shall be 50mm

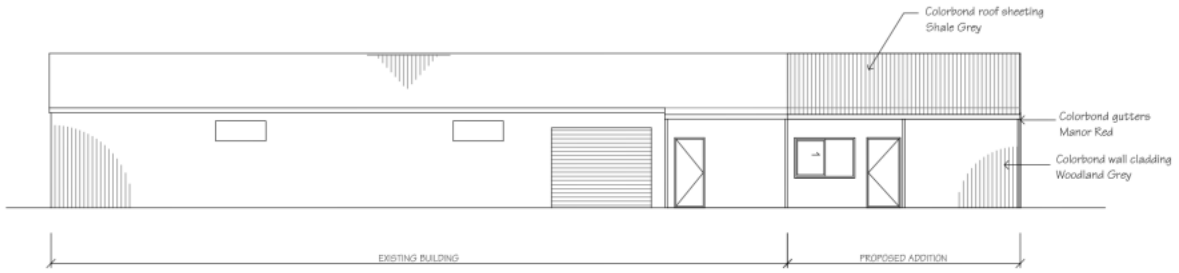
PROPOSED FLOOR PLAN
SCALE 1:100



EXISTING FLOOR PLAN
SCALE 1:100

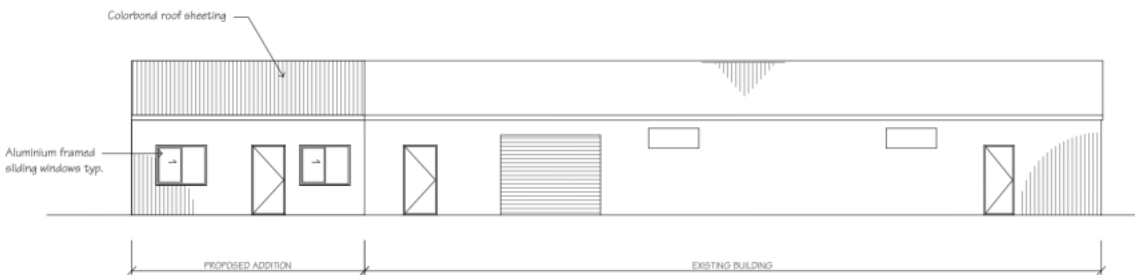
- Section 2 BCA requirements - Council owned - 21 Blain Rd. Bridgex**
(to be read in conjunction with Section 3 report)
- Insulation (office area only)**
 - Floor (light colour with SA-D-4): reflective coating
 - Ceiling: R1.5
 - External walls: R2.0 and sarking
 - Internal walls (adjoining shed): R2.0
 - Floor: R1.1 (Kooltherm F3 board) (office area only)
 - External windows & glass doors (office area only)**
 - All figures: U0.8 & S40-6$40$
 - Glassing to comply with AS2047
 - Draught sealing (office area only)**
 - External door to have foam seal around perimeter, draught stopper along bottom edge and self-closer
 - Bathroom exhaust fan to be fitted with a self-closing damper
 - Air conditioning (office area only)**
 - Package AC units to comply with MEPS
 - Minimum COP/EER of 2.50
 - Any AC unit with a heating or cooling capacity of more than 2kW to have a time switch controller (refer to spec. of BCA for details)
 - Internal lighting & power control**
 - Office area - maximum illumination power density of 4.5 W/m²
 - Staff toilet areas - maximum illumination power density of 5 W/m²
 - Shed areas - maximum illumination power density of 2 W/m²
 - Office area lighting to be separately controlled from shed areas
 - External lighting**
 - All new external lighting to be controlled by either a daylight sensor or time switch and where total perimeter lighting exceeds 1000w a minimum of 95% of light fittings to be LED as to be controlled by a motion sensor
 - Facade lighting or illuminated signs to be controlled by a time switch or daylight sensor
 - Hot water supply**
 - Heated sanitary water systems to be designed and installed as per part 2c NCC vol. 3
 - Metering of gas / electricity**
 - Electricity and gas meters (as required) are to be installed
 - Sub-metering is not required

<p>SCALE 1:100 at A2 size</p>	<p>Presentation:</p> <p>RELIABLE DRAFTING SERVICE</p> <p>Kate Foody ph. 65 371116 12 Alexander Street Mob. 0402608213 EGLINTON 2795 A.B.N. 60 167 131 984 email kate@draftingservice.net.au</p>	<p>Project:</p> <p>PROPOSED ALTERATIONS & ADDITION COUNCIL POUND 21 BLAIN ROAD, CAERLEON</p> <p>Client:</p> <p>MID WESTERN REGIONAL COUNCIL</p>	<p>Floor Areas:</p> <p>EXISTING BUILDING: 270.2m² PROPOSED ADDITION: 85.4m² PROPOSED AWNING: 15.9m²</p>	
			<p>Job No:</p> <p>21.89</p>	<p>DWG. No.</p> <p>1</p>



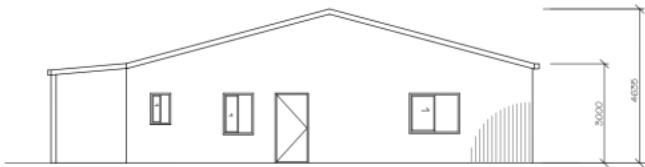
NORTH ELEVATION

SCALE 1:100



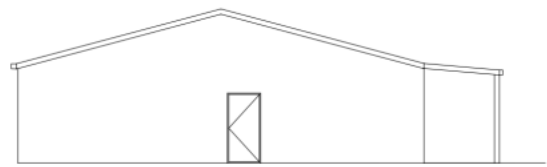
SOUTH ELEVATION

SCALE 1:100



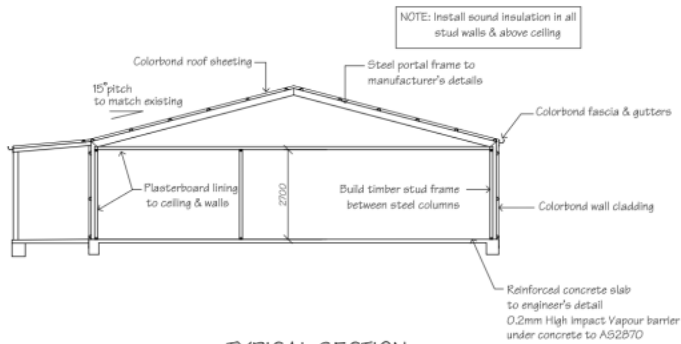
WEST ELEVATION

SCALE 1:100



EAST ELEVATION

SCALE 1:100



TYPICAL SECTION

SCALE 1:100

Project: PROPOSED ALTERATIONS & ADDITION COUNCIL POUND 21 BLAIN ROAD, CAERLEON			
J&B No. 21.89	DWG. No. 2	Amtd. B	No. In set 4
Scale: AS SHOWN	Date: 24-9-21	File: 2189.dwg	

8.2 DA0415/2021 - Shop Top Housing (3 Commercial premises and 3 dwellings) - 23 Lewis Street, Mudgee - Lot 1 DP 59498

REPORT BY THE PLANNING COORDINATOR

TO 13 OCTOBER 2021 ORDINARY MEETING

GOV400088, DA0415/2021

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on the DA0415/2021 - Shop Top Housing (3 Commercial premises and 3 dwellings) - 23 Lewis Street, Mudgee - Lot 1 DP 59498; and
- B. approve DA0415/2021 - Shop Top Housing (3 Commercial premises and 3 dwellings) - 23 Lewis Street, Mudgee - Lot 1 DP 59498 subject to the following conditions and statement of reasons:

CONDITIONS

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein. Any modification otherwise required to the approved plans will require the submission of a modification application under Section 4.55 of the *Environmental Planning and Assessment Act*.

<i>Title/Name</i>	<i>Drawing No/ Document Ref</i>	<i>Revision/Issue</i>	<i>Dated</i>	<i>Prepared by</i>
Cover Sheet	35200-A00	D	26.08.2021	Barnson
Site Plan	35200-A01	F	26.08.2021	Barnson
Lower Floor Plan	35200-A02	D	26.08.2021	Barnson
Upper Floor Plan	35200-A03	B	18.06.2021	Barnson
Elevation	35200-A04	F	26.08.2021	Barnson
Sections	35200-A05	E	18.06.2021	Barnson
Shadow Diagrams	35200-A06	C	27.05.2021	Barnson
Shadow Diagrams	35200-A07	C	27.05.2021	Barnson
BASIX Certificate	1205619M	-	01 June 2021	Certified Energy 1
Stormwater Management Plan	35200-C04	1	23.08.2021	Barnson
Sewer Reticulation Plan	35200-C06	1	23.08.2021	Barnson
Water Reticulation Plan	35200-C08	1	23.08.2021	Barnson

GENERAL

2. This development consent includes approval for demolition works and construction of Shop top housing, comprising three (3) x 2 bedroom dwellings and three (3) commercial premises. **NOTE: The commercial uses limited by this consent include a Business Premise or Shops only to reinforce the parking requirements of the development. Where building alterations or a change of use is required, a separate**

development consent or complying development certificate must be approved prior to commencing works / the use.

3. This development consent includes approval for the balcony fascia signage and wall sign, as shown on the approved plans. A separate Development Consent or Complying Development Certificate may be required for alternative or additional signage if the signage is not identified as exempt development. The fascia balcony signage is to advertise only the name of the business and product traded from the premises. No approved signage shall be illuminated.
4. The height and construction of the dividing fence may require agreement between the owners of the subject land and the respective owners of adjacent properties. Legal advice should be sought in the case of any doubt.
5. All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc., should be handled, conveyed and disposed of in accordance with guidelines and requirements from SafeWork NSW. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.
6. Notwithstanding the approved plans, the structure is to be located clear of any easements and/or 1.5 metres from any water and sewer mains in accordance with Council Policy.
7. Costs associated with all development works including any necessary alterations, relocations of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
8. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the building, structure or work from possible damage from the excavation, and
 - b) where necessary, underpin the building, structure or work to prevent any such damage.

Note - Prescribed condition pursuant to clause 98E of the Environmental Planning and Assessment Regulation 2000 and Council requirement to preserve the stability of adjoining roads/public places.

9. This consent does not permit commencement of any site works. Works are not to commence until such time as a Construction Certificate has been obtained.
10. No structures or earthworks are permitted to encroach within any easements for the purposes of utility infrastructure as specified in Council's Development Control Plan.
11. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.

12. All trafficable pavements are to be constructed and sealed with an impervious surface, either bitumen or concrete, and maintained to the satisfaction of Council at all times.
13. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.
14. A minimum of three (3) car parking spaces are to be provided on the site of the development reserved for the purposes of the residential dwellings and comply with *AS 2890.1: 2004 – Parking facilities – Part 1: Off-street car parking* and the following requirements:
 - Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - Line marking, wheel stop and signage is to be installed as per the relevant Australian Standard;
 - All car parking spaces are to be sealed and must be maintained in a satisfactory condition at all times.
15. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
16. The only waste derived material that may be received at the development site must be:
 - a) Virgin excavated natural material, within the meaning of *Protection of the Environment Operations Act 1997*; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

17. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act 1993* to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
18. All building work is to comply with the requirements of the Access to Premises Standard.
19. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
20. A detailed schedule of colours and finishes is to be submitted to and approved by Council's Heritage Adviser prior to the issue of a Construction Certificate. The blended bricks indicated on the elevation drawings are not supported. A monotone brick, in a mid-brown range or other approved tone, or bag and paint finish is to be used.
21. Details of an interpretation panel designed by suitably qualified heritage consultant are to be submitted to and approved by Council's Heritage Adviser prior to the issue of a Construction Certificate.

22. Prior to the issue of any Construction Certificate, or commencement of any site works, the Developer must enter into an arrangement with the relevant Electricity Supply Authority to alter / amend the existing Electric Light Pole (ELP) and any other public electricity supply infrastructure. Alterations to public / street lighting must also be approved by Council as the relevant Road Authority. The Developer must provide for and bear all costs associated with any alteration of electricity services and public lighting arrangements.
23. Prior to the issue of a Construction Certificate, the applicant must provide for approval by the Certifier (i.e. Council or a private Certifier), a detailed pavement and car parking plan showing:
- plan and cross sections of pavement with details of any necessary retaining wall structure,
 - plans to show existing and designed finished surface levels,
 - kerbing for the control of surface stormwater runoff,
 - line-marking,
 - dimensioned car parking spaces,
 - swept path templates,
 - any provision for loading areas for use by the commercial premises,
 - full details of fencing to replace the existing high brick wall on the eastern boundary,
 - any landscaping buffer or screening, and
 - details of any protection for the fence in case of accidental damage to or collision by a manoeuvring vehicle.

Details shall comply with the requirements of *AS/NZS 2890.1:2004 – Parking Facilities – Part 1: Off-street Car Parking* and the relevant conditions of this development consent. Internal driveways are to be configured to ensure that:

- Loading and unloading facilities are to be contained within the site and to be able to cater for largest design vehicle.
 - Safe on-site manoeuvring area for the largest design vehicle.
 - Vehicle movement areas are to be sealed to address environmental impacts.
24. Prior to the issue of a Construction Certificate, the Developer must provide for Council approval a detailed sewer design including long section to ensure that the proposed internal sewer arrangement can provide appropriate grades to drain to the existing internal connection point (boundary riser). The plan must also show a Manhole installed immediately upstream of the existing internal connection point (boundary riser) to provide for maintenance access.

Note: Any proposed work downstream of (and including) the existing boundary riser will effectively be works on 'live' mains. This work on 'live' mains must be undertaken by Council after payment of relevant and quoted Private Works charges.

25. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$25,000 or more.

Note: The amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.

Note: Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction

Certificate is to be issued by a Private Certifier, the long service levy must be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.

26. In accordance with the provisions of section 7.11 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Council Contributions Plan 2019*, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of a Construction Certificate. Contributions are subject to the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions		
3 x Dwellings (minus 1 credit for vacant lot)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>2 Dwellings</i>
Transport Facilities	\$ 4,379.00	\$ 8,758.00
Recreation and Open Space	\$ 2,199.00	\$ 4,398.00
Community Facilities	\$ 640.00	\$ 1,280.00
Stormwater Management	\$ 462.00	\$ 924.00
Plan Administration	\$ 1,003.00	\$ 2,006.00
TOTALS	\$ 8,683.00	\$ 17,366.00

Note: the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued or where lots are released in different financial years.

Note: Council's Mid-Western Regional Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

27. Any unpaid Contributions or charges nominated in the development consent will be indexed to CPI at the beginning of each new financial year.
28. Prior to the issue of a Construction Certificate, the developer shall obtain a *Certificate of Compliance* under the *Water Management Act 2000*, from Council.

Note: Refer to Advisory Notes in relation to the payment of contributions to obtain a Certificate of Compliance.

PRIOR TO THE COMMENCEMENT OF WORKS

29. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority; and
 - the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

30. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied

periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE PRIOR TO SUBSEQUENT DISPOSAL AT AN APPROVED WASTE DISPOSAL FACILITY.

31. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority for the work; and
 - d) the sign shall be removed when the erection or demolition of the building has been completed.
32. Prior to the commencement of any works within the road reserve the Developer must obtain approval under the provisions of Section 138 of the *Roads Act 1993*. Site plans showing all proposed works within the road reserve must be provided with this application. This includes works within the footpath associated with the balcony and any relocation of Council infrastructure. Approved bollards must also be included at the base of all balcony posts to protect from rear parking of vehicles for the life of the development.
33. Prior to the commencement of any works on public land a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.
34. The development site is to be managed for the entirety of work in the following manner:
 - a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - b) Appropriate dust control measures;
 - c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
35. Prior to the commencement of works on site, the applicant shall advise Council's Operations Department, in writing, of any existing damage to Council property.
36. If the work involved in the erection/demolition of the building:
 - a) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) Building involves the enclosure of a public place; then

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed. Where necessary,

signage and devices (e.g. temporary kerb ramps) advising and indicating alternative and DDA compliant pedestrian detours is to be installed and maintained at all times as required.

DURING CONSTRUCTION

37. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
38. All mandatory inspections required by the *Environmental Planning & Assessment Act* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
39. The requirements of BASIX Certificate number 1205619M issued on 1 June 2021 must be installed and/or completed in accordance with the commitments contained in that certificate. Any alteration to those commitments will require the submission of an amended BASIX Certificate to the Council and/or the Principal Certifying Authority prior to the commencement of the alteration/s.
40. This approval does not provide any indemnity to the owner or applicant under the *Disability Discrimination Act 1992* with respect to the provision of access and facilities for people with disabilities.
41. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
42. Switchboards for gas, electricity, etc., must not be attached to the front or street facing elevations of the building.
43. No trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction works including the erection of any fences or hoardings.
44. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's / Demolisher's expense.
45. In the event of any archaeological material being discovered during earthmoving/construction works, all work in that area is to cease immediately and Heritage NSW is to be notified as soon as practicable. Work may only resume upon the authorisation of Heritage NSW.
46. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
47. The strength of the concrete used for the reinforced concrete floor slab must be a minimum 25Mpa.
48. Metal roof/wall cladding shall be provided in a non-reflective colour scheme such as "Colorbond" steel sheeting.
49. Backflow Prevention to protect against a high risk use will be required on the subject land (at the location of the water meter) in accordance with AS3500 and AS2845. A

separate Backflow Prevention device for fire services at the development, where these are proposed will also be required.

50. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.

51. Construction work noise that is audible at other premises is to be restricted to the following times:

a) Monday to Saturday - 7:00am to 5:00pm

No construction work noise is permitted on Sundays or Public Holidays.

52. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.

53. All stormwater from developed surfaces including overflow from water tank (detention plus retention) is to be discharged to Lewis and Mortimer Street with the use of non-flexible kerb adaptors as per the stormwater management plan prepared by Barnson Drawing Number 35200 – C04 rev 1.

54. The developer is to meet the full cost of water reticulations to service the development plus the cost of connecting to existing services. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the National Specification – Water Supply Code of Australia.

55. The developer is to meet the full cost of sewer reticulations to service the development plus the cost of connecting to existing services. All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the National Specification – Sewerage Code of Australia.

56. The Applicant, to re-locate the power pole, will have to meet the requirements of Essential Energy's Contestable Works process. Clearances can be determined through this process. The clearances for the conductor, under worst case conditions, needs to be determined before Essential Energy can state if the pole position is satisfactory. The Applicant should engage, at their own expense, a Level 3 Accredited Service Provider to complete these works. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.

57. The Applicant will also need to engage the services of an Accredited Service Provider to ensure that the service to the proposal complies with the NSW Service and Installation Rules. This may mean that the existing service will need to be re-located/upgraded, at the Applicant's expense. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

58. The Applicant must comply with SafeWork NSW clearances when constructing the development (this is 3.0 metres for ordinary people, 4.0 metres for scaffolding).
59. The Developer is required to provide for all on-site parking and driveways as shown on approved plans. Pavements must be sealed with an impervious surface (bitumen or concrete) and be drained in accordance with an approved drainage plan. Internal pavements and line-marking must be maintained to the satisfaction of Council at all times.
60. The Developer is required to provide for the line-marking and signage for all on-street car parking immediately adjacent the site in accordance with an approved Line-marking and signage plan. A kerb / pram ramp must also be provided adjacent any Disabled car parking space. Kerb / pram ramps must also be provided in accordance with the requirements of the relevant Australian Standards (AS 1428).

NOTE: The areas of road pavement proposed to be line-marked for on-street parking must be provided with a bitumen re-seal to provide a consistent and uniform surface prior to the application of line-marking. Line-marking is to be installed in accordance with the requirements of relevant standards for both Parking (AS 2890) and Traffic Controls (AS 1742).

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

61. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
62. Prior to the issue of an Occupation Certificate all access, car parking and associated manoeuvring areas are to be completed. New sealed access from Mortimer Street is to be constructed in accordance with Council requirements and standards. Separate approval for this work must be obtained under the provisions of Section 138 of the *Roads Act 1993*.
63. The existing access crossovers from Lewis Street and Mortimer Street are to be made redundant and restored to match existing barrier kerb and gutter with nature strip, prior to issue of an Occupation Certificate.
64. The interpretation panel is required to be affixed in the approved location by Council's Heritage Advisor prior to the issue of an Occupation Certificate.
65. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the Fire and Rescue NSW and a copy is to be prominently displayed in the building.
66. Prior to the issue of an Occupation Certificate, for any buildings on site, the building is to be connected to reticulated water supply, stormwater and sewerage in accordance with the relevant section 68 approval/s.

67. Prior to issue of an Occupation Certificate, all fencing, plantings and hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed. Landscaping must comprise low maintenance, drought and frost resistant species.
68. Outdoor drying facilities and letterboxes are to be provided for the dwellings prior to occupation.

OPERATIONAL/ ONGOING CONDITIONS

69. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
70. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
71. The hours of operation of all ground floor premises are limited to :
 - 7am to 7pm, Monday to Friday and
 - 8am to 1pm Saturday.

No operations are permitted on Sundays or Public Holidays.
72. There being no interference with the amenity of the neighbourhood by reason of the emission of any “offensive noise”, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
73. All vehicles are required to enter and leave the site in a forward direction at all times.
74. All line-marking for the on-site car parking spaces and footpath areas are to be maintained in a visible condition, at all times.
75. All loading and unloading in connection with the premises shall be carried out wholly within the site and at the approved loading dock.
76. All car parking spaces, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.
77. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 “Control of the Obtrusive Effects of Outdoor Lighting”.
78. No display, signage or sale of goods is to take place from public areas or footpaths fronting the premises.
79. All approved signage is to be maintained in good condition at all times.
80. The signage is to be securely affixed and is not to flash, move or be objectionably glaring.

81. The development is to be maintained in a clean and tidy manner, at all times.
82. The balcony above public land must be maintained in a safe condition by the landowner for the life of the development.
83. The bollards located in front of each balcony post must be maintained in a safe condition to protect from rear parking of vehicles for the life of the development. All damaged / unsightly bollards must be replaced immediately at the full cost of the developer.

COUNCIL ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of a Construction Certificate.

A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the *Water Management Act 2000*.

Please be advised that as a precondition to the granting of a Compliance Certificate, the following is to occur:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable):

Section 64 Contributions		
	<i>ET's with Credits</i>	<i>Charge</i>
Water Headworks	1.409 ET	\$12,337
Sewer Headworks	2.408 ET	\$9,625
TOTAL HEADWORKS		\$21,962

Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year.

2. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
3. Council has no regulatory authority in regards to dividing fencings under the *Dividing Fences Act 1991* and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
4. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

5. Division 8.2 of the *Environmental Planning and Assessment Act* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
6. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
7. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

ESSENTIAL ENERGY ADVICE

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
4. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.
5. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning & Assessment Act 1979*.
3. The matters raised within submissions have been addressed in the following manner:
 - Conditions have been imposed to limit hours of operation for the ground floor premises, and
 - Conditions have been imposed to limit construction hours.

Executive summary

OWNER/S	Fergus Corporation Beneficiary Pty Ltd
APPLICANT:	Mr Michael Fergus c/- Barnson Pty Ltd
PROPERTY DESCRIPTION	Lot 1 DP 59498
PROPOSED DEVELOPMENT	Shop Top Housing
ESTIMATED COST OF DEVELOPMENT:	\$2,500,000.00
REASON FOR REPORTING TO COUNCIL:	Councillor Call-up
PUBLIC SUBMISSIONS:	One (1) Submission

Council is in receipt of Development Application DA0415/2021 that seeks approval for the construction of shop top housing (3 commercial premises and 3 dwellings) to be located at 23 Lewis Street MUDGEES NSW 2850, Lot 1 DP 59498, received by Council on 23 June 2021.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 26 July 2021. During the notification period, one (1) submission was received.

The proposed development has been assessed in accordance with Council's DCP and the LEP. The proposed development is considered generally consistent with Council's planning controls.

The application has been referred to Council for consideration as it was 'called up' by two (2) Councillors during the 5 day memorandum period.

The application is recommended for Approval.

Disclosure of Interest

Nil.

Detailed report

PROPOSED DEVELOPMENT

Development Application DA00415/2021 seeks approval for the construction of shop top housing (3 commercial premises on the ground floor and 3 dwellings at the first floor) to be located at 23 Lewis Street MUDGEES NSW 2850.

The proposed development will enable 3 new commercial premises to be located on the lower level and 3 x 2 bedroom dwellings above each commercial premise. Minor demolition works is required to prepare the site for the development which relates to the existing masonry wall located at the eastern boundary along with the need to relocate an existing electrical pole with attached streetlight at the Lewis and Mortimer Street intersection.

Figures 1 and 2 below provides the site plan and 3D elevations of the proposal with all development plans included as Attachment 1 and 2.

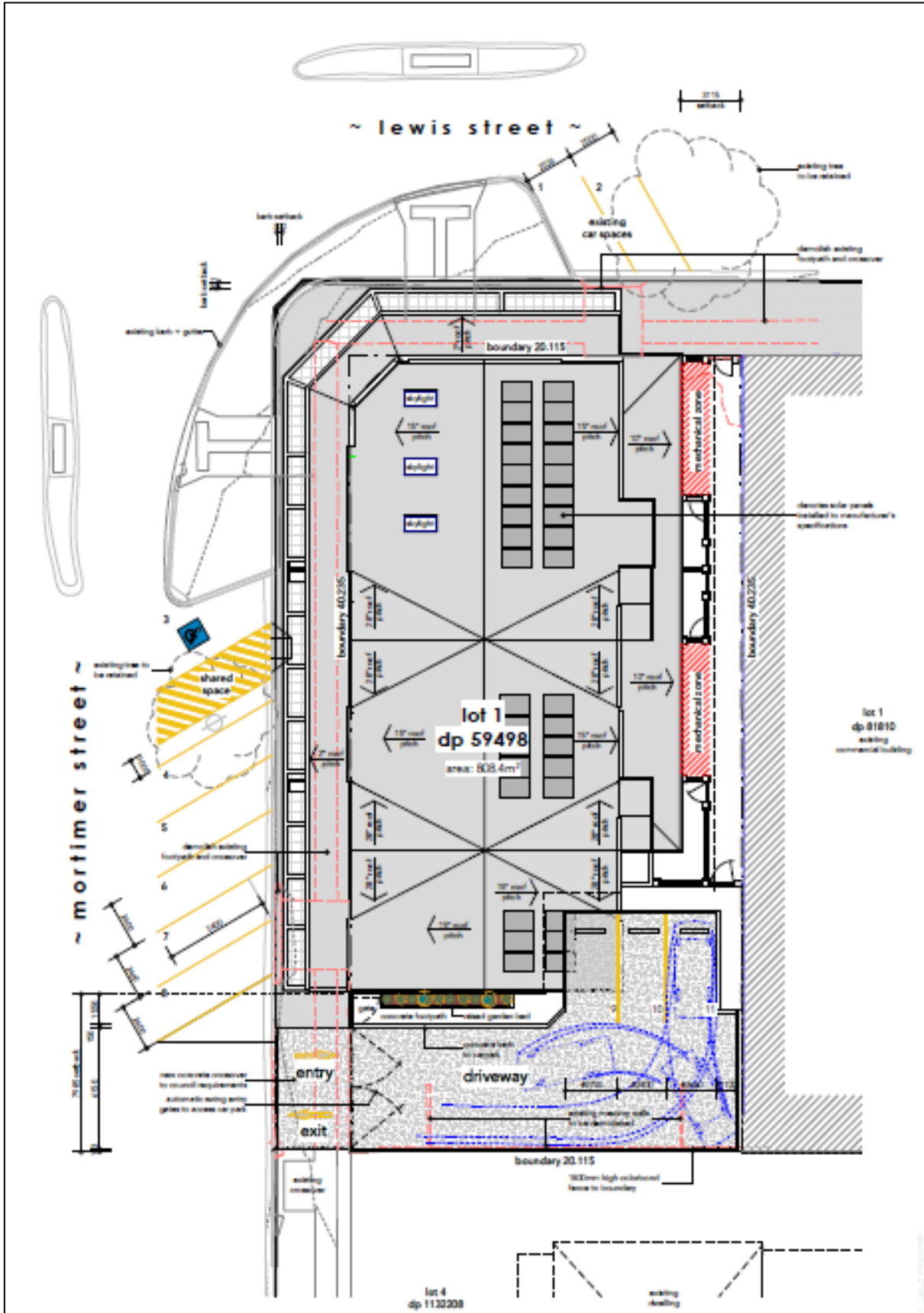


Figure 1: Proposed Development - Site Plan



Figure 2: Proposed Development - 3D Elevations

SITE DESCRIPTION

The subject site is known as 23 Lewis Street, Mudgee legally identified as Lot 1 DP 59498. The site is a corner allotment comprising of 809.4m², with frontage to Lewis and Mortimer Street. The site has previously been occupied by a commercial business being a wholesale car yard (approved under DA75/1993) with a small office and amenities located within a former train carriage positioned to the rear of the site. The site has however sat vacant for a significant period of time.

To the north of the development site is the existing Christian Outreach Centre, along with additional commercial / office premises. To the east and south are existing single storey dwellings. To the west of the site, on the opposite side of Lewis Street, existing developments includes a motel, school and licenced premises.

Figure 3 below demonstrates the location of the site.



Figure 3: Site Plan

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regs).

Integrated Development

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

ASSESSMENT

The application has been assessed in accordance with **Section 4.15** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.15(1)(a) Requirements of Regulations and Policies

(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

The history of the subject site has primarily been for the purposes of a wholesale car yard approved under DA75/1993. The site has been sealed in bitumen to support the development, with no record of mechanical repairs / servicing of vehicles undertaken as part of the retailing of motor vehicles from the site. As a result, there are no identified contamination concerns raised by the redevelopment of the vacant site.

STATE ENVIRONMENTAL PLANNING POLICY NO 64—ADVERTISING AND SIGNAGE

SEPP 64 applies to the proposal as the lower ‘offices’ include signage on the balcony fascia of each premises along with “The Warehouse” displayed on the corner of the brick wall fronting Lewis and Mortimer Street. An assessment has therefore been made pursuant to Schedule 1 of the SEPP, concluding that the proposed signage will complement the building and the streetscape, with no adverse impacts on adjoining land.

Assessment Criteria	Comments	Compliance
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is modest in size, flush mounted (600mm high and 2700mm wide) located above the entry doors to each premise on the balcony fascia, along with one building identification wall sign. Whilst the signage content/ wording has not been provided for the balcony signage (as tenancies have not been secured), conditions are proposed to limit the approved signage and ensure that any future signage is consistent with both the location and character of the area or separate approval is to be obtained for signage which exceeds this requirement.	Yes – to be conditioned.
2 Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage does not detract from the amenity or visual quality of the heritage conservation area.	Yes.
3 Views and vistas		
Does the proposal obscure or compromise important	The proposed signage does not obscure or compromise	Yes.

views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers?	important views or the views of other advertisers in this location.	
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality Does the proposal require ongoing vegetation management?	The proposed signage is considered to be appropriate for the streetscape and is of a modest design to identify both the building and the future tenancies. The signage is not considered to be cluttered or unsightly, nor is the signage proposed to protrude above the building or impact other features of the area.	Yes.
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is considered to be compatible with the building and the heritage conservation area of Mudgee.	Yes.
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No lighting or any additional platforms are proposed. Conditions will be imposed however to limit the signage to flush mounted signage only with any illumination subject to separate approval of Council.	Yes.
7 Illumination		
Would illumination result in unacceptable glare? Would	No illumination is proposed by the application.	Yes.

illumination affect safety for pedestrians, vehicles or aircraft? Recommended conditions of consent require the signs to comply with relevant Australian Standards. Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew?		
8 Safety		
Would the proposal reduce safety for pedestrians, particularly children, by obscuring sightlines from public areas? Would the proposal reduce safety for any public road?	As the signage is wall / fascia mounted, no safety impacts are identified to pedestrians or the public road network.	Yes.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal involves development that requires the issue of a BASIX certificate (limited to the upper dwellings of each premise). The applicant has provided the relevant BASIX certificate and a condition of consent has been included ensuring that the commitments be met as listed in the certificate.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Pursuant to clause 45 of the ISEPP, the application was referred to Essential Energy due to impacts identified on electrical infrastructure. Comments received as follows:

Essential Energy notes that existing overhead powerlines are impacted by the proposal:

- (a) *The Applicant, to re-locate the power pole, will have to meet the requirements of Essential Energy's Contestable Works process. Clearances can be determined through this process. The clearances for the conductor, under worst case conditions, needs to be determined before Essential Energy can state if the pole position is satisfactory. The Applicant should engage, at their own expense, a Level 3 Accredited Service Provider to complete these works. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.*
- (b) *The Applicant will also need to engage the services of an Accredited Service Provider to ensure that the service to the proposal complies with the NSW Service and Installation Rules. This may mean that the existing service will need to be re-located/upgraded, at the Applicant's expense. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.*
- (c) *The Applicant must comply with SafeWork NSW clearances when constructing the development (this is 3.0 metres for ordinary people, 4.0 metres for scaffolding).*

Essential Energy also made the following general comments:

If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

A retail or business premises is defined as:

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- a. (Repealed)
- b. cellar door premises,
- c. food and drink premises,
- d. garden centres,
- e. hardware and building supplies,
- f. kiosks,
- g. landscaping material supplies,

- h. markets,*
- i. plant nurseries,*
- j. roadside stalls,*
- k. rural supplies,*
- l. shops,*
 - i. specialised retail premises,*
- m. timber yards,*
- n. vehicle sales or hire premises,*
but does not include highway service centres, service stations,
industrial retail outlets or restricted premises.

and

business premises means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) a service is provided directly to members of the public on a regular basis,*
and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Furthermore, a Commercial Premises is defined as:

Commercial premises means any of the following—

- a. business premises,*
- b. office premises,*
- c. retail premises.*

Comment:

The current floor plans submitted with the application refers to an 'open office' within the ground floor tenancies. As a result, it is recommended that a condition be imposed that the consent be limited to the ground floor uses as "Business Premises and Shops" (which each generate a parking demand of 1 space per 30m² of GFA under the DCP) and also enables compliance to be achieved under clause 6.3 - Active Street Frontage of the LEP 2012 within the B3 zone. Limited hours of operation are also proposed to accommodate such uses on the site.

In addition, a condition is recommended to be imposed that advises a separate Development Application (or Complying Development Certificate) must be obtained where the uses are changed from the above or where alterations and additions to the building are required to accommodate the use (example being a food and drink premises proposed in the future).

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned B3 Commercial Core and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned B3 Commercial Core pursuant to MWRLEP 2012. The proposal, being Shop top housing and Commercial Premises are permissible with consent in the zone and complies with the relevant objectives.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

B3 Commercial Core

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

Comment The proposal contributes to the range of land uses available within the CBD area.

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

Comment The proposal will provide for additional employment opportunities in the CBD area.

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

Comment The proposal adds to the consolidation of commercial enterprises in the CBD area, whilst providing housing opportunities in a medium density form. This is expected to encourage walking and cycling, rather than the reliance on private vehicles to access goods and services.

4. *To promote the central business district of Mudgee as the major focus for retail and commercial activity in Mid-Western Regional.*

Comment The proposal will positively contribute to the central business district of Mudgee as the major focus for commercial activity.

5. *To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.*

Comment The proposal will contribute to the central business district of Mudgee as the major focus for commercial activity.

6. *To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.*

Comment The proposed works contribute positively to the heritage streetscape in the immediate vicinity. Refer to comments under clause 5.10 below.

7. *To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity within the commercial core.*

Comment The proposal provides for the continued free pedestrian movement throughout the CBD.

Clause 2.7 Demolition requires development consent

In satisfaction of this clause, the development application seeks approval for the demolition of a masonry wall located at the eastern boundary. Conditions have been imposed accordingly.

Clause 4.3 Height of buildings

The subject site is mapped for a maximum height limit of 8.5 metres above existing ground level. The development is proposed at a height of 8.3 metres and therefore complies.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.

Clause 5.10 Heritage Conservation

As the proposal includes works involving a site within the Heritage Conservation Area, consideration must be given to the relevant heritage significance in accordance with Clause 5.10(4).

The application was considered by Council's Heritage Advisor with a response provided on 10 September 2021 detailed as follows:

The proposal is for a large shop-top housing development on a vacant corner site within the Mudgee Conservation Area. The application is accompanied by a professionally written Statement of Heritage impact which adequately addresses the heritage issues.

The site has been vacant since the late 1990s. It had been occupied by a varying series of buildings and spaces. A single-storey commercial building, originally with posted awnings on the corner, had lost the awnings by the time it was demolished.

The proposed new building reflects a typical two storey Federation hotel or similar building in its massing, proportions and use of awnings. It will enhance the streetscape.

The new building does not purport to be a reconstruction of the original, as it incorporates appropriately contemporary details. Such a design approach requires a light touch or the result can be somewhat awkward. Generally in this case the design is successful, but the recommendations of the applicant's heritage consultant (p. 3 of the SOHI) are supported.

There is no objection to the proposal on heritage grounds. Any consent should be subject to the following conditions:

- A detailed schedule of colours and finishes is to be submitted to and approved by Council's Heritage Adviser before the issue of a construction certificate. The blended bricks indicated on the elevation drawings are not supported. A monotone brick, in a mid-brown range or other approved tone, or bag and paint finish is to be used.*
- In the event of any archaeological material being discovered during earthmoving/construction works, all work in that area is to cease immediately and Heritage NSW is to be notified as soon as practicable. Work may only resume upon the authorisation of Heritage NSW.*
- Details of an interpretation panel designed by suitably qualified heritage consultant are to be submitted to and approved by Council's Heritage Adviser before the issue of a construction certificate, and the panel is to be affixed in an approved location before the issue of an occupation certificate.*

Conditions have been imposed accordingly.

Clause 6.1 Salinity

The proposal only involves minimal earthworks and is not expected to significantly affect the process of salinisation.

Additionally, as the proposal involves a concrete slab, a condition of consent has been included requiring the slab to be designed appropriately to minimise the impacts of salts in the ground on the building.

Clause 6.3 Earthworks

The proposal involves only minor earthworks to prepare the site for the development. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.5 Terrestrial biodiversity

The proposal is not located in any area identified as 'Moderate or High Biodiversity Sensitivity'.

Clause 6.7 Active street frontages

The subject site is located within the area mapped as 'Active street frontage' pursuant to the LEP mapping. The proposal will result in all premises on the ground floor facing the street having a use for commercial purposes (limited to office, business or retail premises). Accordingly, the proposal is considered to satisfy this clause.

Clause 6.8 Airspace operations – Mudgee Airport

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development.

Clause 6.10 Visually sensitive land near Mudgee

The land is not located within the area identified within the visually sensitive land map.

4.15(1) (a) Requirements of Regulations and Policies

(ii) Draft environmental planning instruments (EPI)

No draft environmental planning instruments apply to the land to which the Development Application relates.

(iii) Any development control plans

MID-WESTERN REGIONAL DCP 2013

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 4.4 Signs

As discussed under SEPP 64 – Signage, the development includes balcony fascia signs for each ground floor tenancy along with one wall sign at the corner of Mortimer and Lewis Street proposing a building name of "The Warehouse".

The fascia signage is proposed at 600mm x 2700mm and is to be located on the balcony façade of each premises. The wall signage is proposed at the corner of the site and is to be constructed from steel, fixed to the masonry wall of the building.

Part 4.5 Commercial Development

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Building setbacks	
Building setback from the street – no minimum.	Yes
Side and rear setbacks must comply with BCA.	To be conditioned
Signage	
Signage complies with relevant provisions in section 4.4 DCP 2013.	Yes. Refer to relevant section of report.
Design	
Buildings interact with the street.	Yes. Windows incorporated.
On active street frontages, ground level of building used for business or retail premises.	Yes
Building facades are articulated by use of colour, arrangement of elements, or varying materials.	Yes. Varying colours, building proportions and materials are proposed.
Heritage inclusions.	Yes. Heritage impact assessment provided
External plant to be screened from public.	Yes. Condition of consent.
Development on a corner – includes architectural features to address both streets.	Complies.
Landscape buffers to other zones.	The proposed development adjoins the R3 residential zone to the east of the site which is currently occupied by a solid masonry wall proposed to be removed. It is proposed to replace this wall with Colorbond fencing on the boundary with the dwelling to the east. It is not possible to provide a landscape buffer in this location due to the driveway and turning movements required to support the residential dwellings on the first floor. In this regard, the proposed fencing in this location will be required to provide privacy to the dwelling currently

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
	constructed at 74A Mortimer Street. In this regard, the buffer (without additional landscaping) is considered acceptable and is supported in the circumstances of the case.
Scale form and height	
Complies with LEP height controls – 8.5m maximum height.	Yes.
Consistent with existing heritage character of the town centres of Gulgong, Mudgee and Rylstone.	Yes. The proposal has been reviewed by Council’s Heritage Advisor and is considered to be acceptable and consistent with the heritage character of Mudgee.
Mortimer and Church Street, Mudgee	
Maintain the streetscape established in Church Street between Market and Mortimer Streets: – Zero front and side setbacks. – Double storey pattern.	Generally consistent
Provides variance particularly on upper floor levels, every 20-25m.	Variance provided
Articulation and Façade Composition	
Breaks visual bulk with fenestration or change in materials etc.	Extensive fenestration provided.
No excessive blank walls in front façade.	Yes.
Where blank walls are proposed (side or rear), minimise impacts with landscaping, patterning of façade, signage, public art.	Not applicable.
Post supported verandahs and balconies	
Setback a minimum 600mm from the edge of kerb.	No, variation sought of 50% - see justification below.
Compliments the elements of the building.	Yes – well designed and articulated with the main building.
Public liability insurance for works on public land required.	To be conditioned.
Not interfere with the operation of or access to public utilities or infrastructure.	Relocation to occur of electrical pole with street light attached at the full cost of the developer.
Use bollards at the base of posts to protect from rear parking of vehicles.	To be conditioned.
Residential–Commercial interface	

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Landscape buffer to residential boundaries.	As discussed above, the proposed buffer with replacement fencing is considered a more appropriate outcome in this circumstance.
Ground and first floor do not overlook residential properties.	Yes – upper storey windows on the eastern elevation are limited to 2 small bathroom (frosted glass) windows.
Maintain acoustic privacy through the use of acoustic fencing where vehicles movements adjoin property boundaries.	New fencing is proposed in Colorbond to separate the driveway for the private residential parking and the dwelling located at 74A Mortimer Street.
Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings are located along residential boundaries ensure sufficient landscaping is provided.	Yes. Sufficient separation to the adjacent residence.
Development does not reduce sunlight available to north facing windows of living areas, private open space or clothes drying areas of adjoining properties to less than 3 hours between 9am and 3pm at winter solstice.	Yes. Shadow diagrams indicate no overshadowing to 74A Mortimer Street.
Utilities and Services	
Building and structures located clear of infrastructure.	Yes – condition to be imposed.
Able to be serviced by water, sewer and waste disposal.	Yes – conditions to be imposed for water and sewer.
Trade waste application required?	Not applicable.
Traffic and Access	
All vehicles must be able to enter and exit the site in a forward direction.	Yes.
All vehicle movement paths are sealed.	Yes - condition to be imposed.
Driveways comply with Australian Standard AS2890.1 Parking Facilities.	Yes – condition to be imposed.
All loading facilities located within the site.	To be conditioned accordingly.
All loading facilities designed to comply with Australian Standards.	Yes.
Application addresses traffic flow and safety issues, e.g. pedestrian, car and truck movements.	Yes. Traffic Impact Assessment provided.

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Pedestrian Access	
Maintain existing covered pedestrian access within town centres.	Covered access extended/retained
Convenient and safe access through parking areas.	Onsite private / gated parking provided for the dwellings a 1 space per unit and on street parking proposed to support the business or shop premises at a rate of 1 space per 30m ² GFA.
Convenient and safe disabled access through parking areas, focus on improving links with existing retail.	Links to other sites not altered.
Parking	
Discussed elsewhere in report.	As noted above, onsite private / gated parking provided for the dwellings a 1 space per unit within a Heritage Conservation Area (3 in total) and on street parking proposed to support the business or shop premises at a rate of 1 space per 30m ² GFA.
Landscaping	
Landscaped areas in car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries.	Not applicable – parking area is a private area for the dwellings and not for commercial use.
Landscaping to comprise low maintenance, drought and frost resistant species.	Yes. Condition of consent.

Part 4.7 Tree Preservation Order

No trees to be removed.

Part 5.1 Car Parking

The proposed development includes dwellings and business / shop premises which as required the following rates for parking:

DCP Rate Required	Proposed	Compliance
As the site is located within Mudgee's conservation area, the applicable car parking rate is one space per two-bedroom flat.	3 x 2 bedroom dwellings = 3 spaces.	Yes.

Business Premises / Shops = one space per 30m ² gross floor area.	325m ² total GFA (excluding stairs and amenities) / 30m ² = 11 spaces.	No – 21% variation sought - plans provide for 8 x site frontage parking spaces (including 1 disabled) and a variation of 3 spaces is sought based on the assessment of available parking within the immediate commercial area including opposite the site with existing pedestrian crossings in place. See discussion on the variation below.
--	--	---

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater.

Part 5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

Variations Sought to the DCP 2013

The applicant seeks a variation to the Development Control Plan 2013 requirements as follows:

- 1) The minimum setback required for post supported balcony's from the kerb (50% variation proposed), and
- 2) The minimum number of parking spaces required by the ground floor businesses (

The justification provided by the applicant in relation to the above matters is provided below.

50% variation to the proposed setback to the kerb for Post Supported Verandahs:

- *There are a number of overhead power lines and water service infrastructure located in the vicinity of the post supported verandah. To ensure that minimal interference/relocation works, the verandah posts require a reduced setback to the edge of the kerb. By situating the verandah closer to the kerb, the proposed works will not traverse or impact upon any of that infrastructure;*
- *The post supported verandah for the Oriental Hotel located opposite to the subject site is built right on the kerb. As such, the proposed reduced setback is consistent with the Oriental Hotel, being a prominent building in the locality; and*
- *The proposed reduction shall not impact on any servicing, trafficability, pedestrian networks, sight lines or any other issues in the area.*
- *The proposed post supported verandah has been integrated with the design of the building, creating areas upstairs for residents and visual interest for the locality.*
- *The verandah structure does not interfere with any access to public utilities or infrastructure and pedestrians will be able to traverse under the awning freely.*
- *Public liability insurance and approval for the works shall be formalised prior to the issue of a Construction Certificate/Occupation Certificate.*
- *Bollards shall be positioned at the base of posts where street carparks are available.*

Staff Comment:

Based on the above justification, the proposed variation is supported in the circumstances of the case. The variation will not cause an impact on pedestrian connectivity or Council assets, and will

retain intersection sight distances in this location. Conditions are recommended that ensure that the bollards are installed to prevent damage to the posts / structure and public liability insurance is obtained for works on public land. Further to this, it is recommended that a condition be imposed that ensures the landowner is responsible for all maintenance of the post supported verandah for the life of the development and immediate replacement of unsightly bollards.

21% variation to commercial premises parking:

- *Of the 11 commercial parking spaces required, 8 spaces are to be accommodated by street parking along the site frontage on Lewis and Mortimer Streets, and another 3 street parking spaces within close proximity to the site.*
- *A Parking Survey was completed as part of this submission, and is provided in the TIA. The survey identifies that there is an availability of 186 car parking spaces within close proximity to the site. During the business time of the day (3pm), 159 parking spaces are occupied within this area. This results in 27 empty spaces available within close proximity of the site during the busiest time of the day;*
- *Given that there is a plethora of available spaces within proximity to the subject site, the shortfall of three (3) spaces is considered very minor. The available parking within this area is capable of catering for the shortfall without any significance impact to parking or traffic in this locality;*
- *The use of street parking is consistent with existing commercial and retail land uses in this area. Similar uses utilise the street parking due to the limited availability of on-site parking that is available. It is considered that the proposed use/s are consistent in terms of traffic generation to other development in the vicinity, and as such, the development would not create any adverse impacts in terms of car parking availability;*
- *Given the relatively small size of the allotment, its central locality and well-designed development, there are a number of site constraints for any additional onsite parking. Therefore it would not be appropriate to enforce strict numerical parking compliance for the site or intended use, nor would it be a good planning outcome;*
- *It is necessary to consider the central location of the development site. Patrons of the commercial tenancies intending to visit the ground floor will often travel by foot to attend the premises. Whilst hard to quantify, it is important to note that there would be a considerable amount of persons attending the site who would not be travelling in a vehicle, thereby not requiring parking services; and*
- *The existing traffic conditions in this area are considered suitable for the proposed use/s and existing operations in the immediate locality.*
- *The abovementioned departure does not intend to undermine the DCP provisions, but rather provide a solution for a permissible development that is suitable for the site/locality, consistent with existing development trends in the area and deemed to be in the public interest.*

Staff Comment:

The Traffic Report provided to support the development has included both parking and traffic surveys based on the existing commercial areas adjacent to the site, ensuring that all residential areas to the east and south of the development are excluded from consideration. The areas where parking surveys were conducted for the assessment are shown in the Figure 4 below. A copy of the traffic report is also included in Attachment 4.

Whilst the subject site benefits from frontage credits totalling 8 spaces due to the location of the driveways associated with the former use, the available parking in the street is also restricted due to two (2) Council street trees. As a result, only 8 x parking spaces (including 1 accessible space with reduction to only one (1) driveway) is capable of being achieved within the site frontages (Lewis and Mortimer Street) to support the development.

The commercial component of the development will have traffic and parking demands which are infrequent and based on hours of operation, in comparison to the first floor dwellings, which have dedicated parking provided onsite, achieving full compliance. As a result, business and retail premises that are required to have an active street frontage within the Commercial Core area of Mudgee do not typically have onsite parking, thus rely upon on street parking, and therefore are unlikely to ever achieve full compliance with the 1 per 30m² DCP parking requirement.

In light of the above, and due to good existing pedestrian links to the frontage of the site (across Lewis Street) enabling safer travel from external parking areas shown in Figure 5 below, the proposed variation of 3 parking spaces (totalling 21%) is supported in the circumstances of the case. The existing CBD parking areas are easily and directly accessible from the development site and have been demonstrated to have up to 27 spaces available during the peak period of the day (3pm).



Figure 4: Parking Survey Locations

Section 7.11 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

Pursuant to Council’s Contributions Plan 2019, the development is proposing residential accommodation comprising of 3 x 2 bedroom dwellings and also 3 x ground floor business premises. As the proposed residential component exceeds the Gross Floor Area of the commercial component, Section 7.11 Contributions are applicable in accordance with the Plan. This has been calculated as follows:

	Per Dwelling Rate	(Credit x 1 vacant lot, debit x 2 Dwellings)
Transport Facilities	\$ 4,379.00	\$ 8,758.00
Recreation and Open Space	\$ 2,199.00	\$ 4,398.00
Community Facilities	\$ 640.00	\$ 1,280.00
Stormwater Management	\$ 462.00	\$ 924.00
Plan Administration	\$ 1,003.00	\$ 2,006.00
Total	\$ 8,683.00	\$ 17,366.00

An appropriate condition has been imposed requiring payment of the contribution.

Section 64 - Water/Sewer Developer Services Charges

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the proposed development will require the payment of DC headworks charges calculated as follows by Council's Water and Sewer Department:

- Water ETs with credits: 1.409
- Sewer ETs with credits: 2.408
- Water Section 64 contributions: \$12,337
- Sewer Section 64 contributions: \$9,625

Total contributions payable: \$21,962

An appropriate condition has been imposed requiring payment of the contribution.

4.15(1) (a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iii)

No Planning Agreements are applicable.

Regulations –4.15(1)(a)(iv)

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

No matters prescribed by the Regulations impact determination of the Development Application.

Likely impacts of the development – 4.15(1)(b) ¹

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

(A) CONTEXT AND SETTING

The proposal is appropriate with regards to the surrounding context and setting. The proposed design of the development is consistent with the character of the area and will positively contribute to the streetscape.

(B) ACCESS, TRANSPORT AND TRAFFIC

The implications of additional traffic and suitable access are discussed throughout this report. The proposal is considered appropriate despite a minor variation (3 spaces) sought with respect to onsite/street frontage parking to support the commercial premises to be located on the ground floor. The Traffic Impact Statement has confirmed that the immediate area of Lewis and Mortimer Streets has sufficient parking available to support the future business premises / shops in this location with existing pedestrian links (including a crossing) available.

(C) PUBLIC DOMAIN

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

(D) UTILITIES

All relevant utilities are available or can be made readily available to the site at the full cost of the developer.

(E) HERITAGE

As noted within Clause 5.10 of the LEP 2012, the proposal is supported by Council's Heritage Advisor and is unlikely to cause adverse impacts on the heritage conservation area of Mudjee or on nearby Heritage listed items.

(F) OTHER LAND RESOURCES

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

(G) WATER

No significant impact expected.

(H) SOILS

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

(I) AIR AND MICROCLIMATE

The development is not expected to impact air quality or microclimatic conditions.

(J) FLORA AND FAUNA

Not applicable.

(K) WASTE

The proposal includes waste storage areas within the building to support each use. Kerbside collection is also available in the area.

(L) ENERGY

A BASIX certificate is required for the first floor residences with the commercial spaces required to comply with the National Construction Code.

(M) NOISE AND VIBRATION

The proposed development is limited to residential and business premises / shops which is consistent with the immediate surrounding land uses. The hours of operations (including relevant land uses) have been limited for the ground floor commercial spaces and it is unlikely that such uses will generate significant noise or vibration on surrounding land. In addition, the construction of the building in brick / masonry, with separation of the new access driveway, will provide an acoustic buffer to the existing dwelling located on the eastern boundary of the site. As a result, there are no significantly adverse noise or vibration impacts associated with the proposal.

(N) NATURAL HAZARDS

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues.

(O) TECHNOLOGICAL HAZARDS

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

(P) SAFETY, SECURITY AND CRIME PREVENTION

Increased passive surveillance as a result of the proposed development.

(Q) SOCIAL IMPACT IN THE LOCALITY

Generally positive with the provision of additional housing and employment opportunities once constructed.

(R) ECONOMIC IMPACT IN THE LOCALITY

Generally positive, with contribution to the construction industry via employment and purchase of local goods and materials.

(S) SITE DESIGN AND INTERNAL DESIGN

Adequate, as discussed throughout this report. The proposed balcony verandah location is considered to be consistent with nearby developments and will enable pedestrian links and major existing services to be maintained in this location.

(T) CONSTRUCTION

To comply with the BCA where relevant.

(U) CUMULATIVE IMPACTS

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

Suitability of Site for Development – 4.15(1)(c)

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

Submissions made in accordance with Act or Regulations – 4.15(1)(d)

(A) PUBLIC SUBMISSIONS

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 26 July 2021. During the notification period, one (1) submission was received.

A summary of the concerns raised is provided below with a copy of the submission included as Attachment 5. The applicant also provided a response to the submission made which is included as Attachment 6.

Concern	Comment
On-street parking conflicts with meeting / activity times associated with the Church due to competition with the School (weekdays) and local businesses (weekends).	The proposed development was supported by a Traffic Report which included traffic and parking counts of the immediate area. The parking counts relied upon the existing commercial area of Lewis and Mortimer Streets (excluded all residential areas) which confirmed that there is

	<p>sufficient capacity in the immediate commercial area of the site to accommodate parking to support the development. Further, as a result of the restrictions proposed to the hours of operation (to limit trading on Saturdays and no operations on Sundays) this will enable the concerns of the church to be largely addressed. Commercial shopfront areas do not have dedicated parking for customers reserved in the CBD and it would be unreasonable to require additional or dedicated parking for the commercial component of the proposal in the circumstances of the case.</p>
<p>Impacts of the development – references in the Statement of Environmental Effects do not refer to the ‘place of worship’.</p>	<p>The Statement of Environmental Effects has addressed the legislative requirements of the Act and Regulations. Impacts on the church building have been considered as part of the development assessment process by Council. The assessment has determined that there are no adverse impacts on the church operations or building as a direct result of the development.</p>
<p>Neighbouring noise impacts from church activities impacting on the future residents.</p>	<p>The proposed shop top housing (including the residential component of the development) is permissible with consent in the zone. In the event of ‘offensive noise’ complaints being received by Council, this will require management in accordance with Council’s Complaints Management Policy. It is however unlikely to be caused by internal music or singing being conducted within the brick building of the church.</p>
<p>Noise during construction – noting request to prohibit Sunday works during to church regular meetings.</p>	<p>Council’s standard condition of consent does not permit construction on Sundays. However, it is important to note that temporary changes made by the Minister for Planning and Public Spaces under the <i>Environmental Planning and Assessment (COVID-19 Development— Construction Work Days) Order (No 3) 2021</i>, allows construction works to occur Saturdays, Sundays and public holidays. As a result, when changes to the Order are lifted (proposed on the 31 March 2022), the condition imposed by Council will continue to apply.</p>

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

The application was referred to Essential Energy with those relevant comments included within the conditions of consent.

The Public Interest – 4.15(1)(e)

(A) FEDERAL, STATE AND LOCAL GOVERNMENT INTERESTS AND COMMUNITY INTERESTS

No significant issues in the interests of the public are expected as a result of the proposed development.

CONSULTATIONS

(A) HEALTH AND BUILDING

Comments have been received from Council's Health and Building Department as follows:

- *The works consist of shop top housing development. It is noted the commercial spaces are not suited for food premises. CC is required – conditions included.*
- *The new works will need to comply with the NCC – condition included.*
- *The Access to Premises Standards apply. Compliance should be achievable to all Ground Floor areas.*
- *In respect to first floor accommodation, Planning have confirmed the use of residences are for long term (class 2) not short term (class 3) therefore. A lift may not be required as there does not seem to be any common areas for the Class SOU's. If they were Class 3, then they would be required to be accessible, thus requiring a lift. Compliance to be assessed and determined at CC stage. Condition included.*
- *There are no onsite parking spaces proposed in relation to the GF commercial use therefore onsite accessible parking is not required. The proposed spaces appear to be tight, recommend to Dev Eng. confirm acceptance of the design.*
- *It should be noted the risk is with the applicant, that should their proposal not comply with the NCC or Premises Standards, they may need to modify the consent accordingly.*
- *A section 68 application is required for the works – condition included.*

(B) TECHNICAL SERVICES

Comments have been received from Council's Development Engineers and Operations Department as follows:

DESIGN

There is an existing high brick wall constructed on the eastern boundary and the proposed driveway is immediately adjacent. There is no landscaping buffer shown or provided and no protection for the wall in case of accidental damage to or collision by a manoeuvring vehicle. Condition imposed.

Site levels shown on the pavement layout suggest that approximately 300mm of fill may be required in the north-eastern corner to ensure pavements can drain toward Mortimer Street. Details of retaining wall, kerbing and fencing will be required.

The proposed internal car parking and driveway arrangement indicates that an existing kerb layback and crossover is to be relocated to the east. Existing layback made redundant by this development must be removed and re-instated with kerb and channel. New kerb and channel must match existing kerb profiles and levels with new crossover constructed to match existing kerb and pavement levels.

An existing kerb layback and crossover located on the Lewis Street frontage made redundant by this development will need to be removed and re-instated with kerb and channel to match existing kerb profiles and levels.

The site has an existing sewer connection with a boundary riser located in the north-east corner of the site.

The Council sewer main in that location (located in the adjoining property) grades down from south to north.

The original civil plans provided indicated a sewer main extension with connection to Council's sewer main located in the Mortimer Street footpath as shown on DWG. 35200-C06 with an extension to the mains to provide for individual internal connections.

Council's W&S referral requires the developer to maintain the existing sewer connection but internal sewer works must include the installation of a Manhole upstream / internally of the existing boundary riser to provide for maintenance access.

Location of the Manhole on the internal sewer essentially deletes any requirement for new sewer connections to 'live' mains that would need to be undertaken by Council as the Water and Sewer Authority.

However, a detailed sewer design including long section is to be provided prior to the commencement of construction to ensure that the proposed internal sewer arrangement can provide appropriate grades to drain to the proposed new connection point must be provided.

Internal drainage works must be undertaken by a suitably licensed plumber.

It is understood that separate conditions / requirements have been provided by the W&S team as regards water supply connections and meters.

Each occupancy (dwelling and commercial premises) should be provided with separate metered connections.

It is noted there is a Power Box on the Mortimer Street footpath. It also appears that affected overhead services are a power pole with light that also has a stay that extends into the land.

The application will need to confirm with Essential Energy any requirements to alter / amend the existing Electric Light Pole (ELP). Evidence of consultation has been provided.

However, any alteration of public electricity infrastructure and public / street lighting should be undertaken prior to the issue of a Construction certificate and the commencement of any works.

All costs associated with any alteration of electricity services and public lighting arrangements must be borne by the developer.

It is apparent that the only onsite parking (3 spaces) is to be reserved for residents.

There is no onsite parking for staff or delivery vehicles associated with the commercial activities. Short term loading activities might be able to be undertaken on site that, subject to timing arrangements, should not have any significant impact on the residential car parking access.

A modified Traffic Impact Assessment Report has been provided that includes a parking study of available car parking in the locality. The parking study suggests that adequate car parking is available to service the commercial aspects of this development.

Drawing 35200-C03 Revision 1 shows a line-marked on street parking arrangement that creates an on street disabled car parking space on the Mortimer Street frontage. This arrangement will require the installation of kerb / pram ramp (shown on the plan) that must be constructed strictly in accordance with the requirements of AS 1428.

On- street car parking spaces are to be line-marked by the Developer in accordance with the requirements of the relevant standard for on-street car parking (AS 2890). Some re-

sealing of pavements may be necessary of car parking areas to facilitate installation of line-marking to an acceptable standard.

WATER AND SEWER

Water Servicing:

Water pressure and flow will be available at the development to adequately service this development.

The size of the water main along Lewis Street is 150mmID, this will be sufficient for the services required on this premises.

Connection of water service to the live main will be undertaken by Council.

Sewer Servicing:

There is sufficient capacity within the sewer system to accept the sewer load from this development.

Sewer is available from the eastern side the lot.

Installation of sewer chamber and connection of sewer to live main will be undertaken by Council.

Section 64:

Water ETs with credits: 1.409

Sewer ETs with credits: 2.408

Water Section 64 contributions: \$12,337

Sewer Section 64 contributions: \$9,625

Liquid Trade Waste:

Liquid Trade Waste is not applicable.

Backflow Prevention:

Backflow Prevention to protect against a high risk use will be required on the customer's side of the water meter according to AS3500 and AS2845.

There will be required a separate Backflow Prevention device for fire services at the development where these are proposed.

(C) HERITAGE ADVISOR

As noted within the assessment of the application against the provisions of Clause 5.10 of the LEP, Council's Heritage Advisor has not raised any objection to the proposal subject to the following conditions which have been included within the recommended conditions of consent:

- *A detailed schedule of colours and finishes is to be submitted to and approved by Council's Heritage Adviser before the issue of a construction certificate. The blended bricks indicated on the elevation drawings are not supported. A monotone brick, in a mid-brown range or other approved tone, or bag and paint finish is to be used.*
- *In the event of any archaeological material being discovered during earthmoving/construction works, all work in that area is to cease immediately and Heritage NSW is to be notified as soon as practicable. Work may only resume upon the authorisation of Heritage NSW.*
- *Details of an interpretation panel designed by suitably qualified heritage consultant are to be submitted to and approved by Council's Heritage Adviser before the issue of a construction certificate, and the panel is to be affixed in an approved location before the issue of an occupation certificate.*

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Mid-Western Regional Development Control Plan 2013.
Mid-Western Regional Contributions Plan 2019.
Mid-Western Regional Community Participation Plan 2019.
Mid-Western Regional Developer Servicing Plan 2008.

Legislation

Environmental Planning & Assessment Act 1979.
Environmental Planning & Assessment Regulation 2000.
Mid-Western Regional Local Environmental Plan 2012.

Financial implications

The Applicant will be required to pay developer contributions in accordance with the Mid-Western Regional Contributions Plan 2019 and Developer Servicing Plans 2008.

Associated Risks

Should Council refuse the Development Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

21 September 2021

Attachments:

1. Architectural Plans. (separately attached)
2. Civil Plans. (separately attached)
3. BASIX Certificate. (separately attached)
4. Traffic Report. (separately attached)
5. Copy of submission. (separately attached)
6. Applicant Response to further information and Submission. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.3 MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee

REPORT BY THE PLANNING COORDINATOR
 TO 13 OCTOBER 2021 ORDINARY MEETING
 GOV400088, DA0214/2014

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee; and**
- B. approve MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee subject to the following amended conditions of consent and statement of reasons (in green):**

PARAMETERS OF CONSENT

APPROVED PLANS

- 1A. The development is to be carried out in accordance with the following plans endorsed with Council's stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.**

<i>Title / Name:</i>	<i>Drawing No / Document Ref</i>	<i>Revision / Issue:</i>	<i>Date:</i>	<i>Prepared by:</i>
Site Plan (Lot 6)	3312-A01	A	April 2013	Giselle Denley Drafting Services
Ground Floor Plan (Lot 6)	3312-A02	B	Nov 2017	Giselle Denley Drafting Services
Elevations (Lot 6)	3312-A03	B	Nov 2017	Giselle Denley Drafting Services
Site Plan (Lots 1-4)	3312-A02	D	Feb 2021	Giselle Denley Drafting Services
Ground Floor Plan, South East Elevation and South West Elevation (Lot 1)	3312-A03	D	Sep 2019	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & Elevations (Lots 2 and 3)	3312-A04	E	Feb 2021	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & South East Elevation (Lot 4)	3312-A05	D	Feb 2021	Giselle Denley Drafting Services
Shed 4 South West, North East & North West Elevation	3312-A14	A	May 2021	Giselle Denley Drafting Services

Master Plan	3312-A01	A	April 2013	Giselle Denley Drafting Services
Storage Shed Typical Floor Plan & Storage Shed Front Elevation	3312-A09	A	April 2013	Giselle Denley Drafting Services
Proposed subdivision Showing Existing Improvements	BK041.dwg Sheet 1 of 4	-	14/10/2013	Jabek Pty Ltd
Layout Industrial Development Lots 1-6 (Stage 2)	BK041.dwg Sheet 2 of 4	-	14/10/2013	Jabek Pty Ltd
Service Layout	BK041.dwg Sheet 3 of 4	-	14/10/2013	Jabek Pty Ltd
Detail Lot 7	BK041.dwg Sheet 4 of 4	-	14/10/2013	Jabek Pty Ltd

The following plans/drawings supersede the above listed plans/drawings in relation to the road layout, stormwater drainage concept, proposed lot boundaries, boundary setbacks, car parking layout and landscaping.

Title / Name:	Drawing No / Document Ref	Revision / Issue:	Date:	Prepared by:
Concept Stormwater Plan	MX-10284.01-C2.0	B	17/11/17	Triaxial Consulting
Concept Stormwater Plan Basin Details	MX-10284.01-C2.1	B	17/11/17	Triaxial Consulting
Turning Circle Plan Sheet 1 of 2	MX-10284.01-C3.0	B	17/11/17	Triaxial Consulting
Turning Circle Plan Sheet 2 of 2	MX-10284.01-C3.1	B	17/11/17	Triaxial Consulting
Landscaping Plan	MX-10284.01-C4.0	C	23/03/18	Triaxial Consulting

(AMENDED MA0043/2021)

2. Notwithstanding the approved plans the structure is to be located clear of any easements and/or any water and sewer mains in accordance with Council Policy.
- 2A. The following limits apply to the proportion of the building on proposed Lot 6 that may be used for industrial premises or warehouse purposes:
 - a) A maximum of 2,000m² of the building on proposed Lot 6 may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
 - b) Any amount of the building less than the cumulative total of 2,000m² may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
 - c) The total floor area of the building on proposed Lot 6 may be used for warehouse/storage purposes.

Note – this condition is applied to ensure that the use of the building matches the number of car parking spaces shown on the approved plans.

(ADDED MA0020/2017)

- 2C. Landscaping is to be provided in all areas identified as landscaping within the following plan:

Landscaping Plan	MX-10284.01-	C	23/03/18	Triaxial
------------------	--------------	---	----------	----------

	C4.0			Consulting
--	------	--	--	------------

(ADDED MA0020/2017)

AMENDMENTS TO APPROVED PLANS

3. The maximum fill permitted to be placed on proposed Lot 1 is limited to 500mm above the existing natural ground level as shown on Plan No.BK041.dwg, Sheet 3 of 4.
4. ~~No roller doors are to be constructed in the north-western wall of the proposed sheds on Lots 1 – 4, that adjoin the golf course and residential area at the north-eastern end of Inverness Avenue.~~
(AMENDED MA0043/2021)
(DELETED MA0001/2022)
5. ~~A minimum 1.8 2.5 metre high lapped and capped timber fence with minimum 12mm palings and 25% overlap each side along the full western boundary of the site is to be provided along the western and southern boundaries (residential land, Golf Club land and adjoining industrial development to the south) of the development prior to the commencement of any works on the site. The timber fence is to be erected along the western boundary of proposed Lots 1 to 4. The remainder of the western boundary adjoining proposed Lot 7 may be fenced with a chain mesh fence.~~
(ADDED MA0017/2020)
(AMENDED MA0001/2022)
- 5A. All lots in the approved subdivision shall have a minimum lot size of 2,000m².

Note – Proposed Lot 5 on the approved plans has a lot size of 1,870m². Lot 5 may be readily increased to 2,000m² by adjusting the boundary between Lots 4 and 5. Amended plans demonstrating compliance shall be provided prior to the issue of a Subdivision Certificate involving Lot 5.
(ADDED MA0020/2017)
- 5B. Amended plans are to be submitted to and approved by Council, indicating that a minimum of 16 parking spaces are provided on proposed Lot 4. Such plans are to be approved by Council prior to the issue of a Construction Certificate for any development on proposed Lot 4.
(ADDED MA0020/2017)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - CIVIL

6. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, and a detailed construction plan. These plans are to be approved by the Council prior to the issue of a Construction Certificate.
7. A detailed engineering design (including sediment and erosion control) supported by plans, and an "AutoCAD compatible" Plan, (in dwg format including pen-map), material samples, test reports and specifications are to be prepared in accordance with AUS-SPEC #1 (as modified by Mid-Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council or an Accredited Certifier prior to the issue of a Construction Certificate.
8. Engineering plans of the sewer mains extension are to be submitted to and approved by Council or an accredited certifier prior to the issue of a Construction Certificate.

Note 1: Council will quote on connecting any sewer or water main extension to the existing "live" main on receipt and approval of engineering plans.

Note 2: Council does not permit other bodies to insert new junctions into 'live' sewer mains.

9. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5 year ARI. All storm water detention details including analysis shall be included with the drainage report.
10. The Cul-de-sac proposed at the end of Depot road must be designed pursuant to "AUSTROADS Design Vehicles and Turning Path Templates Guide 2013" to accommodate at least a B-Double turning radius (15m) when travelling between 5-15km/hr. The turning path plan must be submitted to Council prior to the issue of the Construction Certificate.
11. All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE - BUILDING

The following conditions must be compiled with prior to Council or an accredited Certifier issuing a Construction certificate for the proposed building.

12. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act, 1993* to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
13. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.

14. The developer shall obtain a Certificate of Compliance under the *Water Management Act*. This will require:

(a) Payment of a contribution for water and sewerage headworks at the following rate:

Water Headworks	\$55,426.00
Sewerage Headworks	\$26,959.00
Total Payable	\$82,385.00

Note: Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's planning and Development Department regarding any adjustments.

(b) The adjustment of existing services or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.

(AMENDED MA0020/2017)

14A. In accordance with the provisions of section 94A of the *Environmental Planning and Assessment Act 1979* and the Mid-Western Regional Council Section 94A Development Contributions Plan (the Section 94A Plan), a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of public facilities, prior to the issue of a Construction Certificate.

The value of the works is to be calculated in accordance with Section 9.0 and the procedure outlined in Appendix 1 of the Section 94A Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the final levy amount following submission of the documents.

Note – the levy amount will be adjusted by the Consumer Price Index, if not paid in the same financial year it was calculated. Based on the cost of the proposed development submitted with the DA (\$2,450,000), an indicative total levy of \$24,500 is payable.

A pro-rata portion of the Section 94A contribution may be paid prior to the issue of a Construction Certificate for only part of the total development.

(ADDED MA0020/2017)

14B. Prior to the issue of any Construction Certificate that includes above ground works, a landscape plan shall be submitted to and approved by Council. This landscape plan shall be prepared by an appropriately qualified and experienced professional. The landscaping plan is to show and/or achieve the following:

- a) A planting schedule (including a range of plant sizes).
- b) A maintenance schedule.
- c) Re-planting regime for any plants that are damaged, dead, or removed for any reason.
- d) Provision of landscaping adjacent to and between car parking areas to assist in visually breaking up the expanse of the car park.
- e) Provide landscaping and fencing (if to be provided) within the front boundary landscaped setback that achieves the following:

- (i) Allows for passive surveillance between the road reserve and the internal car park and entrance to buildings. This may be achieved by using shrubs that have a maximum height of 0.8m at maturity and trees that have a minimum canopy height of 1.7m at maturity.
 - (ii) Includes a mixture of trees, shrubs and groundcovers to create mass of vegetation with an average height of 2m at maturity, within the approved landscaped areas.
- f) Utilise endemic species, where practicable, which are appropriate for the site.
g) Details of an irrigation system connecting to the on-site rainwater tanks.

(ADDED MA0020/2017)

14C. A landscaping bond of \$1,500 is to be paid to Council prior to the issue of a Construction Certificate for above ground building works. Such bond is to be refunded upon satisfactory completion of the landscaping in accordance with the approved landscaping plan.

(ADDED MA0020/2017)

14D. Prior to issue of a Construction Certificate for Sheds 1 to 4, and where it is proposed to operate the premise in the evening and night-time periods (6pm to 7am) each shed must include the following acoustic measures, also in accordance with the report prepared by Spectrum Acoustics:

- Lining the internal walls (or parts of the walls where workshop equipment or work benches are to be located) with acoustic shielding on the southern and/or western walls;
- Isolating particularly noisy plant, equipment or activities and acoustically shielding these;
- Locating noisy plant or activities “behind” internal partitions or offices relative to receivers; or
- Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.

(ADDED MA0001/2022)

PRIOR TO THE COMMENCEMENT OF WORKS – CIVIL

15. Prior to development the applicant shall advise Council’s Operations Directorate, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council’s property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
(AMENDED MA0020/2017)
16. A Traffic Control Plan (TCP) completed by a “Certified Person” for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
17. A copy of the Contractor’s public liability insurance cover for a minimum of \$20,000,000 is to be provided to Mid-Western Regional Council as an interested party. All work is to be at no cost to Council.

PRIOR TO THE COMMENCEMENT OF WORKS – BUILDING

18. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
19. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.
NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE.
20. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the principal certifying authority for the work; and
 - d) The sign shall be removed when the erection or demolition of the building has been completed.
21. Prior to the commencement of works on site, the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property.
(AMENDED MA0020/2017)

CIVIL CONSTRUCTION

- 21A. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
(NUMBERED MA0020/2017)
22. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
23. The developer is to grant Council (or an Accredited Certifier on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
24. The subdivision works are to be inspected by the Council (or Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures.
 - b) Water and sewer line installation prior to backfilling.
 - c) Establishment of line and level for kerb and gutter placement.

- d) Road and driveway pavement construction (including excavation, formwork and reinforcement).
 - e) Road pavement surfacing.
 - f) Practical completion.
25. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.
26. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
27. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.
28. The requirements for stormwater quality, as specified in the DCP, shall be addressed in the design prior to issue of the Construction Certificate. The design shall be such that there is no increased maintenance burden on Council.
- 29A. The developer must construct the full length of the proposed new extension of Depot Road located in Lot 210 DP775001, to the following standard:

Item	Requirement
Road Reserve Width	21.6 m
Pavement Width	13m (invert to invert)
Court Bowl/ Cul-de-sac Head	15m radius to invert
Seal	(i) All parts of the cul-de-sac head that is wider than 18m: Asphalt (Hot mix) (ii) The remainder of the Depot Road extension: Two coat bitumen seal
Drainage	Direct stormwater runoff to subdivision drainage design in accordance with Section 5.3 of the Development Control Plan.

(ADDED MA0020/2017)

30. Car parking for lots 1-6 must comply with the following standards:
- a) All vehicles must be provided adequate means to exit the lot in a forward direction;
 - b) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - c) Each disabled car parking space is to be in accordance with the provisions of Clause D3.5 of the Building Code of Australia and Australian Standard as 2890.6 – 2004;
 - d) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times; and
 - e) The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Traffic Authority *Guide to Traffic*

Generating Developments 1992 and Australian Standard AS2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.

31. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.

Note: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.

32. Runoff and erosion controls shall be installed prior to clearing and incorporate:
- a) diversion of uncontaminated upslope runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - b) sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water; and
 - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.

WATER AND SEWER

33. The developer is to extend and meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
34. The applicant is to provide separate water and sewer reticulation services to each lot.
35. Three metre wide easements, including associated Section 88B Instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.

BUILDING CONSTRUCTION

36. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and *Regulations* and all relevant Australian Standards.
37. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
38. Construction work noise that is audible at other premises is to be restricted to the following times:

Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.

39. All mandatory inspections required by the *Environmental Planning & Assessment Act* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
40. The strength of the concrete used for the reinforced concrete floor slab must be 25Mpa.
41. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

42. Under the *Environmental Planning & Assessment Act, 1979*, a *Subdivision Certificate* is required before the linen plan of subdivision can be registered with the Land Titles Office.

Note: The fee to issue a *Subdivision Certificate* is set out in Council's Fees and Charges.

43. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
44. If the Subdivision Certificate is not issued, for any reason whatsoever, by the end of the financial year immediately following the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
45. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision.
46. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - a) A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision;
 - b) A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision;
 - c) All contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or an agreement be made between the developer and Council;
 - d) As to the security to be given to Council that the works will be completed or the contribution paid; and
 - e) As to when the work will be completed or the contribution paid.
47. Following completion of the subdivision works, one full set of work-as-executed plans, on transparent film suitable for reproduction, and an "AutoCAD compatible" work-as-executed Plan, (in dwg format including pen-map), is to be submitted to Council. All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.
48. The developer must provide Council and land purchasers with a site classification for each lot within the subdivision. The classification is to be carried out at a suitable

building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause of AS2870 - 2011. Results are to be submitted to Council prior to issue of the Subdivision Certificate.

49. (DELETED MA0020/2017 – AMENDED CONDITION MOVED TO CONDITION 14A)

50. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1650 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE 6 x \$1650 = \$9,900

Note: Council does not permit other bodies to connect to 'live' water mains.

OR

51. Where the water service has been provided by the developer. The developer is to provide a water meter for each lot in the subdivision. This can be achieved through providing a water service ending with a lockable ball valve to each lot and make a payment to Council of \$370.00 per lot to cover the cost of a 20mm meter and installation.

TOTAL PAYABLE 6 x \$370 = \$2,220

Note: Council does not permit other bodies to connect to 'live' water mains.

52. The developer is to provide a sewer junction for each dwelling in the subdivision. This can be achieved by making a payment to Council of \$1,450.00 per new junction to cover the cost of Council installing a junction in an existing main.

TOTAL PAYABLE 6 x \$1,450.00 = \$8,700

Note: Council does not permit other bodies to insert new junctions into "live" sewer mains.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

The following conditions are to be completed prior to occupation of the building and are provided to ensure that the development is consistent with the provisions of the Building Code of Australia and the relevant development consent.

53. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.

54. All car parking and associated driveway works are to be completed prior to occupation of the development.

54A. All plants shown on the approved landscape plan/s are to be planted and all hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed prior to the issue of an Occupation Certificate.
(ADDED MA0020/2017)

54B. The 2.5 metre high timber acoustic fencing along the western and southern boundaries of the site shall be completed prior to issue of an Occupation Certificate for Sheds 1 to 4, in accordance with the recommendations of the Noise Impact Assessment Report prepared by Spectrum Acoustics dated July 2021.

(ADDED MA0001/2022)

54.C. Prior to issue of an Occupation Certificate for Sheds 1 to 4 and where operations are proposed between 6pm and 7am (evening and night time periods), all acoustic measures required by this consent shall be installed within the building to the satisfaction of the Principal Certifying Authority.

(ADDED MA0001/2022)

CONDITIONS RELATED TO THE ONGOING USE OF THE SITE

55. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.
56. All loading and unloading in connection with the premises shall be carried out wholly within the site.
57. Garbage areas are to be adequately screened from public view with an opaque fence and / or adequate landscaping.
58. All waste generated by the proposed development shall be disposed of to an approved location in accordance with the *Waste Minimisation & Management Act 1995*.
59. All security fencing (excluding the western and southern boundaries adjoining the Golf Course land – currently identified as Lot 27 DP1165146) is to be pre-coloured or powder coated. Security fencing to the public road frontage is to be erected on or behind the front building line. Full details of proposed fencing is to be included on the landscaping plan.
(AMENDED MA0001/2022)
60. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 “Control of the Obtrusive Effects of Outdoor Lighting”.
61. No display or sale of goods is to take place from public areas or footpaths fronting the premises.
62. All ‘Colorbond’ material for the proposed sheds is to be non-reflective.
63. Hours of operation of the industrial buildings are restricted to the following times and conditions:

~~Monday to Saturday 7.00am to 6.00pm~~
~~No work is permitted on Sundays or Public Holidays~~
 - a) Monday to Saturday - 7.00am to 10.00pm; and
 - b) Operations from within the industrial buildings are permitted Monday to Saturday - 10.00pm to 7.00am subject to the following;
 - i. Any deliveries that occur during the hours of Monday to Saturday - 10.00pm to 7.00am must be undertaken at the building frontages to Depot Road only; and
 - ii. All roller doors and windows upon the southern and western elevations are to be fully closed during operations of Monday to Saturday - 10.00pm to 7.00am; and

- iii. Any plant or equipment installed on the buildings for air / ventilation purposes must ensure that suitable covers / shielding devices are installed by a suitably qualified person and maintained accordingly; and
- c) No operations are permitted on Sundays or Public Holidays.
(AMENDED MA0001/2022)

63A Where operations during the hours of 6.00pm to 7.00am creates excessive noise or inconvenience to the amenity of the area, the operations are to cease immediately during the evening and night time periods. The operations are to be managed so there is no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
(ADDED MA0001/2022)

63B The applicant is responsible for the preparation and management of a complaints register for the life of operations which must record the following information:

- a. Name, address and contact details of the complainant;
- b. Description of complaint (e.g. type/character and volume);
- c. Frequency and duration of complaint; and
- d. Any actions taken to resolve complaint.

The complaints register must be made available to Council at any time on request.
(ADDED MA0001/2022)

64. The combined maximum permitted noise level for all activities within the subject industrial development is 5dB(A) above the background noise level of 39dB(A) as measured at the property boundary of Lot 210 DP 775001 and the Mudgee Golf Course and the residentially zoned land.

65. Measures, such as raised kerb edges, bollards and/or fencing, are to be installed and maintained around all approved landscape areas in order to prevent vehicles driving over them.
(ADDED MA0020/2017)

66. Landscaping is to be maintained in accordance with the approved landscape plan.
(ADDED MA0020/2017)

ADVISORY NOTES

- 1 The removal of trees within any road reserve requires separate approval of Council in accordance with the policy "Tree Removal and Pruning Public Places".
- 2 The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
- 3 Division 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.

(MODIFIED MA0043/2021)

- 4 If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
(MODIFIED MA0043/2021)
- 5 To ascertain the date upon which the consent becomes effective, refer to section 83 of the EP&A Act.
- 6 To ascertain the extent to which the consent is liable to lapse, refer to section 95 of the EP&A Act.
- 7 The development is to operate so as to not emit offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.
(ADDED MA0020/2017)

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the *Environmental Planning and Assessment Act 1979*.
2. The proposed modification complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.
3. The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
(NEW STATEMENT OF REASONS MA0043/2021)
4. The proposed development satisfactorily addresses the issues raised in the objections received in response to public notification of the development, as follows:
 - a) The proposed development will not have an adverse noise or amenity impact, subject to compliance with the amended conditions of consent and this includes construction of a 2.5m timber fence along the southern and western boundaries of the site, closing all roller doors and windows during the evening and night periods of operation along with upgrade of the buildings with acoustic measures such as shielding and lining of the walls.
(ADDED MA0001/2022)

Executive summary

OWNER/S:	DTM Property Enterprises Pty Limited.
APPLICANT:	Mr Daniel J Baggett.
PROPERTY DESCRIPTION:	Lot 2102 DP 1237751 (formerly identified as Lot 210 DP 7750021).
PROPOSED DEVELOPMENT:	Modification to DA0214/2014 to increase hours of operation for future industrial buildings approved under DA0214/2014, and subsequently modified.
ESTIMATED COST OF DEVELOPMENT:	Nil.
REASON FOR REPORTING TO COUNCIL:	Previous applications approved by Council.
PUBLIC SUBMISSIONS:	Two (2) submissions.

Council is in receipt of a Modification Application to DA0214/2014 (MA0001/2022) at 86 Depot Road, Mudgee pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act*.

Council granted consent to the original Development Application on the 21 May 2014.

The applicant seeks to amend the hours of operation for the industrial premises approved under the development consent to 24 hours, 7 days per week and also allow roller doors to be constructed on each shed on the western elevation which borders the current residential area of Inverness Avenue and also the Mudgee Golf Course. The application was supported by an Acoustic Assessment Report.

The modification application was notified for a period of 14 days. Two (2) submissions were received during the notification period.

The application is supported subject to a number of amended and new conditions of consent which aligns with the assessment and recommendations of the Acoustic Report and Council's Environmental Health Officer.

Disclosure of Interest

Nil.

Detailed report

PRECEDING APPROVED DEVELOPMENT

Council granted consent to Development Application DA0214/2014 on the 21 May 2014. This approval related to the subdivision of the land (legally identified at the time as Lot 210 DP 7750021 – 36B Castlereagh Highway Mudgee) into seven (7) lots with a new road extension from Depot Road, and construction of new industrial sheds (proposed on plan as 'workshops with offices') in a staged manner. This included one (1) large shed containing 12 x 'workshop units' on proposed lot 6.

At the time of approval, the applicant did not nominate uses of the industrial buildings on the basis that this would be dependent upon finding future tenants for each building. Car parking however, was calculated on the basis of 'Bulky goods and manufacturing warehouse' applying a rate of 1 space per 75m² under the DCP 2013. A variation of 12 parking spaces for the overall development was sought by the applicant at the time. The cost of the development was estimated at \$2,425,000. Stage 1 release of the subdivision to create Lots 2101 and 2102 was registered on the 30 November 2017 (SC009/2018).

Since 2014, the application has been modified three (3) times which is detailed as follows:

- Section 4.55(2) - MA0020/2017 – approved 20 June 2018 which included modification to plans and conditions of consent relating to the road and stormwater design for the development.
- Section 4.55 (1A) - MA0017/2020 – approved 20 November 2019 which included modification to plans of the buildings and modification to fencing for Lots 1 to 4 (western boundary fence facing the golf course to be partly timber and partly chain wire).
- Section 4.55(1A) - MA0043/2021 – approved 16 June 2021 which included modification to sheds 2, 3 and 4, increased shed heights and reconfiguration of the shed designs. The application was also submitted with the request to include roller doors on the western elevations and also increase hours of operation to 6am to 12 Midnight Monday to Saturday however, this was removed from the application along with the imposition of amended condition 4. Operating hours of 7am to 6pm Monday to Saturday was therefore retained at this time under condition 63 of the consent. Figure 1 below provides the current approved layout of the development.

The subject land and the approved modified layout of the development is included in Figures 1 and 2 below.



Figure 1 – Site location including zoning

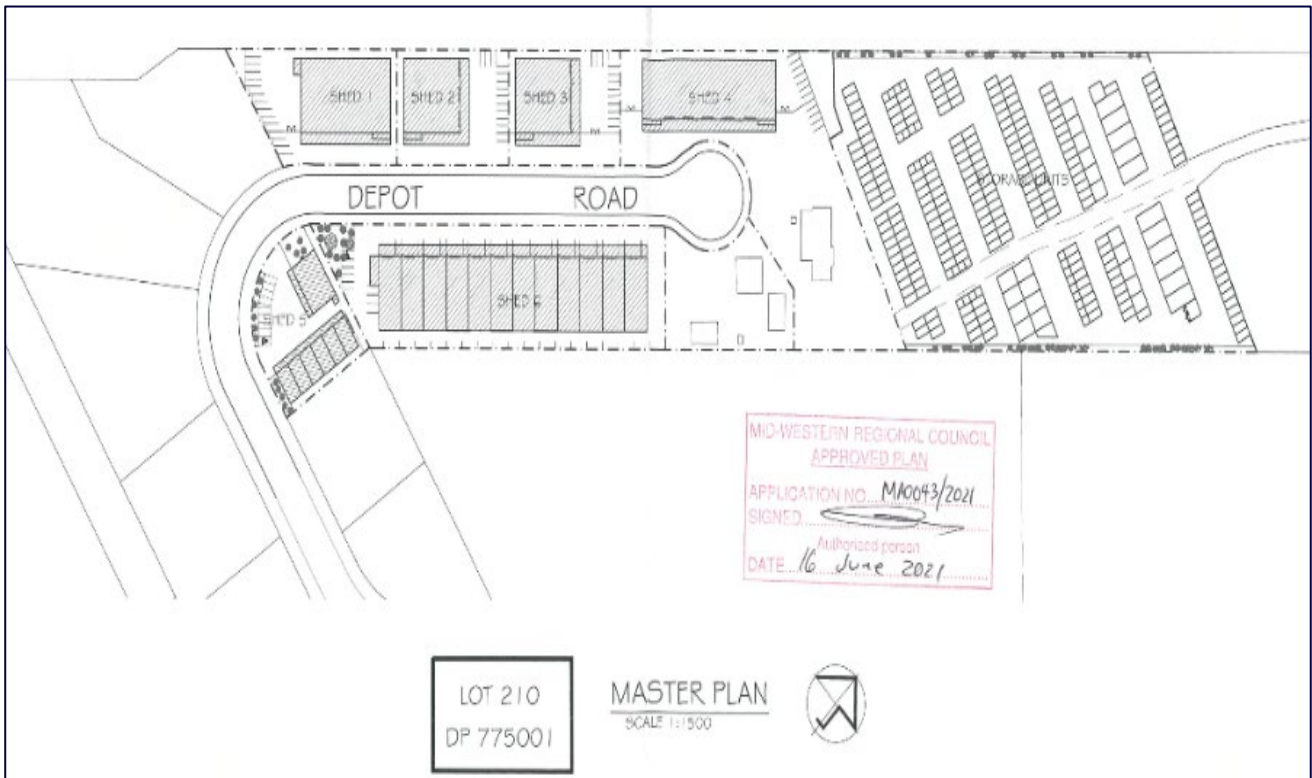


Figure 2 – Modified layout approved by MA0043/2021 – 16 June 2021

PROPOSED MODIFICATION

MA001/2022 has been submitted to Council proposing to modify two (2) aspects of the approved development being:

1. Enable the inclusion of roller doors on the western elevations of the buildings (restricted by condition 4 of the modified consent) despite showing the roller doors on the stamped approved plans; and
2. Enable 24 hour, 7 day a week operations for each industrial development (restricted by condition 63 of the modified development consent).

The proposed development has been assessed in accordance with Council's LEP and DCP and is considered generally consistent with Council's planning controls.

The application is referred to Council for determination as all prior applications have been determined by Council.

The application is recommended for Approval.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

ASSESSMENT

The application has been assessed in accordance with **Section 4.55** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.55(2) Other Modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment The proposal seeks to modify conditions of consent imposed by Council relating to hours of operation and roller doors on the building plans. No change to the overall development layout or development description is proposed by this modification. As a result, it is considered the development remains substantially the same development as approved.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment No concurrences or referrals were required to be obtained under the original development and therefore no general terms of approval (or other conditions of consent) are required to be considered under this subclause.

(c) it has notified the application in accordance with—

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment The S4.55 Application was notified to adjoining neighbours as per Council's Community Participation Plan.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment Two (2) submission were received which have been considered within this report.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment All matters under Section 4.15(1) of relevance to the modification are addressed below.

4.15(1)(a) Evaluation – Matters for consideration

(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Application relates?

The proposed modification does not alter the proposal's compliance with the relevant State Environmental Planning Policies, considered as part of the original Development Application. No new considerations were required to be addressed as a result of the proposed modification.

MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)

The original development was considered against the Mid-Western Regional Local Environmental Plan 2012. The proposed modification does not give rise to any issues that need to be reconsidered under the MWRLEP 2012.

(ii) Do any draft environmental planning instruments (EPI) apply to the land to which the Application relates?

No draft environmental planning instruments apply to the land to which the Development Application relates.

(iii) Do any development control plans apply to the land to which the Application relates?

MID-WESTERN REGIONAL DCP 2013

The previous application submitted has been assessed in accordance with the DCP. The proposed modification (MA0001/2022) does not propose any changes that would impact upon compliance with the DCP provisions. As a result, the proposal has been assessed upon its merits.

MID-WESTERN REGIONAL DEVELOPMENT CONTRIBUTIONS PLAN 2019 AND DEVELOPER SERVICING PLANS 2008

The original application was levied with Section 64 and Section 94A contributions with the modification application having no impact or change to the levying of the contributions for the development.

(iiia) Do any planning agreement or any draft planning agreement apply?

No Planning Agreements are applicable.

(iv) The regulations

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

No matters prescribed by the Regulations impact determination of the Application.

4.15(1)(b) Likely impacts of the development

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed changes to the development application conditions are specific to the future operations within the site. The applicant seeks to ensure roller doors are permitted on the western elevations of all buildings (currently restricted by condition 4 of the consent) and also seeks to have 24 hour trading for each industrial building; currently restricted to 7am to 6pm Monday to Saturday under condition 63 of the consent.

The original application for the development was supported by an acoustic report prepared by Spectrum Acoustics (dated April 2014) with a response provided by the applicant's consultant dated 30 April 2014 detailing the following:

The report has not assumed a solid boundary fence (for the western boundary) and has presented a theoretical worse-case scenario in terms of having a large mechanical workshop servicing mining machinery in each shed without any internal partition, internal walls, attenuation guards, mufflers etc., and assuming simultaneous operating of machinery. Noise from each source was considered to be impacting across the entire internal wall surfaces of each shed. The existing mound was considered.

In summary, the results identify that the theoretical noise from each of the sheds individually (except Shed 1), will comply with the adopted criterion at the nearest residential receiver to the site. Shed 1 potentially exceeds the criterion by 3dB(A). The worst case scenario results (Table 5 in the report) shows that under the assessed conditions the combined noise from all sheds if simultaneously operating (mechanical workshop) could exceed the criterion by up to 4 dB(A) Leq (15min) at the nearest residential receiver.

In reality, it is not likely that all sheds will be occupied by the assumed mechanical occupant, or likely that machinery will operate simultaneously, be installed without any internal isolation/attenuation or be affecting the entire surface of the roof and walls. With such a minor predicted noise exceedance, the assessment has concluded that the sheds can feasibly comply with the day time noise criterion for nearby residential receivers with simple internal noise control actions. Based on the results detailed in the report it was concluded that the proposal can operate without adversely impacting upon the acoustical amenity of any residential receiver.

Further, an acoustic mound or fence was not suggested to address the noise environment. Alternative industrial activities (& other noise producing occupants) are not precluded, rather internal noise control would be appropriate such as plant specific items e.g.: mufflers, attenuator guards, cowlings etc. and internal partitions.

The applicant has proposed a solid fence for the length of the development and located the individual buildings along the golf course boundary to break up the bulk of the development. It is reiterated that a solid boundary fence was not assumed in the modelling, though a fence is proposed for the length of the western boundary from Lot 1 to Lot 4 (at this stage a 1.8m high colour bond fence is proposed), which will add to noise attenuation and external noise control and contribute to visual amenity issues. The existing residential subdivision is currently bordered by an acoustic mound which ends in correlation with the subdivision. Extension of the mound at this stage is unnecessary based on the results of the Noise Impact Assessment.

The acoustic report modelling from 2014 based future noise producing activities over the site to include:

Noise Producing Activity	dB(A) Leq (15 min)
Recycling Facility (general)	100-110
Metal Fabrication	100-110
Commercial/Retail	60-70
Gym (classes)	80-90
Dance Studio	85-95
Ice Works	80-90
Mechanical Workshop	95-105

Noting that it was recommended by the consultant that:

'Should an impending occupier of one of the sheds be identified as having the potential to undertake particularly noisy activities (i.e. louder than that used in the calculations in this assessment) it is recommended that a specific acoustic assessment be considered to ensure maintenance of the acoustic amenity of the residential area'.

The above assessment resulted in the conditions of consent imposed by Council in May 2014, which also included a condition requiring a 1.8 m high lapped and capped timber fence along the

western and southern boundaries, along with no roller doors on the north western wall of the workshop on future Lot 1.

In support of the modification, the applicant has provided an updated acoustic report prepared by Spectrum Acoustics (July 2021) – copy included as Attachment 1. A summary of the assessment is provided below, which is based on the current operating environment of Shed 1 - an engineering workshop with a roller door facing south (testing from 12A Inverness Avenue), and potential impacts at the residential property 23 Inverness Avenue for future industrial sheds operating within the estate:

- *At the time of the noise measurements the workshop was operating under typical conditions. The measurements included the general operation of the workshop (grinding, welding hammering etc.) as well as specific measurements made of gouging.*
- *The shed has an operable wall in the southern facade (i.e. in the direction of the most potentially affected receivers). The noise levels from the operating workshop were measured at the centre of the opening, and other representative location within the workshop and yard.*
- *There is a 2.4m high fence around the yard to the site and there are currently two storage containers mounted on frames inside the boundary. These storage containers form a partial acoustic barrier, to a height of 5.6m, in the direction of the nearest receivers in Inverness Avenue. There are currently gaps between the two containers and also between the bottom of the containers and the top of the boundary fence. These gaps currently compromise the acoustic integrity of the barrier by allowing some noise to pass through. The calculations made here assume that the work to complete that barrier has been done and they, therefore, include the insertion loss for a 5.6m high solid acoustic barrier.*
- *Under the assessed conditions, and with the acoustic barrier in place, the received noise will not exceed the adopted day time criterion at the most potentially affected receiver.*
- *Attended noise measurements were made at locations in Inverness Avenue on the morning of 1st July, 2021. The noise from the workshop was measured in the reserve behind the residence at 12A Inverness Avenue. The noise included general workshop activity (but did not include gouging). A noise level of 42 dB(A) Leq (15 min) was attributed to emissions from the workshop at shed 1.*
- *Under the assessed conditions (with the doors open), the noise from shed 1 will exceed the evening and night criteria.*
- *During these times it is apparent that the operable wall should be closed to limit noise emissions from the shed.*
- *The calculation assumes all activities are being undertaken inside the shed and that there is no activity in the yard.*
- *The noise from gouging was measured to be approximately 6 dB(A) louder than that of the general workshop. The noise from gouging would be higher than the evening criterion with the wall open, but in compliance with the wall closed. The noise would be marginally higher than the night time criterion with the wall closed.*
- *It is, therefore, recommended that, if gouging is to be undertaken during the evening the wall must be closed. Gouging should not be undertaken at night.*
- *Sheds 2 and 3 are designed with roller door openings in the southern and western facades. These roller doors will face towards the receivers in Inverness Avenue. Noise emissions from the roller doors, particularly those in the southern facade will be partially shielded from the receivers by the acoustic barrier effects of the intervening sheds and/or the orientation of the doors with respect to the receiver boundaries. The location of Shed 2 will shield noise in the direction of the receiver at 12A Inverness Avenue and, therefore, the calculation has*

been made to the boundary of the most potentially affected receiver at 23 Inverness Avenue.

- *Under the assessed conditions, and with roller doors open, the received noise would not exceed the day time noise criterion but would exceed the criteria for evening and night.*
- *Under the assessed conditions, and with roller doors closed, the received noise would not exceed the criteria for any of the day, evening or night times. The calculations are based on the noise levels from the existing workshop but are considered likely to be representative of most typical machinery or light fabrication workshops.*
- *The operation of other commercial activities in the other sheds would require specific assessment but, as a general indication, the noise from workshops as measured is at the upper end of expected noise levels for any activities that may occur in industrial sheds like those to be constructed.*
- *Operational noise during the evening and night indicates that during the night time period all significant noise generating activities should be undertaken inside the various sheds and with all external doors and openings closed.*
- *The consideration of the noise control options for all sheds was included in the original acoustic assessment for the site and is included (not limited to):*
 - *Lining the internal walls or parts of the walls,*
 - *Isolating particularly noisy plant or activities and acoustically shielding these;*
 - *Locating noisy plant or activities “behind” internal partitions or offices relative to receivers, or*
 - *Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.*
- *Potential for sleep disturbance impacts is, therefore most likely to come from loud noise associated with people arriving or departing work (car doors, engine revs etc.) or from noise associated with the delivery or transport of parts or machinery.*
- *A scenario has been assessed where a noise source representing an impact from a truck being unloaded in the yard of shed 2 is potentially impacting on the receiver at 23 Inverness Avenue at a distance of approximately 170m.*
- *Preliminary calculations indicated that, under the conditions, there was a potential for the sleep disturbance criterion to be exceeded and that some form of noise control would be required. **The most feasible option would be to construct an acoustic barrier fence along the western boundary of the site.***
- *The results show that noise from loud impacts in the yards of the sheds can be adequately controlled provided there is a minimum 2.5m high acoustic barrier along the boundary.*
- ***An acoustic barrier is one which is constructed of material with minimum surface density of 15kg/m³ and is impervious from the ground to the recommended height with no gaps for the passage of sound. For the current site a lapped and capped timber fence with minimum 12mm palings and 25% overlap each side would be acoustically adequate.***

In summary, the assessment has concluded that:

‘provided all doors and windows are closed during the evening and night, there should not be any adverse noise impacts at any receivers.

The discussion above is general and the condition for doors to be closed could be removed pending the results of any acoustic assessment based on specific details of proposed activities within a particular shed.

The use of the yards to the closest sheds to residential receivers would be possible provided a minimum 2.5m high acoustic barrier is in place along the western boundary to the site.'

In light of the above findings, consideration was given to the compliance efforts required by Council to ensure that all doors and windows are closed on the sheds during evening or night operations on the site to ensure the residential amenity of the area was not impacted. Such compliance with the conditions of consent would be required by the landowner and also the operator of the premises, and Council would be required to issue Notices / Orders to enforce compliance.

Further, the application has been reviewed by Council's Environmental Health Officer who does not support 24 hour trading both internal and external of the building/s based on the existing and potential future land use conflicts.

It should be noted that the application has been approved for 'industrial premises' which may entail a broad range of development types. However, the acoustic assessment has based all noise generating activities on *machinery or light fabrication workshops* and deliveries to the site. A disclaimer has also been included in the report that recommends '*other commercial activities in the other sheds would require specific assessment*'.

The report also does not account for cumulative noise generated by the operation of multiple 24 hour, 7 day per week 'workshops' within this location.

As a result of the above findings, general 24 hour, 7 day a week operations for the industrial sites are not supported in this location without the following controls being implemented to reduce environmental impacts and land use conflicts with the surrounding area into the future:

- Inclusion on each shed proposed to operate in the evening and night-time periods (6pm to 7am):
 - Lining the internal walls or parts of the walls,
 - Isolating particularly noisy plant or activities and acoustically shielding these;
 - Locating noisy plant or activities "behind" internal partitions or offices relative to receivers, or
 - Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.
- A 2.5m high lapped and capped timber fence with minimum 12mm palings and 25% overlap each side along the full western boundary of the site (adjoining the residential land and golf course currently identified as Lot 27 DP 1165146) which must include the western boundary of Shed 1 on the basis that the 'double stacked' shipping containers are not approved by Council in this location and cannot be relied upon as an acoustic measure.
- Limiting trading activities by amending condition 63 of the consent to:
 - Monday to Saturday - 7.00am to 10.00pm; and
 - Operations from within the industrial buildings are permitted Monday to Saturday - 10.00pm to 7.00am subject to the following;
 - i. Any deliveries that occur during the hours of Monday to Saturday - 10.00pm to 7.00am must be undertaken at the building frontages to Depot Road only; and

- ii. All roller doors and windows upon the southern and western elevations are to be fully closed during operations of Monday to Saturday - 10.00pm to 7.00am; and
 - iii. Any plant or equipment installed on the buildings for air / ventilation purposes must ensure that suitable covers / shielding devices are installed by a suitably qualified person and maintained accordingly; and
- No operations are permitted on Sundays or Public Holidays.

With implementation of the above, the removal of the condition 4 which prohibits roller doors being constructed on the western elevation of each shed is supported.

In addition, it is recommended that additional conditions relating to a complaints register being established by the developer and the standard condition regarding "offensive noise" be included in the amended development consent. This is to reinforce that 'offensive noise' can be managed via the development consent and also under the *Protection of the Environment Operations Act 1997*. A noise abatement direction / notice / order may be issued by Council, NSW Police or the Local Court.

4.15(1)(c) Suitability of Site for the Development

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

The development has been approved in the IN1 General Industrial Zone which is consistent with the objectives of the zone and the immediate industrial locality. The modification to the hours of operation is only supported on the basis of the abovementioned controls, including those recommended by the acoustic assessment report, being implemented across the site.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

4.15(1)(d) Any submissions made in accordance with Act or Regulations

(A) PUBLIC SUBMISSIONS

As the original development application was notified, the proposed modification was also notified.

Two (2) submissions were received during the notification period. Both submissions raised concerns in relation to the extended hours and impacts of noise on their homes. This concern was particularly heightened as a result of existing business operating from the subject site. A copy of the submissions are included in Attachment 2.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

No submissions were sought or received from public authorities.

4.15(1)(e) The Public Interest

(A) FEDERAL, STATE AND LOCAL GOVERNMENT INTERESTS AND COMMUNITY INTERESTS

No significant issues in the interests of the public are expected as a result of the proposed development, subject to compliance with the recommended amended conditions of consent. The development has been approved in line with the IN1 General Industrial zoning of the land however, it is also important to ensure land use conflicts are appropriately managed for the community. The acoustic matters regarding hours of operation and impacts to adjoining lands have been considered by Council and a suitably qualified person, with recommendations imposed to mitigate

such noise impacts on the surrounding land. This has therefore been considered along with submissions from the community which has resulted in modifications to the proposed operations over the site.

CONSULTATIONS

(A) ENVIRONMENTAL HEALTH OFFICER

Council's Environmental Health Officer has provided an assessment of the application and the Noise report provided to Council dated July 2021. The following comments have been provided for assessment:

The report has provided analysis of noise impacts during three periods over 24hrs: Day (7am to 6pm), Evening (6pm to 10pm) & Night (10pm – 7am).

It has based its' analysis on the activities currently being carried out in Shed 1.

The report concludes that noise criteria is exceeded especially in the evening and night time periods. In particular the activity of metal gouging causes unacceptable noise even when the shed doors and windows are closed. The report does cover sleep disturbance matters and includes deliveries as part of the outside "yard work". The report recommends the erection of an acoustic noise barrier along the western boundary adjacent to the proposed Sheds 2 & 3 and states that the current barrier arrangements adjacent to Shed 1 can be modified to comply.

It is noted from a real estate sign on Inverness Ave that part of the adjoining land to the west of the proposal (currently a golf course) has a residential zoning. It is possible then that residences may be built closer to the proposal than the ones currently on Inverness Ave. This needs to be taken into consideration.

I recommend the following conditions be included in any development consent issued:

- *An acoustic barrier shall be erected along the entire western boundary of the property. The barrier shall be 2.5m high and be constructed in accordance with the recommendations of the Noise Impact Assessment Report by Spectrum Analysis dated July 2021.*
- *Hours of operation shall be limited to the following:*
 - a) *Inside & Outside activities permitted Monday to Saturday from 7am to 10pm*
 - b) *Inside activities permitted Monday to Friday 10pm to 7am*
 - c) *Any western facing openings shall be closed during these times.*
 - d) *No activities permitted on Sundays and public holidays.*

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Mid-Western Regional Development Control Plan 2013.
Mid-Western Regional Contributions Plan 2019.
Mid-Western Regional Community Participation Plan 2019.
Mid-Western Regional Developer Servicing Plan 2008.

Legislation

Environmental Planning & Assessment Act 1979.
Environmental Planning & Assessment Regulation 2000.
Mid-Western Regional Local Environmental Plan 2012.

Financial implications

The applicant will still be required to pay developer contributions in accordance with the relevant Contributions Plans required by the previous approval issued by Council.

Associated Risks

Should Council refuse the Modification Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

21 September 2021

Attachments: 1. Acoustic Report.
2. Submissions (redacted).

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



Project No: 212122R

**Noise Impact Assessment
Proposed Industrial Development
“Mudgee Industrial Park”
Depot Road, Mudgee - NSW**

Prepared for:

DTM Property Enterprises
Depot Road
Mudgee NSW 2850

Author:



Ross Hodge
B.Sc. (Hons) M.A.A.S.
Principal / Director

July 2021



TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	BACKGROUND TO THE NIA	1
3.0	DESCRIPTION OF TERMS	1
4.0	THE EXISTING ENVIRONMENT	2
5.0	NOISE CRITERIA	4
5.1	Operational Noise Goals	4
5.2	Sleep Disturbance	5
6.0	NOISE IMPACT ASSESSMENT	6
6.1	Operational Noise	6
6.2	Sleep Disturbance	13
7.0	CONCLUSION	15
APPENDIX I		Noise Logger Charts





1.0 INTRODUCTION

This report presents the results and findings of an acoustic assessment of the operation of commercial and industrial facilities at the Mudgee Industrial Park, at Lot 210 D.P. 775001, Depot Road, Mudgee.

This Noise Impact Assessment (NIA) has been conducted in accordance with procedures as detailed in the *Noise Policy for Industry* (NPfI).

2.0 BACKGROUND TO THE NIA

The site of the Mudgee Industrial Park is an industrial area with several commercial and industrial premises currently operating in the vicinity. The site is adjacent to the Mid West Council's works depot.

Spectrum Acoustics previously undertook an acoustic assessment of the suitability of the site for industrial sheds for various uses. The assessment used typical sound power levels for workshop activities to show that noise emissions from the sheds can comply with the day time noise criterion for nearby residential receivers.

Based on the results of that assessment it was concluded that the industrial sheds could operate during the day time without adversely impacting upon the acoustical amenity of any residential receivers.

The site is now being fully developed and some of the tenants and proposed tenants are looking to extend operating hours within their businesses to include the possibility of early morning start up and evening works.

The current assessment will, therefore, consider the potential for noise emissions during those times to create adverse impacts at the nearby residential receivers.

3.0 DESCRIPTION OF TERMS

Table 1 contains the definitions of commonly used acoustical terms and is presented as an aid to understanding this report.

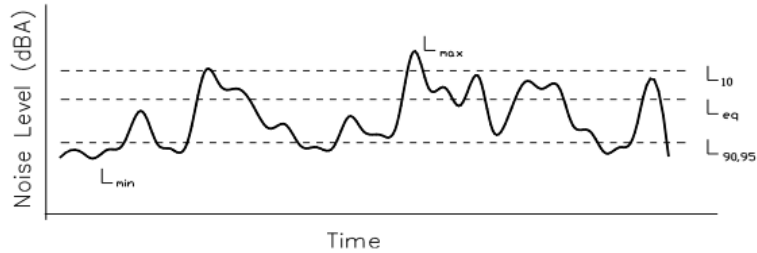




Noise Impact Assessment – Mudgee Industrial Park

TABLE 1
DEFINITION OF ACOUSTICAL TERMS

Term	Definition
dB(A)	The quantitative measure of sound heard by the human ear, measured by the A-Scale Weighting Network of a sound level meter expressed in decibels (dB).
SPL	Sound Pressure Level. The incremental variation of sound pressure above and below atmospheric pressure and expressed in decibels. The human ear responds to pressure fluctuations, resulting in sound being heard.
STL	Sound Transmission Loss. The ability of a partition to attenuate sound, in dB.
L _w	Sound Power Level radiated by a noise source per unit time re 1pW.
Leq	Equivalent Continuous Noise Level - taking into account the fluctuations of noise over time. The time-varying level is computed to give an equivalent dB(A) level that is equal to the energy content and time period.
L1	Average Peak Noise Level - the level exceeded for 1% of the monitoring period.
L10	Average Maximum Noise Level - the level exceeded for 10% of the monitoring period.
L90	Average Minimum Noise Level - the level exceeded for 90% of the monitoring period and recognised as the Background Noise Level. In this instance, the L90 percentile level is representative of the noise level generated by the surrounds of the residential area.



4.0 THE EXISTING ENVIRONMENT

To quantify the existing acoustic environment of the area, an ambient noise survey was conducted on the site from 1 to 8 July, 2021.

An ARL EL316 environmental noise logger, was installed on the site near the boundary with the Mudgee Golf Club (as shown approximately, as a star on **Figure 1**).





Figure 1 – Noise Logger Location

The logger location was considered representative of the current acoustic environment of the area. The industries within the existing sheds in the estate do not operate during the evening or night and, therefore, there is no noise associated with them. Other existing industries and the council depot do operate during the night (early morning) and the noise from these is considered part of the ambient acoustic environment and, is therefore, included in the noise logger measurements

The logger was programmed to continuously register environmental noise levels over 15 minute intervals with internal software calculating and storing L_n percentile noise levels for each sampling period. Calibration of the logger was performed as part of the instrument's initialisation procedures, with calibration results being within the allowable ± 0.5 dB(A) range.

All noise levels were monitored in accordance with relevant EPA guidelines and AS1055- "Acoustics - Description and measurement of environmental noise".

Table 2 presents a summary of the ambient noise levels (L90 Rating Background Levels (RBL) and existing Leq) recorded at the monitoring location. The RBL is the median of the daily L90 levels (Assessment Background Levels) in each assessment period (day/evening/night), over all valid days in the monitoring period.





The data are also shown graphically in Appendix I. A full set of logged data is not included in this report but is available on request.

Percentile	Noise Levels dB(A)			
	Day	Evening	Night	Morning Shoulder
L ₉₀	40	35	31	33
L _{eq}	55	45	43	43

NOTE: Day = 7am – 6pm, Evening = 6pm – 10pm, Night = 10pm – 7am.

The graphical representation of these noise measurements shows that the acoustic environment of the area is generally variable during the day and evening and noise levels drop off through the middle of the night. This is indicative of the commercial and industrial activity in the area.

The logger data shows that noise levels increase steadily from about 5am, coinciding, most likely, with an increase in the commercial and commuter activity in the industrial area. In such circumstances the NPfI includes the concept of “shoulder periods” where the RBL is the lowest 10th percentile of the L90 measurements for the equivalent one weeks’ worth of valid data taken over the relevant shoulder period.

The NPfI indicates that shoulder periods are to be considered on a case by case basis. For the current assessment a “morning shoulder” period between 5 and 7am has been included in the assessment and discussion of potential noise impacts.

The measured background noise level, for the morning shoulder period, determined in accordance with the procedures in the NPfI, is shown in Table 2.

5.0 NOISE CRITERIA

5.1 Operational Noise Goals

In setting noise goals for an industrial development, the NPfI considers both Amenity and Intrusiveness criteria. The former is set to limit continuing increase in noise from industry, whilst the latter is set to minimise the intrusive impact of a particular noise source.





Amenity criteria are dependent upon the nature of the receiver area and the existing level of industrial noise. The most potentially affected receiver area near the site would be considered “suburban” as per the definitions in the NPfI.

The Project amenity noise level for an industrial development is equal to the recommended amenity noise level (from Table 2.2 in the NPfI) minus 2 dB(A) (as detailed in notes to **Table 3**).

The intrusiveness criteria are based on the Rating Background Level (RBL) for the time period, plus 5 dB(A). The RBL (L90) is defined as the overall single figure background level representing each assessment period.

Table 3 specifies the Project Noise Trigger Levels (noise criteria) determined for the site based on procedures in the NPfI.

TABLE 3 NOISE CRITERIA					
Location	Criterion	Day (7am-6pm)	Evening (6pm-10pm)	Night (10pm-7am)	Morning Shoulder (5am-7am)
Depot Rd.	Intrusiveness dB(A),Leq(15-min.) ¹	50	40	36	38
	Amenity dB(A),Leq(15 min) ²	53	43	38	n/a
	Project Noise Trigger Levels dB(A) Leq (15 min.)	50	40	36	38

1 Rating Background Level (RBL) + 5dB. RBL is the median value of each ABL (Assessment Background Level) over the entire monitoring period. The ABL is a single figure representing the “L₉₀ of the L₉₀s” for each separate day of the monitoring period.

2. Project amenity noise level (ANL) is suburban ANL (NPI Table 2.1) minus 5 dB(A) plus 3 dB(A) to convert from a period level to a 15-minute level

5.2 Sleep Disturbance

As detailed previously, it is proposed that some of the industries in the sheds may operate during the night time period. The potential for sleep disturbance from maximum noise level events during the night-time period, therefore, needs to be considered. Sleep disturbance is considered to be both awakenings and disturbance to sleep stages.

The NPfI states that a detailed maximum noise level event assessment should be undertaken where the subject development/premises night-time noise levels at a residential location exceed:

- Leq (15 min) 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater, and/or





- Lmax 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater.

The logger data presented in Table 2 shows that the prevailing RBL is 31 dB(A) L90 and, therefore, the trigger level for a detailed assessment is **40 dB(A) Leq (15 min)** and/or **52 dB(A) Lmax**.

The detailed assessment should cover the maximum noise level, the extent to which the maximum noise level exceeds the rating background noise level, and the number of times this happens during the night-time period. Some guidance on possible impact is contained in the review of research results in the NSW Road Noise Policy (RNP).

Other factors that may be important in assessing the extent of impacts on sleep include:

- how often high noise events will occur,
- the distribution of likely events across the night-time period and the existing ambient maximum events in the absence of the subject development,
- whether there are times of day when there is a clear change in the noise environment (such as during early-morning shoulder periods), and
- current scientific literature available at the time of the assessment regarding the impact of maximum noise level events at night.

The detailed assessment should consider all feasible and reasonable noise mitigation measures with a goal of achieving the above trigger levels.

6.0 NOISE IMPACT ASSESSMENT

6.1 Operational Noise

The proposed layout of the site is shown in **Figure 2**.



Noise Impact Assessment – Mudgee Industrial Park

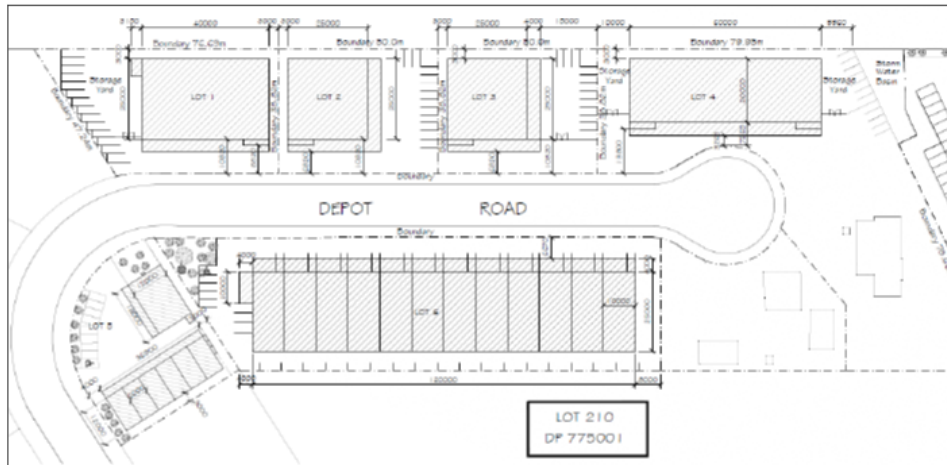


Figure 2 – Site Layout

As shown in Figure 2 it is proposed that the site will be subdivided into separate “lots” with a steel industrial style shed to be erected on these.

At the time of the current reporting Shed 1 was occupied by a small engineering works that operates during the day time. In order to cater for breakdowns and allow for additional works, at peak times, the owner wishes to extend the operating hours. The layout of Shed 1 is shown in Figure 3.

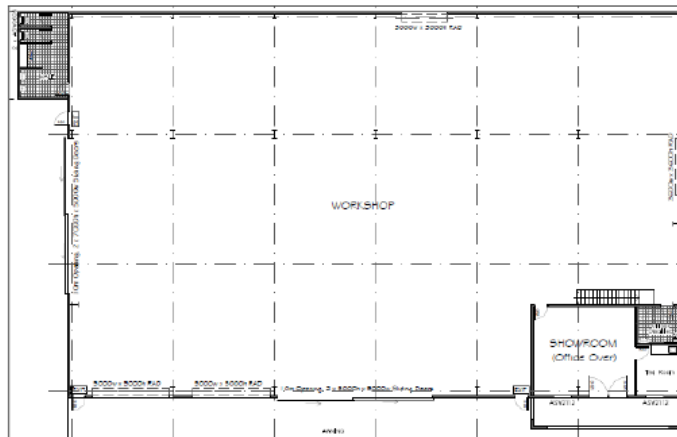


Figure 3 – Shed 1

Noise from the operation of the existing workshop was measured on site in July 2021. All sound levels from various workshop activities were measured with a Bruel & Kjaer Type 2250 Precision Sound Level Analyser with calibration performed before and after the measurements.





Noise Impact Assessment – Mudgee Industrial Park

At the time of the noise measurements the workshop was operating under typical conditions. The measurements included the general operation of the workshop (grinding, welding hammering etc.) as well as specific measurements made of gouging.

As shown in Figure 3, the shed has an operable wall in the southern facade (i.e. in the direction of the most potentially affected receivers). The noise levels from the operating workshop were measured at the centre of the opening, and other representative location within the workshop and yard.

There is a 2.4m high fence around the yard to the site and there are currently two storage containers mounted on frames inside the boundary. These storage containers form a partial acoustic barrier, to a height of 5.6m, in the direction of the nearest receivers in Inverness Avenue.

There are currently gaps between the two containers and also between the bottom of the containers and the top of the boundary fence. These gaps currently compromise the acoustic integrity of the barrier by allowing some noise to pass through. The occupant has indicated that the barrier will be made good along the length of the boundary such that there are no gaps.

The calculations made here assume that the work to complete that barrier has been done and they, therefore, include the insertion loss for a 5.6m high solid acoustic barrier.

Table 4 shows a calculation of the measured general workshop noise propagated from the opening at Shed 1 and impacting on the nearest residential receiver to the south west at 12A Inverness Avenue.

TABLE 4 SHED 1 WORKSHOP NOISE as dB(A) Leq (15 min) 12A INVERNESS AVE – DOOR OPEN									
	TOTAL	Octave Band Centre Frequency, Hz							
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss (80m)		46	46	46	46	46	46	46	46
Barrier Insertion Loss (5.6m)		7	8	10	12	15	18	21	24
SPL at Boundary	41	18	32	29	31	31	34	35	30

The results in Table 4 show that, under the assessed conditions, and with the acoustic barrier in place, the received noise will not exceed the adopted day time criterion at the most potentially affected receiver.



Attended noise measurements were made at locations in Inverness Avenue on the morning of 1st July, 2021. The noise from the workshop was measured in the reserve behind the residence at 12A Inverness Avenue. The noise included general workshop activity (but did not include gouging). A noise level of 42 dB(A) Leq (15 min) was attributed to emissions from the workshop at shed 1. The measurement also included contributions from other noise sources in the industrial area but these were excised from the data during the analysis process. The measured workshop noise is in keeping with the results shown in Table 4.

The results in Table 4 show that, under the assessed conditions, the noise from shed 1 will exceed the evening and night criteria. During these times it is apparent that the operable wall should be closed to limit noise emissions from the shed. **Table 5**, therefore, shows a calculation of the workshop noise propagated through the walls, with the operable wall and doors closed, and impacting on the nearest residential receiver to the south west at 12A Inverness Avenue.

The workshop noise was theoretically propagated to the nearest residences taking into account the effects of transmission loss through building elements, with the wall closed, and hemispherical spreading (distance loss) to the receiver. From consideration of the dimensions and orientation of the various building elements, the sound pressure levels immediately outside these were propagated to the nearest receiver using an equation¹ giving the sound field due to an incoherent plane radiator.

Propagation Elements	TOTAL dB(A)	Octave Band Centre Frequency, Hz							
		63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
STL of wall (0.4mm steel)		13	11	14	18	21	26	24	23
Exterior SPL	65	40	57	53	53	53	46	60	59
Barrier Insertion Loss		7	8	10	12	15	18	21	24
SPL at Boundary	30								

The results in Table 5 show that, under the assessed conditions, with all doors closed, the noise emissions from the assessed activities in

¹ Equation (5.104), DA Bies and CH Hansen, *Engineering Noise Control*, E & FN Spon, 1996.



Noise Impact Assessment – Mudgee Industrial Park

Shed 1 will not exceed the adopted evening or night time noise criteria.

The calculation assumes all activities are being undertaken inside the shed and that there is no activity in the yard.

The noise from gouging was measured to be approximately 6 dB(A) louder than that of eth general workshop. Based on the results in tables 4 and 5 this would indicate that the combined noise from gouging plus the general workshop would be in compliance with the day time criterion with the wall open.

The noise from gouging would be higher than the evening criterion with the wall open, but in compliance with the wall closed. The noise would be marginally higher than the night time criterion with the wall closed.

It is, therefore, recommended that, if gouging is to be undertaken during the evening the wall must be closed. Gouging should not be undertaken at night.

The remainder of the sheds are either under construction, or are proposed for construction. The sheds may be leased or sold to various users.

The designs for Sheds 2 and 3 are shown in **Figure 4**.



Figure 4 – Sheds 2 and 3





Sheds 2 and 3 are designed with roller door openings in the southern and western facades. These roller doors will face towards the receivers in Inverness Avenue. Noise emissions from the roller doors, particularly those in the southern facade will be partially shielded from the receivers by the acoustic barrier effects of the intervening sheds and/or the orientation of the doors with respect to the receiver boundaries.

The layout of both sheds is such that parking areas for each are located “behind” the sheds with respect to the nearby residential receivers. The building elements of the sheds will provide good acoustic shielding in the direction of those receivers.

Table 6 shows a theoretical calculation of the noise from workshop activities, similar to those operating in shed 1, considered to be operating in shed 3 (as shown in Figure 2). The roller doors to the shed were assumed to be open.

The location of Shed 2 will shield noise in the direction of the receiver at 12A Inverness Avenue and, therefore, the calculation has been made to the boundary of the most potentially affected receiver at 23 Inverness Avenue.

TABLE 6 SHED 3 NOISE as dB(A) Leq (15 min) 23 INVERNESS AVENUE – DOORS OPEN									
	TOTAL	Octave Band Centre Frequency, Hz							
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
Exterior SPL at opening	87	53	71	70	74	77	75	84	82
SPL at Boundary	44								

The results in Table 6 show that, under the assessed conditions, and with roller doors open, the received noise would not exceed the day time noise criterion but would exceed the criteria for evening and night.

Table 7 shows a theoretical calculation of the noise from workshop activities, with roller doors closed, propagated to the nearest potentially affected receiver.



Noise Impact Assessment – Mudgee Industrial Park

Propagation Elements	TOTAL dB(A)	Octave Band Centre Frequency, Hz							
		63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
STL of wall (0.4mm steel)		13	11	14	18	21	26	24	23
Exterior SPL at wall	65	40	57	53	53	53	46	60	59
SPL at Boundary	35								

The results in Table 7 show that, under the assessed conditions, and with roller doors closed, the received noise would not exceed the criteria for any of the day, evening or night times.

The calculations in tables 6 and 7 are based on the noise levels from the existing workshop but are considered likely to be representative of most typical machinery or light fabrication workshops.

The operation of other commercial activities in the other sheds would require specific assessment but, as a general indication, the noise from workshops as measured is at the upper end of expected noise levels for any activities that may occur in industrial sheds like those to be constructed.

Other sheds on the site are further away from any residences and are also further shielded from receivers by the structure of the intervening buildings.

This would indicate that, provided all doors and windows are closed during the evening and night, there should not be any adverse noise impacts at any receivers.

The discussion above is general and the condition for doors to be closed could be removed pending the results of any acoustic assessment based on specific details of proposed activities within a particular shed.

The consideration of the noise control options for all sheds was included in the original acoustic assessment for the site and is included below.

The noise control could include (but not be limited to) relatively simple actions such as;





- Lining the internal walls or parts of the walls,
- Isolating particularly noisy plant or activities and acoustically shielding these;
- Locating noisy plant or activities “behind” internal partitions or offices relative to receivers, or
- Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.

6.2 Sleep Disturbance

The discussion of operational noise during the evening and night indicates that during the night time period all significant noise generating activities should be undertaken inside the various sheds and with all external doors and openings closed.

The potential for sleep disturbance impacts is, therefore most likely to come from loud noise associated with people arriving or departing work (car doors, engine revs etc.) or from noise associated with the delivery or transport of parts or machinery. All of these events have relatively loud maximum noise levels which, when averaged out over a 15 minute period have an acceptable Leq noise level.

A scenario has been assessed where a noise source representing an impact from a truck being unloaded in the yard of shed 2 is potentially impacting on the receiver at 23 Inverness Avenue at a distance of approximately 170m.

Preliminary calculations indicated that, under the conditions, there was a potential for the sleep disturbance criterion to be exceeded and that some form of noise control would be required. The most feasible option would be to construct an acoustic barrier fence along the western boundary of the site, as shown in **Figure 5**.

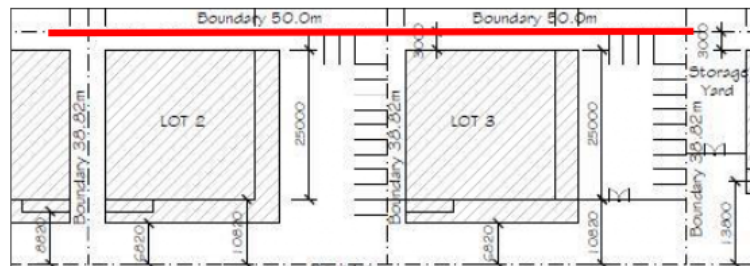


Figure 5 – Acoustic Fence





Noise Impact Assessment – Mudgee Industrial Park

Table 8 shows a calculation of the maximum impact noise propagated from the yard at Shed 2 and impacting on the residential receiver at 23 Inverness Avenue. The calculation assumes a 2.5m high barrier along the boundary as shown in Figure 5. The noise source was considered to be at 1.5 high and the receiver height was assumed to be 2m above ground level.

	TOTAL	Octave Band Centre Frequency, Hz							
		63	125	250	500	1k	2k	4k	8k
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	115	94	95	102	108	109	109	106	98
Average distance loss (170m)		53	53	53	53	53	53	53	53
Barrier Insertion Loss (2.4m)		6	6	7	9	11	14	17	20
SPL at Boundary	51								

The results in Table 8 show that noise from loud impacts in the yards of the sheds can be adequately controlled provided there is a minimum 2.5m high acoustic barrier along the boundary as indicated in Figure 5.

An acoustic barrier is one which is constructed of material with minimum surface density of 15kg/m³ and is impervious from the ground to the recommended height with no gaps for the passage of sound. For the current site a lapped and capped timber fence with minimum 12mm palings and 25% overlap each side would be acoustically adequate.

The barrier as shown would also provide additional attenuation of noise from activities in the sheds.

As there are no confirmed end users for the sheds, the calculations and discussion above is a generic sleep disturbance scenario, based on a potential situation. It is noted that the calculation assumes a loud noise source in the yard representing, say, a truck delivering goods or unloading machinery during the night (nominally, early morning prior to 7am).

If this activity, or other loud noise events are not proposed for outdoor areas or yards at the sheds then the barrier would not be required. Under those circumstances, the use of the yards at night would need specific assessment.





7.0 CONCLUSION

An assessment has been conducted to determine the potential for adverse noise impacts arising from potential evening and night time operation at the proposed industrial sheds at the Mudgee Industrial Park on Lot 210 D.P. 775001, Depot Road, Mudgee.

The assessment has shown that operation of the sheds during the evening and night would be possible provided the doors to the sheds are closed during those times.

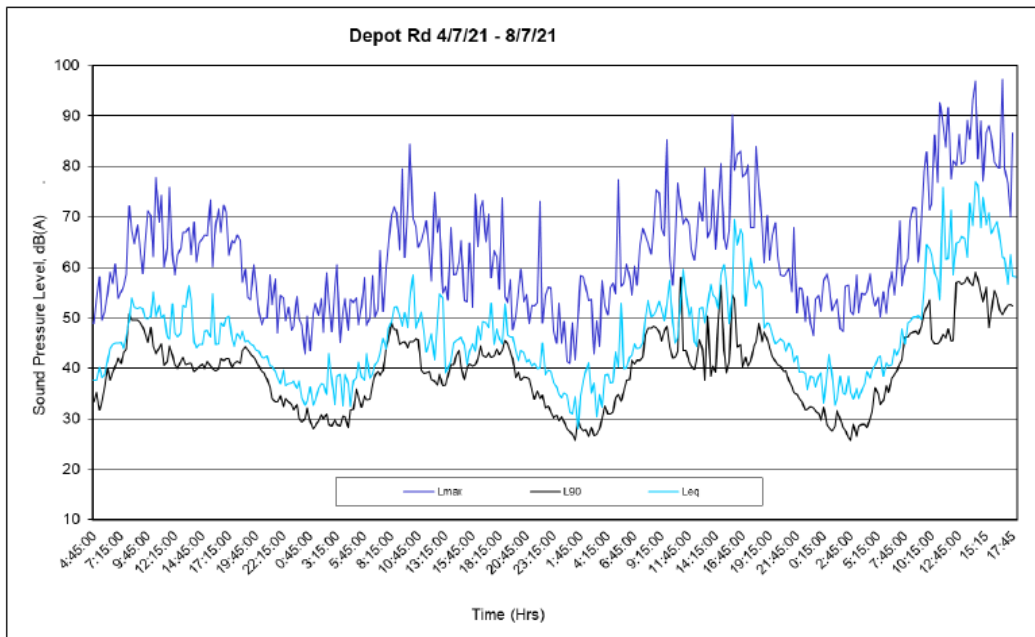
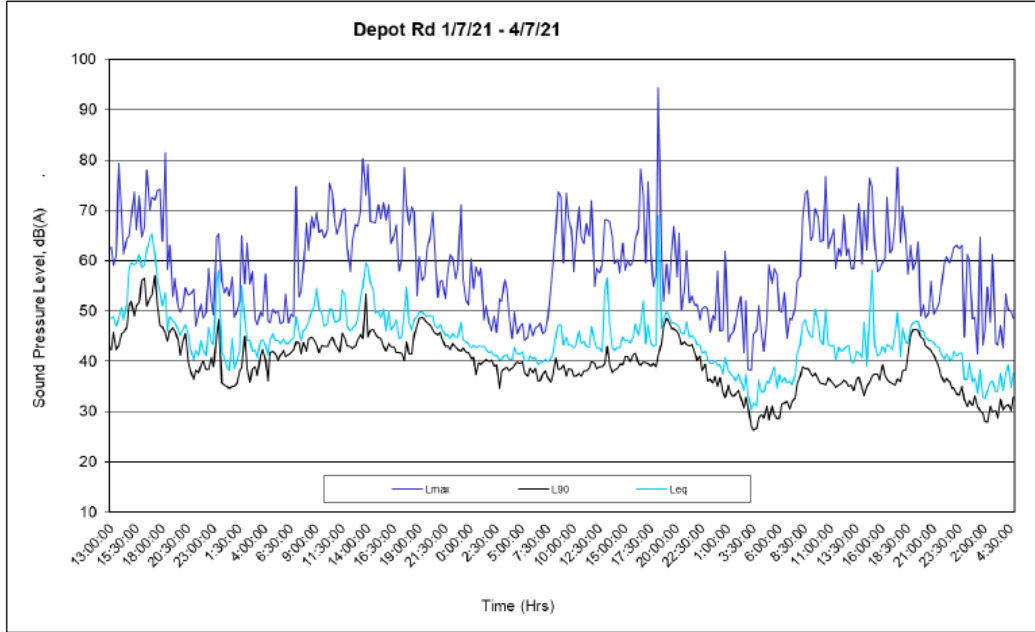
The use of the yards to the closest sheds to residential receivers would be possible provided a minimum 2.5m high acoustic barrier is in place along the western boundary to the site.





Noise Impact Assessment – Mudgee Industrial Park

APPENDIX I
NOISE LOGGER CHARTS



From:
To: [Council](#)
Subject: Development Objection - Proposed Modification to Increase Hours of Operation
Date: Tuesday, 7 September 2021 8:20:11 PM

Mark & Gail Pedron

Att: General Manager

We wish to lodge our objection to the development application MA0001/2022 Proposed Modification To Increase Hours Of Operation to 24 hours @86 Depot Road Mudgee NSW 2850 -Lot 2102 DP 123 7751

We are the closest Resident at Mudgee situated approximately **30 meters** right behind **Shed 1** , This develop application has been deceitfully hidden in lot 86 Depot Road Mudgee when the heavy Industrial Shed requiring the approval in actually Lot 63 Depot Road Mudgee , Even your own Town Planner was surprised when that was brought to her attention .

Our master Bedroom Windows are approximately 30 meters from Shed 1 , the continuous noise during day time operation is already at a point that we do not open our bedroom windows or side alfresco at all .
During the Acoustic report the logger was conveniently placed on the vacant golf course land some **120 metres** from shed 1 not at our residence 30 Metres away .

The Acoustic report says operation of Shed 1 during the evening should be fine subject to doors being closed from 12 midnight to stop noise escaping the buildings , So that means we can hopefully get some sleep after 12 Midnight when the doors are closed ,
Let me ask you this question would that be acceptable for yourself and your family ?

It states in several tables of the report that the noise from shed 1 will **exceed** the evening and night criteria and the operable wall should be closed and all activities to be undertaken inside the shed and no activity in the yard to limit noise,

during these times , It should not be approved as it does not meet the noise criteria

Which council members are is going to call in after 12 midnight for the next Twenty ,Thirty , Forty plus years to make sure the doors are closed and no yard activity ?

Other comments of concern in the report are

- Only **recommended** that Gouging not be undertaken at night not prohibited again who will guarantee that ?
- Condition of doors closed could be **removed**
- Sleep Disturbance Impact **from** workshop noise car doors ,engines revving , staff coming and going , delivery and transport
- **Assuming** doors are closed
- Acoustic Barriers need upgrading

The Current Acoustic Barriers in place do little to buffer the current noise from the Industrial area , we challenge Council to do their own independent acoustic report without the applicants knowledge of testing date as you would be aware any smart business person can have a report done in there favour if they are the one applying and paying for the service and know when its going to be performed

When we purchased our property The Industrial area behind Inverness Avenue was supposed to be Light Industrial with no Sunday or evening trading and roller doors closed , That has not been the case with doors open all day during the warmer weather , Operating and deliveries on weekends and the shed in question behind us has had work being performed in the shipping containers on the boundary not inside the shed and also at times taking up residence on site , we have hoped that Council would step up and take action but that never happened even though they were aware of this

The applicant said the extended trading would be crucial to the Mudgee economy we don't agree it will not create more jobs just the opposite and possibly take work from the smaller Mudgee businesses that are struggling to survive during these hard times

Good quality Residential streets and Real Estate is also crucial to Mudgee and Council would de value the real estate in the Links Estate if this request was approved

In conclusion we think that Council would be doing a great In- Justice to the Residents and Ratepayers of Inverness Avenue and Links Estate if they were to grant the request to extend trading and Unfortunately we would have to consider legal advice and or class action if this is the case .

We would appreciate notification of when this is to go before council

Kind regards

Mark & Gail Pedron

7 September 2021

Kayla Robson
Senior Town Planner
Mid-Western Regional Council



Dear Kayla

RE: DA MA/0001/22 – 86 DEPOT ROAD, MUDGEE

We, the undersign would like to object to the above DA on the grounds of noise and the setting of a precedence for the rest of the area.

We don't want to stop progress, but as a residential area within metres, the existing 5.5 days of operation is enough.

We experience noise outside the approved operating hours now from 63 Depot Road (have previously reported) and with future development in the area, we feel if this is approved it will allow more heavy industries to operate 24/7.

All we ask for is a little peace and quiet at night and Sundays.

Thank you for receiving our concerns.

Residents of Inverness Ave.

Jeff Morgan

Warwick & Marjorie Marskell

Ian & Jenifer Marchant

Mark & Gail Pedron

Sara Swords



8.4 Planning Proposal 705 Springfield Lane, Gulgong (Lots 277-282, 285, 286 DP 755433, Lots 64, 70, 71, 138 DP 755434, Lots 15-17 DP 1172228), Rezone to R5 Large Lot Residential and Change Minimum Lot Size to 12Ha - Post Exhibition

REPORT BY THE TOWN PLANNER

TO 13 OCTOBER 2021 ORDINARY MEETING

GOV400088, LAN900120

RECOMMENDATION

That Council:

- A. **receive the report by the Town Planner on the Planning Proposal 705 Springfield Lane, Gulgong (Lots 277-282, 285, 286 DP 755433, Lots 64, 70, 71, 138 DP 755434, Lots 15-17 DP 1172228), Rezone to R5 Large Lot Residential and Change Minimum Lot Size to 12Ha - Post Exhibition;**
- B. **exercise its delegation in the preparation of the amendment to the Mid-Western Regional Local Environmental Plan 2012 in relation to the rezoning of 705 Springfield Lane, Gulgong; Lots 277-282, 285, 286 DP755433, Lots 64, 70, 71, 138 DP755434, Lots 15-17 DP1172228 from RU1 Primary Production to R5 Large Lot Residential and change the minimum lot size from 100 hectares to 20 hectares subject to the Opinion issued by Parliamentary Counsel.**

Executive summary

At Council's 17 March 2021 meeting, Council resolved to support the Planning Proposal and to forward it to the NSW Department of Planning, Industry and Environment (DPIE) for a Gateway Determination. The Planning Proposal relates to 705 Springfield Lane, Gulgong NSW 2852 identified as Lots 277-282, 285, 286 DP 755433, Lots 64, 70, 71, 138 DP 755434, and Lots 15-17 DP 1172228 and proposes to rezone the land from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 100 hectares to 12 hectares.

A Gateway Determination was then sought in relation to the amended Planning Proposal. A conditional Gateway Determination was granted on 18 May 2021. A copy of the Gateway Determination is provided as Attachment 1.

Condition 1 of the Gateway Determination required that prior to the commencement of community consultation a revised Planning Proposal be resubmitted to DPIE that addresses potential contamination to demonstrate that the subject land is suitable or can be made suitable for the proposed large lot residential use. A revised Planning Proposal which addressed this requirement was subsequently submitted and approved by DPIE – Western Region on 11 August 2021. A copy of the amended Planning Proposal document is available in Attachment 2 and a copy of the approval by DPIE is available in Attachment 3.

The Planning Proposal was placed on public exhibition on Friday 27 August 2021 and concluded Friday 10 September 2021 in accordance with Council's Community Participation Plan 2019 and Gateway Determination condition 2. No submissions were received.

The Planning Proposal was referred to Transport for NSW (TfNSW) in accordance with Gateway Determination condition 3. A response from TfNSW was received on 15 September 2021, a copy of this response is provided as Attachment 4.

The Planning Proposal was also referred to the Department of Planning, Industry and Environment – Environment, Energy and Science in accordance with Gateway Determination condition 3. No comments were received.

The purpose of this report is to provide Council with a post exhibition report and to seek Council’s approval to exercise its delegation in finalising the Planning Proposal.

Disclosure of Interest

Nil.

Detailed report

Planning Proposals

Planning Proposal is a term used to describe the process of rezoning or making an amendment to a Local Environmental Plan (LEP). A Planning Proposal application is a document that explains the intended effect of the LEP amendment and provides a strategic justification for doing so. DPIE has issued A Guide to Preparing Planning Proposals, to provide guidance and information on the process for preparing planning proposals.

The Gateway Process

DPIE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPIE’s A Guide to Preparing Local Environmental Plans.

Gateway Timeline

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan 2012 and the progress of the current Planning Proposal through the various stages.

Stage	Completed	Comment
Preparation of a Planning Proposal		
Planning Proposal lodged with Council	✓	October 2020
Staff Undertake Initial Assessment	✓	October 2020 - February 2021
Council Decision to Support Proposal	✓	Planning Proposal reported to 17 March 2021 meeting.
Issue of Gateway Determination		
Council Requests Gateway Determination	✓	12 April 2021
DPIE Issues Gateway Determination	✓	18 May 2021
Gateway Conditions Satisfied	✓	Condition 1 required that a revised Planning Proposal be resubmitted to address potential contamination. A revised Planning Proposal was submitted and approved by DPIE on 11 August 2021 (provided in Attachment 2 and 3) and placed on public exhibition.
Consultation		
Consultation with Relevant Agencies	✓	Agency consultation with: - Department of Planning, Industry and Environment – Environment, Energy and Science; and

		- Transport for NSW.
Public Exhibition	✓	20 August 2021 – 10 September 2021.
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 13 October 2021 meeting.
Finalisation of the Planning Proposal		
Council Exercises Delegation to Prepare LEP		
Draft LEP by Parliamentary Council		
Opinion Issued and LEP Made		

GATEWAY DETERMINATION

A conditional Gateway Determination was received on 18 May 2021 and included seven standard conditions.

CONSULTATION

Community Consultation

Condition 2 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 14 days. The community consultation was undertaken in accordance with DPIE A Guide to Preparing Local Environmental Plans. No submissions were received.

Agency Consultation

Department of Planning, Industry and Environment – Environment, Energy and Science

The Department of Planning, Industry and Environment – Environment, Energy and Science was consulted with in accordance with Gateway Determination condition 3. No comments have been received.

Transport for NSW

Transport for NSW (TfNSW) was consulted with in accordance with Gateway Determination condition 3. The submission is provided in Attachment 4. The submission provided advice in relation to requirements for future subdivision applications and noted that TfNSW is unlikely to support direct access from individual properties to the Castlereagh Highway. It should be noted that no new accesses are proposed from the Highway for future dwellings given there are alternative street frontages available. In addition, any future development applications for subdivision will be required to consider Clause 101 of the State Environmental Planning Policy (Infrastructure) 2007 to ensure that the safety, efficiency and ongoing operation of the Highway will not be adversely affected as a result of the development.

FINALISATION OF PLANNING PROPOSAL

The recommendation of staff is to proceed with the finalisation of the Planning Proposal. This will involve drafting LEP provisions.

Draft LEP

Included, as part of the Gateway Determination is a written Authorisation to Exercise Delegation of the Minister's functions under Section 3.36 (previously Section 59) of the *Environmental Planning and Assessment Act 1979*. The documentation will be forwarded to the Office of Parliamentary Counsel to draft the amendment to the LEP and seek an Opinion that the plan may be made. A

copy of the request will be forwarded to DPIE – Western Region. Following the receipt of the Opinion, a request that the LEP amendment be notified will be made.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning

Strategic implications

Council Strategies

Mid-Western Regional Local Strategic Planning Statement, Our Place 2040.
Mid-Western Regional Comprehensive Land Use Strategy, August 2010.

Council Policies

The steps involved towards the notification of the Planning Proposal will not require any change to relevant policies.

Legislation

The Planning Proposal has been considered in accordance with Division 3.4 Environmental Planning Instruments - LEPs (previously Division 4) Local Environmental Plans of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Local Environmental Plan 2012*.

Financial implications

Nil.

Associated Risks

If Council does not wish to proceed with finalisation of the Planning Proposal, it can withdraw its support at this stage in the Gateway Process. Council would be required to formally resolve not to proceed with the Planning Proposal and advise the various landowners and DPIE accordingly.

SARAH HOPKINS
TOWN PLANNER

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

20 September 2021

- Attachments:**
1. Gateway Determination dated 18 May 2021. (separately attached)
 2. Amended Planning Proposal. (separately attached)
 3. Approval by DPIE to proceed to community consultation. (separately attached)
 4. Transport for NSW response. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.5 Planning Proposal 540 Buckaroo Road, Buckaroo (Lot 2 DP 1227923) - Additional Permitted Use, Bulk Storage and Reload Facility

REPORT BY THE MANAGER, STRATEGIC PLANNING

TO 13 OCTOBER 2021 ORDINARY MEETING

GOV400087, LAN900136

RECOMMENDATION

That Council:

1. receive the report by the Manager, Strategic Planning on the Planning Proposal 540 Buckaroo Road, Buckaroo (Lot 2 DP 1227923) - Additional Permitted Use, Bulk Storage and Reload Facility;
2. provide initial support for a Planning Proposal to enable the future land use of a bulk storage and reload facility;
3. forward the Planning Proposal to amend the *Mid-Western Regional Local Environmental Plan 2012* to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*; and
4. undertake community consultation as outlined within any approved Gateway Determination.

Executive summary

Council has received a Planning Proposal seeking an amendment to the *Mid-Western Regional Local Environmental Plan 2012* to allow the development of a bulk storage and reload facility. The facility will store, process and transport blasting agent. The facility would handle ammonia nitrate emulsion, ammonium nitrate, oxidising agents, gassing solutions and blasting agents. A building envelope of approximately 5000m² is required to accommodate a future building.

The subject site measures approximately 68 hectares and has 450 metres frontage to Buckaroo Road. Existing vegetation is located on the steeper terrain, with approximately 20.4 hectares cleared. The proposed building envelope is to be located within the cleared area.

The land is currently Zoned RU1 Primary Production, the development of a bulk storage and reload facility would be defined as hazardous industry or heavy industrial storage establishment. Both of these land uses are prohibited within the zone. This Planning Proposal seeks the specific use of the bulk storage and reload facility to be permissible, rather than open it up to the various uses under the definitions of hazardous industry or heavy industrial storage establishment.

The Planning Proposal provided as Attachment 1 has been prepared in accordance with the structure outlined in the NSW Department of Planning Industry and Environment (DPIE) Guide to Preparing Planning Proposals. The report outlines the context, intended outcomes, explanation of provisions and justification for the Planning Proposal.

The staff recommendation is to provide initial support for the Planning Proposal and to send to the Department of Planning Industry and Environment (DPIE) for a Gateway Determination. If the staff recommendation is supported, the Planning Proposal along with the Council resolution will be forwarded to DPIE for Gateway Determination.

Disclosure of Interest

Nil.

Detailed report

Planning Proposals

Planning Proposal is a term used to describe the process of rezoning or making an amendment to a Local Environmental Plan (LEP). A Planning Proposal application is a document that explains the intended effect of the LEP amendment and provides a strategic justification for doing so. DPIE has issued A Guide to Preparing Planning Proposals, to provide guidance and information on the process for preparing planning proposals.

The Gateway Process

DPIE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPIE's A Guide to Preparing Local Environmental Plans.

Gateway Timeline

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan and the progress of the current Planning Proposal through the various stages. The below table demonstrates the Planning Proposal is within the initial stage of the process.

Stage	Completed	Comment
Preparation of a Planning Proposal		
Planning Proposal lodged with Council	✓	July 2021
Staff Undertake Initial Assessment	✓	July – September 2021
Council Decision to Support Proposal	✓	13 October 2021
Issue of Gateway Determination		
Council Requests Gateway Determination		
DP&E Issues Gateway Determination		
Gateway Conditions Satisfied		
Consultation		
Consultation with Relevant Agencies		
Public Exhibition		
Post-Exhibition Report to Council		
Finalisation of the Planning Proposal		
Council Exercises Delegation to Prepare LEP		
Draft LEP by Parliamentary Council		
Opinion Issued and LEP Made		

PROPOSED

A bulk storage and reload facility is proposed that would handle, store and transport the materials. The facility would handle ammonia nitrate emulsion, ammonium nitrate, oxidising agents, gassing solutions and a small quantity of blasting agents, classified as 'dangerous goods'. The applicant has stated the quantity of blasting agents held onsite would replace a comparable quantity currently stored approximately 1 kilometres southeast, used for blasting in a limestone quarry. It should be noted this proposal cannot ensure that transfer takes place.

The applicant has stated the proposed facility would provide integrated drill and blast services to support the quarrying, mining and civil construction industries within the region.

The future facility would be required to operate in accordance with relevant Australian Standards and licenced under the *NSW Explosives Act 2003 and Explosive Regulation 2013*. One of the relevant Australian Standards stipulates setbacks from sensitive receptors, such as dwellings. The Planning Proposal details distance requirements to sensitive receptors and the location of these sensitive receptors in relation to the subject site. However, it should be noted the quantity detailed are only indicative. The exact quantities and distance to receptors will need to be considered in the assessment of any future development application.

The subject site has frontage to Buckaroo Road, a Council road. The Planning Proposal outlines truck movements will commence at 1-3 trucks (50 tonnes per truck) and increase to 2-3 trucks per week after the first twelve months.

The Planning Proposal evaluated industrial zoned land available and land identified in the Comprehensive Land Use Strategy. These sites could not achieve the required separation from established sensitive receptors. The specific characteristics of the subject site lend itself to the proposed development, a future development will be screened from adjoining properties and Buckaroo Road.

The established land uses located on adjoining properties include the Mount Buckaroo Reserve to the south, Council quarry to the west and a privately owned limestone quarry to the southeast. An established haul road connects the existing limestone quarry and quarry office located at 314 Buckaroo Road, Lot 6 DP 619374. The site has been selected for the opportunity to co-locate with the existing limestone quarry. Further, the Council quarry is a suitable adjoining land use as a non-sensitive receptor. The Figure below details these adjoining land uses.



INTENDED OUTCOMES

The subject site is zoned RU1 Primary Production. Hazardous industry and heavy industrial storage establishment are both prohibited within the zone.

The Planning Proposal seeks to enable the development of bulk storage and reload facility for materials considered 'dangerous goods'.

EXPLANATION OF PROVISIONS

The intended outcomes outlined above will be achieved, by inserting the following clause into Schedule 1 Additional Permitted Uses of the LEP:

- 5. Use of certain land at 540 Buckaroo Road, Buckaroo Lot 2 DP 1227923*
(1) This clause applies to land at 540 Buckaroo Road, Buckaroo, Lot 2 DP 1227923.
(2) Development for the purposes of a bulk storage and reload facility for materials considered 'dangerous goods'.

JUSTIFICATION

The DPIE guide to preparing Planning Proposals outlines matters to be addressed in the Planning Proposal. The proponent has addressed these matters. Of particular relevance is the response to Question 1. *Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report* discussed below.

Mid-Western Local Strategic Planning Statement, Our Place 2040

Council's Local Strategic Planning Statement, Our Place 2040 (LSPS) details 12 Planning Priorities. The provision of initial support to amend the LEP to facilitate the bulk storage and reload facility is consistent with Planning Priority 7 *Support the attraction and retention of a diverse range of businesses and industries.*

Mid-Western Regional Comprehensive Land Use Strategy 2010

Council adopted the Comprehensive Land Use Strategy Parts A, B and C in 2010. Part C is the Strategy, Section 1.4.1 outlines the Economic Prosperity Objectives:

The Planning Proposal to facilitate the development of a bulk storage and reload facility is consistent with the below Objective:

- Promote and encourage the establishment of new business and industry by providing adequate land for future employment requirements.*

Council has a supply of land currently zoned industrial (both light and heavy), these supplies are located around each town and near the village of Ulan. Further, Council strategically identifies future opportunities. Both the current zoned land and strategically identified land were considered in the Planning Proposal and due to their location close to sensitive receptors and the sites not being of sufficient size to accommodate the required setbacks, these were not considered appropriate. The industrial land at Ulan is zoned IN3 Heavy Industrial, such uses are permissible with consent, however, the required setbacks for the proposed land use cannot achieve the required setback.

NEXT STEP

If Council supports the recommendation, the next step would involve forwarding the Planning Proposal and a Council resolution of initial support to DPIE seeking a Gateway Determination.

Community Plan implications

Theme	Building a Strong Local Economy
Goal	A prosperous and diversified economy
Strategy	Support the attraction and retention of a diverse range of businesses and industries

Strategic implications

Council Strategies

Mid-Western Regional Local Strategic Planning Statement, Our Place 2040.

Mid-Western Regional Comprehensive Land Use Strategy Part C – Strategy, August 2010.

Council Policies

The forwarding of the Planning Proposal will not require any change to relevant policies.

Legislation

The Planning Proposal has been considered in accordance with Division 3.4 Environmental Planning Instruments - LEPs (previously Division 4) Local Environmental Plans of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Local Environmental Plan 2012*.

Financial implications

Nil.

Associated Risks

If Council does not wish to provide initial support for the Planning Proposal, Council may resolve not to proceed with the Planning Proposal and advise the proponent accordingly.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

22 September 2021

Attachments: 1. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.6 Monthly Development Applications Processing and Determined

REPORT BY THE MANAGER, PLANNING AND DIRECTOR DEVELOPMENT
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, A0420109

RECOMMENDATION

That Council receive the report by the Director Development on the Monthly Development Applications Processing and Determined.

Executive summary

The report presented to Council each month is designed to keep Council informed of the current activity in relation to development assessment and determination of applications.

Disclosure of Interest

Nil.

Detailed report

Included in this report is an update for the month of September 2021 Development Applications determined and Development Applications processing. The report will detail:

- Total outstanding development applications indicating the proportion currently being processed and those waiting for further information
- Median and average processing times for development applications
- A list of determined development applications
- Currently processing development applications and heritage applications.
- Variations to the Mid-Western DCP.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Maintain and promote the aesthetic appeal of the towns and villages within the Region

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Not Applicable.

Legislation

Not Applicable.

Financial implications

Not Applicable.

Associated Risks

Not Applicable.

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

01 OCTOBER 2021

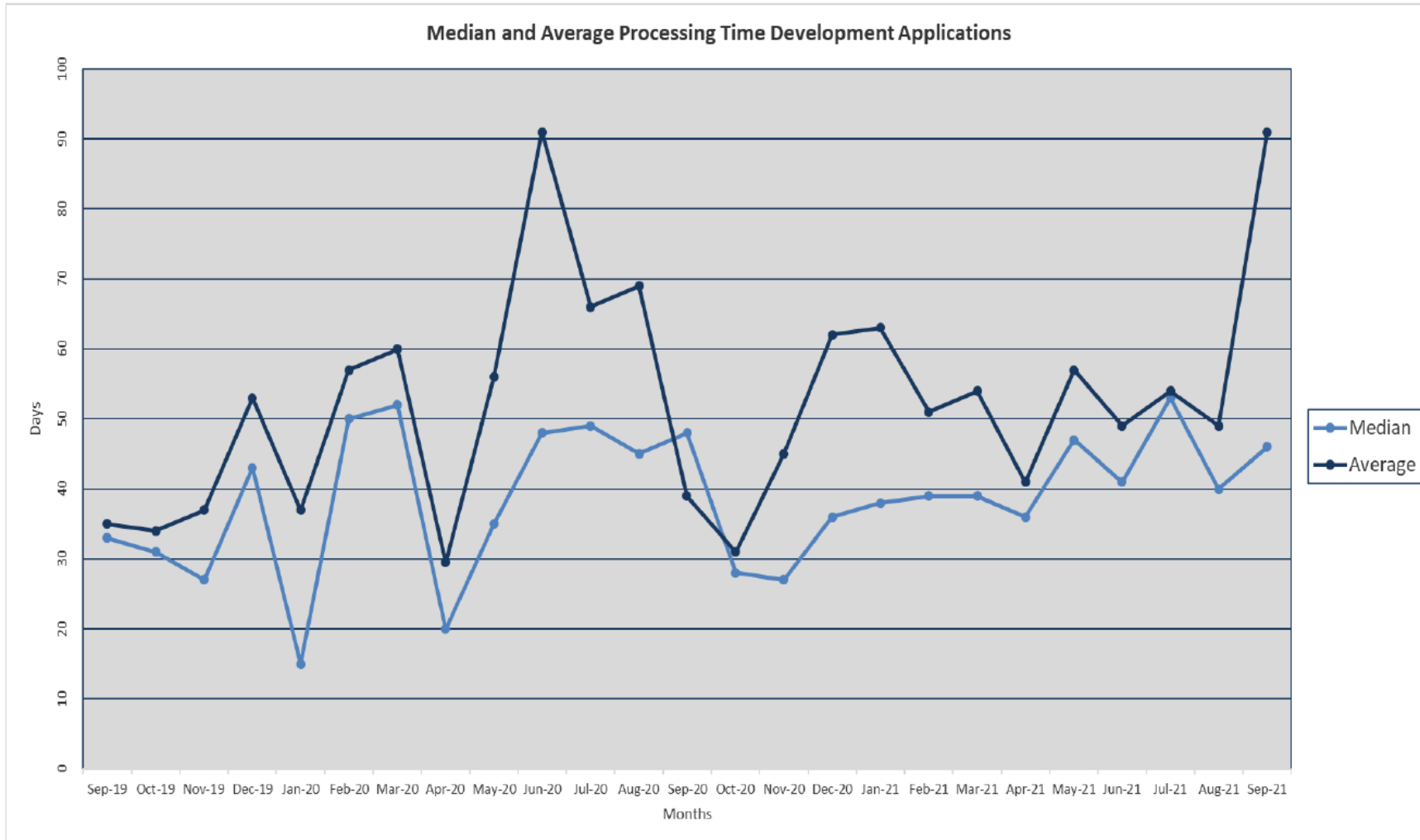
Attachments: 1. Monthly Development Application Processing and Determined - September 2021.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

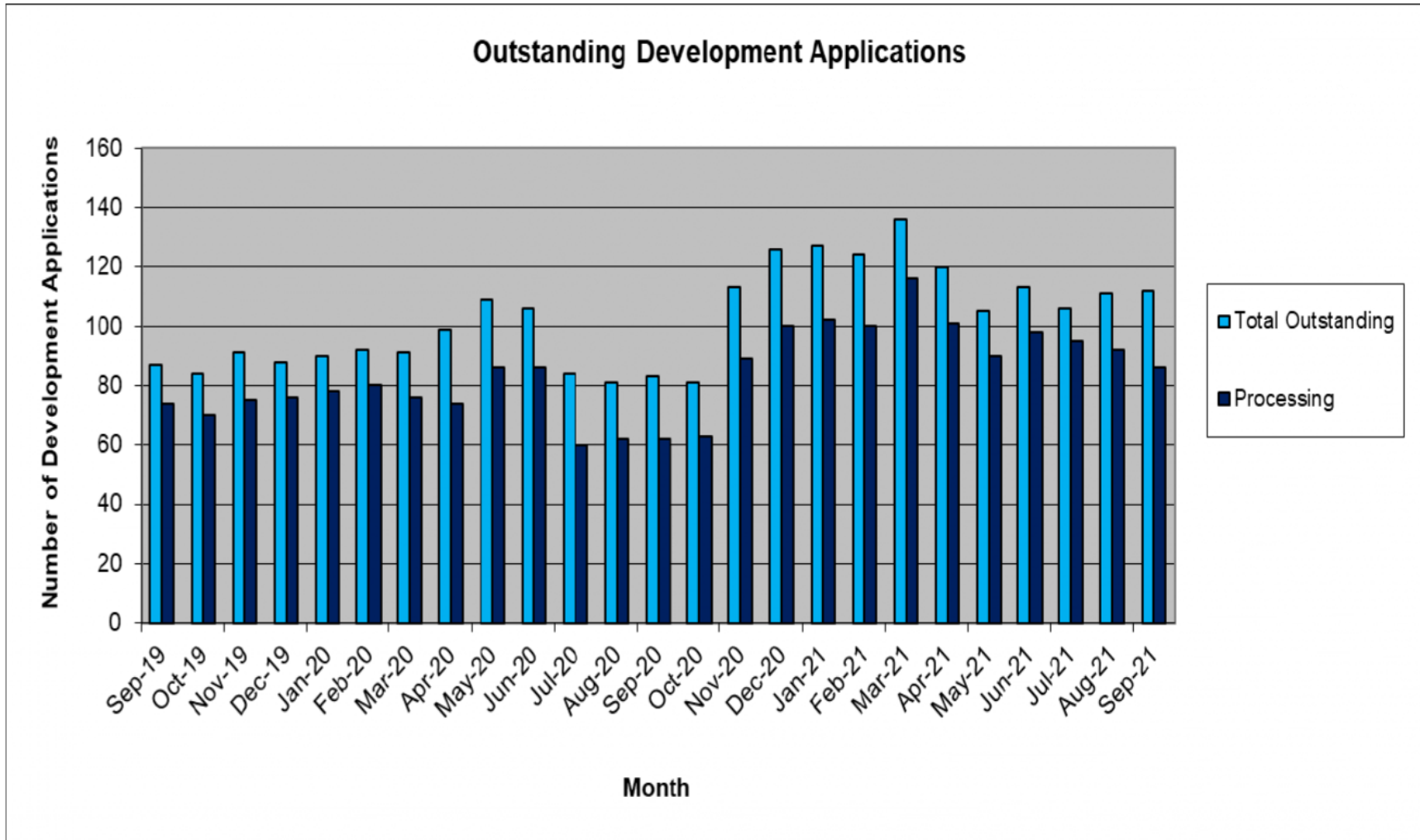
Monthly Development Application Processing Report – September 2021

This report covers the period for the month of September 2021. Graph 1 indicates the processing times up to 30 September 2021 with the month of September having an average of 91 days and a median time of 46 days.



Monthly Development Application Processing Report – September 2021

Graph 2 indicates the total number of outstanding applications, the number currently being processed and the number on “stop clock”.



Monthly Development Application Processing Report – September 2021

The Planning and Development Department determined 29 Development Applications either by Council or under delegation during September 2021.

Development Applications Determined – September 2021

Appl/Proc ID	Description	House No	Street Name	Locality
DA0214/2018	Camping ground	77	Medley Street	GULGONG
DA0125/2021	Subdivision - Torrens Title	199	Reedy Creek Road	RYLSTONE
DA0341/2021	Subdivision - Torrens Title	1245	Coxs Creek Road	COXS CREEK
DA0378/2021	Change of use – shed to dwelling	90	Louee Street	RYLSTONE
DA0383/2021	Child Care Centre	3B	Sydney Road	BURRUNDULLA
DA0424/2021	Residential Shed	61	Denison Street	MUDGEES
DA0427/2021	Dual Occupancy	833	Goolma Road	GUNTAWANG
DA0431/2021	Secondary dwelling	145	Bruce Road	MUDGEES
DA0008/2022	Demolition	842	Ridge Road	COOKS GAP
DA0010/2022	Shed >150m ²	130	Mortimer Street	MUDGEES
DA0017/2022	Retail premises	35	Beryl Road	GULGONG
DA0020/2022	Alterations & Additions	239	Gladstone Street	MUDGEES
DA0026/2022	Other (DA)	153	Market Street	MUDGEES
DA0028/2022	Alterations & Additions	104	Church Street	MUDGEES
DA0030/2022	Dual Occupancy	290	Riverlea Road	RIVERLEA
DA0033/2022	Dwelling House	3	Enfield Avenue	CAERLEON
DA0035/2022	Subdivision - Torrens Title	26	Enfield Avenue	CAERLEON
DA0039/2022	Dwelling House	690	Wollar Road	CROSS ROADS
DA0044/2022	Shed >150m ²	296	Laheys Creek Road	BERYL
DA0045/2022	Other (DA)	11	Tongbong Street	RYLSTONE
DA0047/2022	Dual Occupancy	269	Henry Lawson Drive	EURUNDEREE
DA0050/2022	Garage	90	Market Street	MUDGEES
DA0051/2022	Shed >150m ²	6	Brian Heber Grove	MUDGEES
DA0056/2022	Subdivision - Torrens Title	542	Spring Flat Road	SPRING FLAT
DA0060/2022	Shed >150m ²	17	Waterworks Road	MUDGEES
DA0062/2022	Demolition	30	Denison Street	MUDGEES
DA0064/2022	Alterations & Additions	39	Henry Bayly Drive	MUDGEES
DA0072/2022	Subdivision - Torrens Title	2	Wilbetree Street	GULGONG
DA0073/2022	Shed >150m ²	38	Wurth Drive	BOMBIRA

Monthly Development Application Processing Report – September 2021

***NOTE – four Development Applications were approved with a variation to the DCP as listed below:**

DA number	Number of DCP variation(s)	Level of variation
DA0427/2021	2	Non-numerical (private open space location) >10% (private open space size)
DA0017/2022	2	>10% (sign) >10% (setback)
DA0030/2022	1	>10% (setback)
DA0033/2022	1	>10% (setback)

Monthly Development Application Processing Report – September 2021

Development Applications currently being processed – September 2021.

App/Proc ID	Description	House No	Street Name	Locality
DA0214/2011	Dwelling House	663	Castlereagh Highway	BURRUNDULLA
DA0327/2011	Shed >150m2	23	Horatio Street	MUDGEE
DA0102/2016	Dwelling House	705	Windeyer Road	GRATTAI
DA0343/2016	Commercial Alterations/Additions	137	Ulan Road	PUTTA BUCCA
DA0266/2017	Residential Shed	3	Cudgegong Street	RYLSTONE
DA0058/2018	Fence	1	Dunphy Crescent	MUDGEE
DA0142/2018	Subdivision - Torrens Title	38	Rifle Range Road	MUDGEE
DA0089/2019	Change of use – shed to dwelling	2037	Coxs Creek Road	RYLSTONE
DA0263/2019	camping ground	40	Grevillea Street	GULGONG
DA0282/2020	Boundary Adjustment	470	Castlereagh Highway	BURRUNDULLA
DA0024/2021	Subdivision - Community Title	20	Sydney Road	MUDGEE
DA0025/2021	Caravan Park	196	Rocky Waterhole Road	MOUNT FROME
DA0053/2021	Change of use – concrete workshop to fabrication workshop	22	Industrial Avenue	MUDGEE
DA0087/2021	Carport	63	Court Street	MUDGEE
DA0157/2021	farm stay accommodation	1307	Castlereagh Highway	APPLE TREE FLAT
DA0166/2021	water storage facility	51	Oaklands Road	MOUNT FROME
DA0199/2021	Change of use – serviced apartment	1	A Sydney Road	MUDGEE
DA0231/2021	Residential Shed	35	Redbank Road	MUDGEE
DA0232/2021	tourist and visitor accommodation	2976	Goolma Road	GOOLMA
DA0302/2021	cafe	24	Cox Street	LUE
DA0324/2021	Commercial Alterations/Additions	548	Hill End Road	ERUDGERE
DA0396/2021	Child Care Centre	26	Melton Road	MUDGEE
DA0405/2021	Shed >150m2	126	Market Street	MUDGEE
DA0411/2021	Residential Shed	52	Norlenbah Lane	ST FILLANS
DA0412/2021	Other (DA)	38	Lions Drive	SPRING FLAT
DA0416/2021	Dwelling House	4	Grant Bruce Court	MUDGEE
DA0429/2021	Dual Occupancy	182	Cudgegong Road	RYLSTONE
DA0433/2021	recreation facility (indoor)	86	Depot Road	MUDGEE
DA0434/2021	Subdivision - Torrens Title	2	Stewart Street	KANDOS
DA0002/2022	Alterations and additions to industrial developmnt	11	Industrial Avenue	MUDGEE

Monthly Development Application Processing Report – September 2021

DA0003/2022	Subdivision - Torrens Title	26	Hone Creek Drive	CAERLEON
DA0006/2022	Subdivision - Torrens Title	26	Hone Creek Drive	CAERLEON
DA0012/2022	Other (DA)	1214	Lue Road	MOUNT FROME
DA0014/2022	business premises	31	Sydney Road	MUDGEE
DA0015/2022	Subdivision - Torrens Title	26	Hone Creek Drive	CAERLEON
DA0023/2022	Shed >150m2	14	Harvey Street	BOMBIRA
DA0024/2022	Shed >150m2	8	Swords Court	MUDGEE
DA0027/2022	Dwelling House	57	Beragoo Road	GRATTAI
DA0036/2022	Shed >150m2	61	White Circle	MUDGEE
DA0037/2022	Alterations & Additions	73	Merinda Street	HARGRAVES
DA0038/2022	Dwelling House	55	Berwick Road	RUNNING STREAM
DA0042/2022	Dwelling House	3	Carwell Street	RYLSTONE
DA0046/2022	Shed >150m2	3	Redbank Road	MUDGEE
DA0048/2022	Dwelling House	170	Ulan Road	BOMBIRA
DA0049/2022	Shed >150m2	41	Winter Street	MUDGEE
DA0052/2022	Alterations & Additions	169	Pyangle Road	CAMBOON
DA0053/2022	Dwelling House	38	Hill End Road	CAERLEON
DA0054/2022	Ancillary Residential Development	25	Burrundulla Avenue	MUDGEE
DA0055/2022	Dwelling House	176	Spring Ridge Road	GULGONG
DA0059/2022	animal boarding or training establishment	31	Blain Road	CAERLEON
DA0061/2022	secondary dwelling	705	Kains Flat Road	KAINS FLAT
DA0063/2022	Subdivision - Torrens Title	165	Robertson Street	MUDGEE
DA0065/2022	Subdivision - Torrens Title	2	Worobil Road	GULGONG
DA0067/2022	Garage	577	Burrundulla Road	BURRUNDULLA
DA0068/2022	Dwelling House	60	Knox Crescent	CAERLEON
DA0069/2022	Alterations and additions to industrial developmnt	12	Industrial Avenue	MUDGEE
DA0071/2022	Dual Occupancy	58	Saleyards Lane	MUDGEE
DA0077/2022	Dwelling House	36	Saleyards Lane	MUDGEE
DA0078/2022	Dwelling House	38	Saleyards Lane	MUDGEE
DA0079/2022	Dual Occupancy	54	Saleyards Lane	MUDGEE
DA0081/2022	Shed >150m2	18	Dowling Street	LUE
DA0082/2022	Dual Occupancy	5	Croake Way	MUDGEE
DA0083/2022	Dwelling House	21	Pindari Road	COLLINGWOOD

Monthly Development Application Processing Report – September 2021

DA0084/2022	Other (DA)	643	Campbells Creek Road	WINDEYER
DA0085/2022	Dwelling House	239	Bergalin Road	GULGONG
DA0086/2022	Dual Occupancy	19	Marskell Circuit	MUDGEE
DA0088/2022	Dual Occupancy	26	Saleyards Lane	MUDGEE
DA0091/2022	Garage	4	Robert Jones Street	MUDGEE
DA0092/2022	Dwelling House	19	White Rock Road	RYLSTONE
DA0093/2022	Subdivision - Torrens Title	26	Hone Creek Drive	CAERLEON
DA0094/2022	Dwelling House	96	Madeira Road	MUDGEE
DA0096/2022	Dwelling House	12	Meramie Street	CAERLEON
DA0097/2022	Dual Occupancy	4	Burrundulla Avenue	MUDGEE
DA0099/2022	Shed >150m2	9	Miller Crescent	MUDGEE
DA0100/2022	Other (DA)	29	29 Peru Lane	GULGONG
DA0101/2022	Alterations & Additions	44	Waterhole Road	MOUNT FROME
DA0104/2022	Dwelling House	508	Powells Road	PYANGLE
DA0105/2022	Shed >150m2	26	Wurth Drive	BOMBIRA
DA0107/2022	Demolition	82	Belmore Street	GULGONG
DA0108/2022	Subdivision - Torrens Title	21	Piper Street	RYLSTONE
DA0109/2022	Dwelling House	2	King Street	MUDGEE
DA0110/2022	Dwelling House	1734	Ulan Road	FROG ROCK
DA0111/2022	Demolition	18	Sydney Road	MUDGEE
DA0112/2022	Swimming Pool	35	Lawson Street	BUCKAROO
DA0074/2022	Garage	155	Robertson Street	MUDGEE
DA0095/2022	Facilities for Electric Vehicles	27	Mayne Street	GULGONG
DA0103/2022	Shed >150m2	2232	Bylong Valley Road	RYLSTONE
DA0113/2022	Shed >150m2	3	Harvey Street	BOMBIRA
DA0114/2022	secondary dwelling	47	Roberts Road	GRATTAI
DA0115/2022	Alterations & Additions	1394	Yarrabin Road	YARRABIN

Monthly Development Application Processing Report – September 2021

Heritage Development Applications currently being processed – September 2021.

App/Proc ID	Description	House No	Street Name	Locality
DA0271/2011	Alterations & Additions	87	Short Street	MUDGEE
DA0300/2019	Demolition	80	Nicholson Street	MUDGEE
DA0159/2021	Information and education facility	49	White Street	GULGONG
DA0198/2021	Change of use – residential to serviced apartment	110	Church Street	MUDGEE
DA0224/2021	Commercial Alterations/Additions	23	Louee Street	RYLSTONE
DA0369/2021	Alterations & Additions	22	Queens Street	GULGONG
DA0379/2021	Commercial Alterations/Additions	28	Market Street	MUDGEE
DA0384/2021	Residential Shed	42	Mudgee Street	RYLSTONE
DA0415/2021	Mixed use development	23	Lewis Street	MUDGEE
DA0031/2022	Alterations & Additions	97	Lewis Street	MUDGEE
DA0043/2022	Signage	22	Perry Street	MUDGEE
DA0066/2022	Alterations & Additions	7	Belmore Street	MUDGEE
DA0070/2022	Dwelling House	120	Market Street	MUDGEE
DA0075/2022	Subdivision - Torrens Title	62	Court Street	MUDGEE
DA0076/2022	Alterations & Additions	109	Lewis Street	MUDGEE
DA0080/2022	Dual Occupancy	22	Lawson Street	MUDGEE
DA0087/2022	Demolition	33	Horatio Street	MUDGEE
DA0089/2022	Dwelling House	47	Court Street	MUDGEE
DA0090/2022	Demolition	39	Short Street	MUDGEE
DA0098/2022	Alterations & Additions	21	Cox Street	MUDGEE
DA0102/2022	Demolition	31	Court Street	MUDGEE
DA0106/2022	Dual Occupancy	97	Lewis Street	MUDGEE

8.7 Australia Day Awards

REPORT BY THE MANAGER ECONOMIC DEVELOPMENT
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, CMR200036

RECOMMENDATION

That Council:

1. **receive the report by the Manager Economic Development on the Australia Day Awards;**
2. **appoint an Australia Day Selection Committee of Mayor, Deputy Mayor and Councillor _____ to represent the Community in the 2021 Australia Day award selection; and**
3. **approve recommended criteria for Wall of Reflections recognition.**

Executive summary

Due to the timing of the Local Government Election 2021, a revised timetable is required to be adopted for the Australia Day Awards program. It is recommended that Council nominate a Selection Committee to represent the Community for this 2021 selection process. In addition, this report includes recommended changes to streamline the Wall of Reflections recognition program.

Disclosure of Interest

Nil.

Detailed report

The Selection Committee for the Australia Day Awards is scheduled to meet on 3 December 2021, which is during Caretaker mode of Council. It is therefore recommended that Council appoint a Selection Committee from current Councillors, that can represent the community for this award selection process.

An amended timetable has been developed to support the Awards program through caretaker mode.

The revised timetable is:

- 25/10/21- Nominations for Australia Day Award open to community.
- 22/11/21 - Nominations close.
- 3/12/21 - Selection Committee meet.
- 7/1/22 - Invitations sent to nominees.
- 26/1/22 - Australia Day event – Gulgong.

To preserve the integrity and provide further clarification around the Wall of Remembrance recognition, the following criteria is recommended.

Revised criteria for Wall of Reflections:

1. Community contribution or personal achievement - The individual demonstrated achievement at a high level or made a contribution to the Mid-Western community over and

above what might be reasonably expected through paid employment. Voluntary contribution to the community stands out from others who may have also made a valuable contribution.

2. Period of Passing - The individual has passed between 5-10 years prior to the date of nomination.
3. Resident of the Mid-Western Community – The individual resided in the community for a significant period of their life.

Nomination for this recognition will be provided by the Australia Day Selection Committee and not form part of the community Australia Day Awards nomination process.

The Australia Day Selection Committee will both nominate and select one recipient for the following year's celebration. In the event no recipient meets the above criteria, a recipient will not be awarded for that year. The Selection Committee may seek input from Council staff prior to the Selection Committee meeting.

The Selection Committee member responsible for nominating a recipient must have access to a high quality image of their nominee and details of their achievements as state above, as well as full name, D.O.B. and D.O.D. The contact details of a family member or friend of the recipient will need to be provided to receive the award at the ceremony.

It is recommended that Council endorse a 2021 Selection Committee and approve the recommended criteria for Wall of Reflections recognition.

Community Plan implications

Theme	Looking After Our Community
Goal	Meet the diverse needs of the community and create a sense of belonging
Strategy	Support programs which strengthen the relationships between the range of community groups

Strategic implications

Council Strategies

The Australia Day Awards program supports Council's goal to meet the diverse needs of the community and create a sense of belonging by recognising community members that have contributed to the region over the previous 12 month period.

Council Policies

Not Applicable.

Legislation

Not Applicable.

Financial implications

Nil.

Associated Risks

Nil.

ALINA AZAR
MANAGER ECONOMIC DEVELOPMENT

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

23 September 2021

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Item 9: Finance

9.1 Environmental Upgrade Agreements

REPORT BY THE CHIEF FINANCIAL OFFICER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, A0000000

RECOMMENDATION

That Council:

1. receive the report by the Chief Financial Officer on the Environmental Upgrade Agreements; and
2. endorses the implementation of Environmental Upgrade Agreements for the Mid-Western Regional local government area;
3. delegates the General Manager to appoint a third-party provider to administer Environmental Upgrade Agreements for Council, for a trial period of two years;
4. requests an Environmental upgrade Agreement Policy be developed and brought back to Council for consideration;
5. supports the integration of Environmental Upgrade Agreements within Council's finance systems; and
6. requests a report be brought back to Council at the end of the trial period on the performance of the Environmental Upgrade Agreements.

Executive summary

At the June Ordinary Council Meeting, Council resolved:

That a business plan be completed and a report be brought back to Council to ascertain the cost and benefit of endorsing Environmental Upgrade Agreements.

The purpose of this report is to review the Business Case outcome for Council to offer Environmental Upgrade Agreements (EUA) to business and building owners within the Mid-Western Regional Council area, under a two-year trial period through a third party EUA administrator.

Disclosure of Interest

Nil.

Detailed report

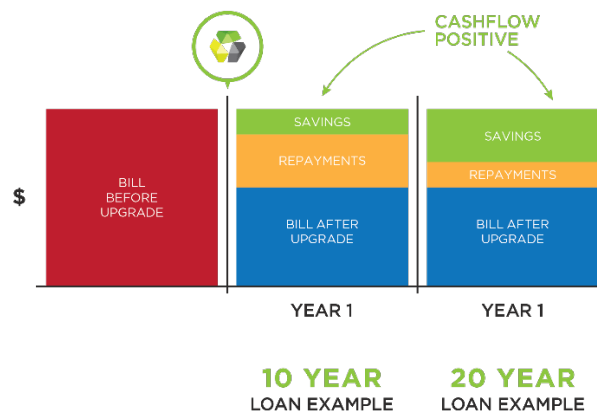
Environmental Upgrade Finance is a type of loan, provided by a third-party lender such as Bank Australia or Credit Suisse, to fund environmental upgrades to a private property. At this time the

finance mechanism is most commonly applied to all types of commercial properties, but discussions are under way with the NSW Government to expand it to residential property.

The loan is secured against the property by an **Environmental Upgrade Charge** raised against the land by Council and quarterly repayments are collected, just like council rates, until the full amount has been paid off. Due to the security provided by the charge raised on the land, businesses can access finance and longer loan terms which may have otherwise been difficult to attain. The details of this loan are documented by an Environmental Upgrade Agreement.

This finance mechanism is specifically used to pay for works that improve the energy, water or environmental efficiency and overall sustainability of commercial and other buildings; a loan that is then repaid by the building owner alongside council rates over an agreed time period.

The finance can be used for a range of projects such as installation of renewable energy systems, new equipment or initiatives to improve energy and water efficiency, or projects that minimise waste, maximise resilience or improve resource efficiency; there just needs to be a measurable sustainability improvement over time, and councils do not pay anything for the service. Due to the reductions in utility charges and other expenses, most projects are cashflow positive from the beginning, freeing up capital for the business:



It is not envisaged that EUAs will be taken up by a large number of businesses across the Mid-Western Region, but it may assist businesses which have been hoping to perform sustainable upgrades but have found the work cost-prohibitive such as motel and accommodation stock, aged care, childcare or retail and tourism facilities.

Benefits:

An Environmental Upgrade Finance program has the potential to deliver advantages through implementing any combination of the following within commercial, retail, agricultural, industrial, healthcare, child-care, aged-care or other types of property (currently excluding residential):

- Solar installation with potential battery connection and/or EV charging points
- Lighting or HVAC upgrade
- Machinery or plant retrofit
- Water or waste efficiency upgrade
- Insulation or cladding improvements
- Broader sustainability upgrades.

Benefits to the Mid-Western Regional Council are many, as Building Upgrade Finance can:

- Assist local businesses to address increasing utility and other operational costs
- Unlock private sector finance so businesses of every size can invest in growth
- Maintain competitive edge by providing opportunities for many types of local businesses that are available in other council areas

- Incentivise local business to stay within or move into the Mid-Western Regional area
- Stimulate local economic activity and help improve business profitability in the region
- Help engage ratepayers to achieve Council's economic and sustainability objectives.

Business and building owners around the Mid-Western Regional Council area benefit through:

- Reduced utility bills with energy, water and waste efficiencies
- Cashflow positive from day one, with savings exceeding repayments in most cases
- Becoming more self-sustainable and resilient, reducing costly economic impacts and stress on local infrastructure through electricity, water and waste demands
- Improved asset value and measurable sustainability gains
- Increased comfort, indoor environmental quality, or tenant attraction
- Long-term fixed-interest loans that enable better long-term budgeting and forecasting.

There are already over 115 examples of projects that have benefitted from Environmental Upgrade Finance around Australia, ranging from just under \$15,000 to over \$4,000,000; these projects have been retail shops, dental clinics, agricultural production facilities, distilleries, offices, warehouses and distribution centres, and many other types.

Process:

Once Mid-Western Regional Council has resolved to offer Environmental Upgrade Finance and set up the Finance Program with the help of a third-party administrator, the finance is established through a three-way contract known as an Environmental Upgrade Agreement (often referred to as "an EUA") drawn up between the building owner, Council, and lender. The loan is used to pay for the building upgrades and the council takes repayments over the term of the agreement alongside the usual rates paid each quarter using the same process, albeit with a different charge notice. Templates for these documents are available from the NSW Government and any third party administrators.

Measurable environmental benefits:

It is anticipated that, in line with other NSW and VIC projects, Environmental Upgrade Finance would principally be used to help install solar, energy efficiency, lighting, battery and insulation upgrades across small, medium, and large projects around the Mid-Western Regional Council area. It is projected that, during the two-year trial period proposed, two smaller projects (i.e. below \$50,000), two medium projects (i.e. below \$100,000) and one large project (i.e. above \$500,000), be targeted with the help of a third party administrator, economic development, community groups, installers and sustainability channel partners. This will allow for a proper calculation of the sustainability benefits achieved, in terms of CO₂e / kWh / MW, kilolitres of water saved, or tonnes of waste avoided, and will help to inform the next steps.

Review of potential options:

- 1) Self-administer Environmental Upgrade Finance arrangements
Whilst this option may initially seem easier, Mid-Western Regional Council would need to develop all of the documentation and templates, finance processes and legislative administration, and would need to undertake the business, economic development and communications processes associated with offering the Finance Mechanism to the local business community.
- 2) Appoint a third-party administration provider on a two-year 'trial' basis
Third-party administration providers now set up and manage the program for each council and remove most of the administration burden from councils, making it easier for building owners and lenders to apply Environmental Upgrade Finance through streamlined processes. There is currently only one known third-party administration provider working in NSW; Better Building Finance currently works with over 45 councils across NSW, SA and VIC to offer these services,

providing finance through Bank Australia and other lenders. Another third-party administration provider recently left the NSW market without establishing any projects.

Better Building Finance only gets paid a processing and administration fee from the building owner, and only when it facilitates a project funded through Environmental Upgrade Finance. Council does not pay any money to Better Building Finance or the lender at any time.

This second option is recommended, and it is suggested that the Council works closely with the third-party service provider to measure the success of the trial period, communicate the case studies around the community, and report back to Council towards the end of the trial period.

It should be noted that NSW Councils that self-administer Environmental Upgrade Finance have been less successful with the amount of projects that have been supported within their LGA's.

Key elements:

Features of Environmental Upgrade Finance include:

- A simple fixed-interest loan repaid with council rates
- Works must have a measurable environmental benefit
- Quarterly repayments are made after an Environmental Upgrade Charge notice is raised and sent out alongside (but separate to) the quarterly rates charge notice
- Whilst interest rates may be different to banks or other lenders variable rates, the long-term nature of the loans allow lenders to offer extended, more consistent terms that others can't, that fit with longer term budgeting, reducing the size of quarterly payments
- Provides 100% project finance for private (rateable) building owners' environmental upgrades – now predominantly smaller and medium size – for many types of property
- Long-term loan repayment terms (5-20 years) can enable cash-flow positive projects
- The loan is tied to the building, not the owner, and can be passed from vendor to purchaser when the property is sold
- Tenants (building occupiers) can also benefit from EUF with significantly reduced utility costs or building performance, with the option to pass repayments through to tenants where their benefits can be quantified and measured
- Councils do not take on any risk or liability for the loan, do not pay for the Environmental Upgrade Finance mechanism, and do not incur any financial costs associated with it
- Organisations such as Better Building Finance are supported by ARENA (Australian Renewable Energy Agency) and Bank Australia to encourage uptake of sustainability initiatives across NSW.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Live in a clean and environmentally sustainable way
Strategy	Support Programs that create environmental awareness and promote sustainable living

Strategic implications

Council Strategies

Not applicable.

Council Policies

It is recommended to develop a Council Policy to provide clear parameters around the management and availability of Environmental Upgrade Agreements. This will be brought back to a future Council meeting, when the Finance processes have been modified and defined to integrate the EUA requirements.

Legislation

Section 54 of the Local Government Act 1993 covers the administration requirements and limitations of Environmental Upgrade agreements:

54D Environmental upgrade agreement

- (1) A council may enter into an environmental upgrade agreement with a building owner and a finance provider in relation to a building.
- (2) An "environmental upgrade agreement" is an agreement under which-
 - a) a building owner agrees to carry out environmental upgrade works in respect of a building, and
 - b) a finance provider agrees to advance funds to the building owner to finance those environmental upgrade works, and
 - c) the council agrees to levy a charge on the relevant land for the purpose of repaying the advance to the finance provider.
- (3) A building owner is a person who is the owner of the land on which the building is erected.
- (4) For a building erected on land that is the subject of a strata scheme, the owners corporation for the strata scheme is taken to be the building owner.
- (5) The function of entering into an environmental upgrade agreement can be delegated by a council only to the general manager of the council. The delegation must specify the building or buildings to which the delegation relates.
- (6) Other persons may also be party to an environmental upgrade agreement.

It should be noted that Council fees under agreement are set out at Section 54H of the Local Government Act 1993.

54H Council fees under agreement

- (1) An environmental upgrade agreement may authorise a council to deduct from any money paid in respect of an environmental upgrade charge, and retain, as a council fee:-
 - a) a service fee, being a fee to cover any costs incurred by the council in entering into, or administering, the agreement, and
 - b) a late payment fee, being the amount, or a part of the amount, charged under the agreement for late payment of an environmental upgrade charge.
- (2) The environmental upgrade agreement must specify the amount of, or a method for calculating, any such council fee.
- (3) Part 10 of Chapter 15 does not apply in respect of a council fee charged under an environmental upgrade agreement.
- (4) However, section 610D applies to the service fee component of the council fee.

The service fee will be required to be set in Councils Fees and Charges, and the fee will be developed and brought back to Council for endorsement with the proposed Policy.

Financial implications

It should be noted that a cost-recovery basis for any Council time spent confirming projects is recommended. A Signing Fee (to be confirmed, but initially suggested at \$250) per agreement signed by the Council during the trial period payable by the third-party provider, as well as an Annual Administration Fee ranging from \$40 to \$200 per EUA signed by the Council during the trial period, which is payable by the property owner at the end of each quarter, for the duration of the term of the EUA. All such cost-recovery measures for staff time would be covered in a formalised Services Agreement with the third-party provider (BBF).

Council is not a lender for any of the upgrade works and therefore will have no capital expenditure.

Promoting, developing and implementing projects will require a limited amount of officer and administrative time. Building owners pay a small administration fee that is based on the size of the loan, so smaller upgrades pay much smaller administration fees.

As Better Building Finance does not charge a fee to council for their services, no tender process is necessary. The processing and administration fees are transparent to the building owner and council at all times, and all processes are undertaken in line with the Local Government Act and any other legislation.

Better Building Finance will provide an accurate schedule of payments when an EUA is set up, to allow the Council's rates and finance team to program the charge notices for the lifetime of the loan.

In the unlikely event of a charge notice not being paid, Council does not take on any liability for the loan but is only requested to undertake 'best endeavours' to recover payments in line with the NSW Local Government Act and in the same way that it would for unpaid rates notices. In the worst-case scenario, whereby a property must be sold to recover unpaid debts, the charge notices would be placed alongside the rates notices for payment.

No budget variation is recommended at this stage, and a variation (if required) will be brought back through a Monthly Budget Report as necessary.

Associated Risks

Risks and liability to Council in the management and delivery of an EUA program

If Council appoints a third-party administration provider on a trial basis, the costs and associated risks include:

Table 1. Costs and risks of third-party administration.

Cost/risk	Comment/solution
Administrative burden for Council to set up the system within Council's finance system.	<p>There are resources required by Council in implementing BBF's online Billing Platform. Support from the IT team, and Council's Finance System consultants will also be required to integrate the online Billing Platform. The current cost of set up is unknown. To partly compensate for this, there is a small cost recovery fee paid to council for their time in integrating and administering the charge:</p> <ul style="list-style-type: none"> • \$250 (proposed) per EUA signed by the Council paid to Council by BBF. • \$40–200 (proposed) annual administration fee paid by the property owner to Council. <p>The online Billing Platform ensures that all the project and finance administration is automatically provided and managed, ensuring that Council has a robust, transparent, and well-governed process. Ongoing maintenance and reporting will be required but is anticipated to have a low impact on internal resources.</p> <p>There is a risk that implementation and integration will be more difficult than initially anticipated, and this could:</p> <ol style="list-style-type: none"> a) Increase the amount of time required to implement the program b) Increase the costs required to develop integration between the two systems, and ensure the system is working

<p>Small percentage of loans would default.</p>	<p>Although Council will need to ensure that the any projects carry an acceptable level of risk, this will be assessed on a case-by-case basis and a report provided by the third party provider (BBF) with full recommendations based on data, financials and documentary evidence.</p> <p>In the event of a charge notice not being paid, Council plays the role of debt-collector and is requested to recover payments in line with the Local Government Act as per unpaid rates notices. Council does not take on any liability for the loan and can recover all legal costs from the sale in a cost-recovery model.</p>
<p>Low uptake.</p>	<p>Since the legislation was enacted in 2011, EUAs have had historically low uptake in NSW, with one of the reasons being as the first EUAs were administered directly by Councils there was a lot of learnings involved with this. Having third party expertise, coupled with the online Billing Platform and promoting smaller sized loans, plus the COVID-19 crisis, may now provide more favourable conditions for businesses to access this 'green' finance.</p> <p>If uptake is low in the Mid-Western Regional LGA, this will come at relatively low risk to Council.</p>
<p>A 'two-year trial' will be a longer-term investment.</p>	<p>A two-year trial means a two-year 'recruitment trial' and will still involve Council being involved with the life of the loan i.e. up to 20 years. The average EUA loan term ranges from between 5–11 years.</p>
<p>Third-party administrator ceases to exist.</p>	<p>If the third-party administrator (BBF) ceases operation, they have written into their contract that an alternate lender (Perpetual) would manage the online billing platform for the life of the EUA loan.</p>

Council has no financial stake in the projects and only acts to facilitate the loan between the property owner and lender. Loans are secured against the property and Council is not obligated to meet repayments in the event that the property owner default or misses a payment; this remains the responsibility of the owner. Council will need to ensure that any projects carry an acceptable level of risk. This will be assessed on a case-by-case basis and utilising the third-party provider.

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

1 September 2021

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

9.2 New and Amended Fees and Charges 2021/22

REPORT BY THE FINANCIAL PLANNING COORDINATOR AND SENIOR ENVIRONMENTAL HEALTH OFFICER

TO 13 OCTOBER 2021 ORDINARY MEETING

GOV400064, FIN300117

RECOMMENDATION**That Council:**

1. receive the report by the Financial Planning Coordinator and Senior Environmental Health Officer on the New and Amended Fees and Charges 2021/22; and
2. add the following new fees, as written, and place on public exhibition for 28 days;

<i>Service Type</i>	<i>New Fee</i>	<i>Fee (\$ Inclusive of GST.)</i>	<i>GST.</i>	<i>Price Policy</i>
Environmental Health – Public Health & Food Hygiene.	Cooling Towers - Inspection fee.	212.00	No	DCR.
Environmental Health – Public Health & Food Hygiene.	Cooling Towers - Notification fee.	115.00	No	STAT.
Environmental Health – Public Health & Food Hygiene.	Public Swimming Pools & Spas - Inspection fee.	212.00	No	DCR.
Environmental Health – Public Health & Food Hygiene.	Public Swimming Pools & Spas - Notification fee.	100.00	No	STAT.

3. amend the following fee amount, as written and place on public exhibition for 28 days;

<i>Service Type /Fee</i>	<i>Fee amount (\$)</i>	<i>Amended fee amount (\$)</i>
New registration – barbers, hairdresser, beauticians (No skin penetration procedures).	135.00	100.00
New notification – skin penetration.	135.00	100.00

4. remove the following fees from 2021/22 Fees and Charges;

<i>Service Type /Fee</i>	<i>Fee Amount (\$)</i>	<i>Condition</i>
New registration – All food premises, whether fixed, temporary, mobile or home based.	67.00	Per registration

5. endorse the new fees following the 28 day public exhibition period if no submissions are received.

Executive summary

This report recommends the introduction of a number of new fees and charges for Public Health along with amendments to other existing fees approved in the 2021/22 Operational Plan. Any new fees that are not legislated are required to be placed on public exhibition to provide the public with opportunity for submission.

All recommended changes are shown below under the detailed report section.

Disclosure of Interest

Nil.

Detailed report

New Fees

The following table provides information about the reason for introduction of new service fees.

<i>Service Type</i>	<i>Reason for new fee</i>
Cooling Towers - Inspection fee	This service has not previously been charged for by Council. Council also administers documentation provided by cooling tower owners as part of Council's obligation under Public Health legislation. It is now intended to commence charging for inspections of cooling towers to cover Council's costs.
Cooling Towers - Notification fee	Required for all Cooling Towers under Section 31 of Public Health Act 2010 and Section 13T of Public Health Regulation 2012
Public Swimming Pools & Spas - Inspection fee	This service has not previously been provided except at Council owned pools for no charge. To fulfil Council's obligation under Public Health legislation it is intended to carry out inspections of all public pools and spas. The proposed inspection fee will cover Council's costs.
Public Swimming Pools & Spas - Notification fee	Required for all Public Swimming Pools & Spas under Section 35(2) of Public Health Act 2010 & Section 19 of Public Health Regulation 2012

Amended Fees

The following table provides information about the reason for amendments proposed to existing fees.

the following fee is proposed to be amended;

<i>Service Type</i>	<i>Reason for change</i>
New registration – barbers, hairdresser, beauticians (No skin penetration procedures)	New barbers, hairdressers and beauty salons has previously been charged a registration fee of \$137. It is now considered appropriate in the interest of fairness to reduce that fee to \$100 in line with the skin penetration notification fee (see below).
New notification – skin penetration	Required for all skin penetration premises under Section 38(2) of Public Health Act 2010 & Section 31 of Public Health Regulation 2012

the following fees are proposed to be removed;

Service Type	Reason for change
New registration – All food premises, whether fixed, temporary, mobile or home based	New food premises registrations have previously been charged \$68. This is no longer considered appropriate. Under the Food Act 2003 a new notification process is now required for which there is no fee applicable.

Community Plan implications

Theme	Good Governance
Goal	Good communications and engagement
Strategy	Improve communications between Council and the community and create awareness of Council's roles and responsibilities

Strategic implications

Council Strategies

If the recommendation is approved and no submissions are received the Operational Plan 2021/22 Fees and Charges will be amended.

Council Policies

Not applicable.

Legislation

In accordance with Section 608 of the Local Government Act, Council may charge and recover an approved fee for any service it provides other than an annual charge made under section 496 or 501.

Section 610F (1) of the Local Government Act states that A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.

These fees must be set with the Operational Plan and can only be amended after the date, if:

- (1) a new service is provided, or the nature or extent of an existing service is changed,
or
- (2) the regulations in accordance with which the fee is determined are amended

Financial implications

This report recommends that the fees and charges within the 2021/22 Operation Plan be amended. Revenue associated with these changes is not anticipated to have a material impact on the 2021/22 Operational Plan or future years.

Associated Risks

Not applicable.

AMANDA COVER
FINANCIAL PLANNING COORDINATOR

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

14 September 2021

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

9.3 Monthly Budget Review - September 2021

REPORT BY THE FINANCIAL PLANNING COORDINATOR
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400087, FIN300315

RECOMMENDATION

That Council:

1. receive the report by the Financial Planning Coordinator on the Monthly Budget Review - September 2021; and
2. amend the 2021/22 budget in accordance with the variations as listed in the Monthly Budget Review attachment to this report.

Executive summary

This report provides Council with information on the progress of the 2021/22 capital works program at 30 September 2021.

Disclosure of Interest

Nil.

Detailed report

Over the period of the financial year, Council has an opportunity to review and approve variances to the Budget. The attachment to this report provides the detailed information of recommended variations.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Not applicable.

Council Policies

Not applicable.

Legislation

Clause 202 of the Local Government (General) Regulation 2005, states that the responsible accounting officer of a Council must:

- a) establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of Council's income and expenditure, and
- b) if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of Council.

Financial implications

The budget variations proposed will impact the below financial ratios.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2021/22	x	-	-
Future Years	-	-	✓

Associated Risks

Not applicable.

AMANDA COVER
FINANCIAL PLANNING COORDINATOR

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

22 September 2021

Attachments: 1. Monthly Budget Review Attachment - September 2021.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



*Good
Government*

MONTHLY BUDGET
REVIEW –
SEPTEMBER 2021

ATTACHMENT 1 – CAPITAL
PROGRAM UPDATE

13 OCTOBER 2021

MID-WESTERN REGIONAL COUNCIL
CORPORATE: FINANCE

■ ■ ■ ■ ■ TOWARDS 2030



1. PROPOSED BUDGET VARIATIONS

FUNDING SUMMARY

Fund	Funding Source	21/22	22/23	Grand Total
General	ASSET REPLACEMENT RESERVE	-3,989		-3,989
	CONTRIBUTIONS	-340,572		-340,572
	GRT - OTHER GRANT INCOME	-622,705		-622,705
	GRT - RECREATION - CAPITAL	-2,904		-2,904
	PLANT REPLACEMENT RESERVE	-37,300	37,300	0
	Unrestricted Cash	-98,510		-98,510
General Total		-1,105,980	37,300	-1,068,680
Grand Total		-1,105,980	37,300	-1,068,680

2021/22 VARIATIONS

Community Plan	Fund	Variation	Expenditure Budget Variation \$	Revenue Funding Source 1	Revenue Funding Source 1 Variation \$	Restricted Funding Source 1	Restricted Funding Source 1 Variation \$	Unrestricted Cash Variation \$
BUILDING A STRONG LOCAL ECONOMY	General	Health Precinct Masterplan - Correction of debits & credits entered incorrectly	149,390	CONTRIBUTIONS	(69,390)	-	0	(80,000)
GOOD GOVERNMENT	General	Owua Bore Assessments Project - Rollover of 2021 EOFY amount and additional grant funding budget	641,856	GRT - OTHER GRANT INCOME	(472,705)	-	0	(8,469)
GOOD GOVERNMENT	General	Plant Purchases - Bring forward replacement of ute with high utilisation	37,300	-	0	PLANT REPLACEMENT RESERVE	(37,300)	0
LOOKING AFTER OUR COMMUNITY	General	Flirtation Hill Development - To cover late invoices for 2021 FY.	9,041	-	0	-	0	(9,041)
LOOKING AFTER OUR COMMUNITY	General	Gulgong Pool Storage Shed - Adding a budget for the invoices that was not paid in 2021 FY.	3,989	-	0	ASSET REPLACEMENT RESERVE	(3,989)	0

CORPORATE FINANCE | MONTHLY BUDGET REVIEW —AUGUST 2021

Community Plan	Fund	Variation	Expenditure Budget Variation \$	Revenue Funding Source 1	Revenue Funding Source 1 Variation \$	Restricted Funding Source 1	Restricted Funding Source 1 Variation \$	Unrestricted Cash Variation \$
LOOKING AFTER OUR COMMUNITY	General	Street Scape Maintenance - Adding Budget to cover the late invoice for 2021 FY.	1,000	-	0	-	0	(1,000)
GOOD GOVERNMENT	General	Owua Small Projects - Adding budget for the Asset Revaluation which will be entirely funded by the participating council.	110,500	CONTRIBUTIONS	(110,500)	-	0	0
LOOKING AFTER OUR COMMUNITY	General	Covid Testing Clinic - Increasing the budget with a risk that the funding might not be recovered from NSW Health.	100,000	GRT - OTHER GRANT INCOME	(100,000)	-	0	0
LOOKING AFTER OUR COMMUNITY	General	Pop-Up Covid Vaccination Clinics - Adding budget with a risk that the funding might not be recovered from NSW Health.	50,000	GRT - OTHER GRANT INCOME	(50,000)	-	0	0
LOOKING AFTER OUR COMMUNITY	General	Mudgee Dog Park Relocation & Upgrade - Adding the budget to account for 2021 FY late invoices paid.	2,904	GRT - RECREATION - CAPITAL	(2,904)	-	0	0
	Total		1,105,980		(805,499)		(41,289)	(98,510)

2022/23 VARIATIONS

Community Plan	Fund	Variation	Expenditure Budget Variation \$	Revenue Funding Source 1	Revenue Funding Source 1 Variation \$	Restricted Funding Source 1	Restricted Funding Source 1 Variation \$	Unrestricted Cash Variation \$
GOOD GOVERNMENT	General	Plant Purchases - Bring forward replacement of ute with high utilisation	-37,300	-	0	PLANT REPLACEMENT RESERVE	37,300	0
	Total		(37,300)		0		37,300	0

1. CAPITAL WORKS PROGRAM

Summary of capital works program as at 30 September 2021.

5.38 M

Actual YTD

206

Capital Projects

\$91.78M

Budget

\$12.68M

Commitments

- This budget total includes proposed revotes from 2020/2021 to 2021/22

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
Looking after our Community							
MUDGEES POUND UPGRADE - RENOVATION & EXTENSION	225	0	225	15	7%	0	Procurement
MUDGEES POUND - SECURITY UPGRADES	20	0	20	0	0%	0	Project Scope
COUNTRY UNIVERSITY CENTER	50	0	50	0	0%	0	Consultation
CEMETERY CAPITAL PROGRAM	16	0	16	0	0%	0	Design
MUDGEES CEMETERY ROAD UPGRADE	25	0	25	0	0%	0	Procurement
PUBLIC TOILETS - CAPITAL UPGRADES - BUDGET ONLY	85	0	85	0	0%	0	Consultation
PUBLIC TOILETS - GOOLMA	11	0	11	0	0%	6	Initial works
PUBLIC TOILETS - CUDGEGONG WATERS	380	0	380	0	0%	0	Consultation
LIBRARY BOOKS	93	0	93	38	41%	0	Construction
STABLES COMPLEX - CAPITAL	41	0	41	0	0%	0	Project Scope
HARGRAVES COURT HOUSE BUILDING - EXTERNAL WORKS	30	0	30	0	0%	0	Project Scope
COMMUNITY CENTRE - COURT STREET CAPITAL WORKS	93	0	93	1	1%	0	Procurement
TOWN HALL - EXTERNAL BRICKWORK	50	0	50	0	0%	0	Project Scope
MUDGEES TOWN HALL THEATRE - AIR-CONDITIONING UPGRADE	50	0	50	0	0%	0	Project Scope
KANDOS HALL & LIBRARY - EXTERNAL PAINTING & KITCHEN UPGRADE	80	0	80	0	0%	0	Consultation
KANDOS HALL & LIBRARY - TOILETS	60	0	60	0	0%	0	Consultation
POOL SHADE PROGRAM	45	0	45	0	0%	0	Project Scope
GULGONG POOL STORAGE SHED	0	4	4	4	100%	0	Complete
GULGONG POOL HEATERS	105	0	105	0	0%	0	Project Scope
MUDGEES SHOWGROUNDS - REDEVELOPMENT	475	0	475	8	2%	471	Initial works
GLEN WILLOW SPORTS GROUND UPGRADES	5,189	0	5,189	863	17%	2,464	Construction
GLEN WILLOW CARPARK	57	0	57	26	46%	1	Construction

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
MUDGEES SHOWGROUND TREE PLANTING *	20	0	20	0	0%	0	Consultation
GLEN WILLOW NETBALL AREA BUBBLER *	10	0	10	0	0%	0	Consultation
VICTORIA PARK MUDGEES - FENCING	60	0	60	0	0%	0	Consultation
GULGONG TENNIS COURTS *	130	0	130	0	0%	0	Consultation
GLEN WILLOW FIELD ONE REFURBISHMENT	550	0	550	0	0%	0	Consultation
MUDGEES DOG PARK RELOCATION & UPGRADE	0	3	3	3	100%	0	Complete
CLANDULLA RECREATION PARK AMENITIES	120	0	120	0	0%	0	Project Scope
VICTORIA PARK GULGONG- GRANDSTAND IMPROVEMENTS	20	0	20	0	0%	0	Consultation
RYLSTONE & KANDOS DOG PARK	90	0	90	0	0%	0	Project Scope
RUGBY UNION SCOREBOARD	348	0	348	0	0%	0	Procurement
GLEN WILLOW STORMWATER RECIRCULATION SYSTEM	350	0	350	0	0%	0	Design
TRAINING CAMP FACILITY - STAGE 1	100	0	100	2	2%	8	Design
BILLY DUNN AMENITIES	323	0	323	6	2%	297	Construction
MUDGEES SHOWGROUNDS - ROAD REHAB AND FENCING	75	0	75	0	0%	0	Project Scope
MUDGEES SHOWGROUNDS - GRANDSTAND FIT-OUT	250	0	250	1	0%	225	Initial works
VICTORIA PARK MUDGEES - SIGHT SCREENS & SEATING	70	0	70	0	0%	0	Project Scope
VICTORIA PARK GULGONG - SHOT PUT/DISCUS REPLACEMENT	25	0	25	0	0%	0	Project Scope
VICTORIA PARK GULGONG - CRICKET WICKET SYNTHETIC REPLACEMENT	8	0	8	0	0%	0	Procurement
MUDGEES SHOWGROUND EQUIPMENT	47	0	47	0	0%	0	Procurement
RED HILL - PATHWAY AND LANDSCAPING UPGRADE*	40	0	40	0	0%	0	Consultation
PASSIVE PARKS - LANDSCAPING IMPROVEMENTS	6	0	6	0	0%	0	Design
SCULPTURES ACROSS THE REGION	27	0	27	1	5%	0	Consultation
PLAYGROUND SHADING PROGRAM	436	0	436	0	0%	196	Initial works
PITTS LANE - LIGHTING *	17	0	17	0	0%	14	Complete
FLIRTATION HILL DEVELOPMENT	0	9	9	9	100%	0	Complete

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
RED HILL CAPITAL WORKS	333	0	333	0	0%	5	Design
CLANDULLA MOUNTAIN BIKE TRAIL DEVELOPMENT *	245	0	245	0	0%	0	Project Scope
MOUFARRIGE PARK FENCE	10	0	10	0	0%	0	Design
PLAYGROUND EQUIPMENT UPGRADE - LAWSON PARK MUDGEES	10	0	10	0	0%	0	Consultation
CORONATION PARK GULGONG - IRRIGATION RENEWAL	30	0	30	0	0%	0	Project Scope
LAWSON PARK MUDGEES -IRRIGATION RENEWAL	30	0	30	0	1%	0	Project Scope
PLAYGROUND EQUIPMENT UPGRADE - RYLSTONE SHOWGROUND	146	0	146	0	0%	0	Consultation
BRIDGE AND STEPS REPLACEMENT - RYLSTONE COMMON	40	0	40	0	0%	0	Consultation
MUDGEES RIVERSIDE - WALKING TRACK IMPROVEMENTS	60	0	60	0	0%	0	Consultation
PASSIVE PARK SIGNAGE REPLACEMENT	21	0	21	0	0%	0	Design
MEMORIAL PARK MUDGEES - PATHWAY	32	0	32	0	0%	0	Consultation
FLIRTATION HILL MUDGEES - MASTER PLAN WORKS*	50	0	50	0	0%	0	Consultation
ART GALLERY FACILITY	1,523	0	1,523	220	14%	13	Construction
STREETSCAPE - STREET BINS	12	0	12	3	22%	0	Initial works
Total	12,843	16	12,859	1,200	9%	3,699	

Protecting our Natural Environment

RURAL WASTE DEPOT UPGRADES	247	0	247	25	10%	0	Consultation
MUDGEES WASTE DEPOT UPGRADES	37	0	37	0	0%	0	Consultation
NEW TIP CELL CONSTRUCTION	100	0	100	0	0%	27	Procurement
WASTE SITES REHABILITATION	50	0	50	0	0%	0	Consultation
REMOTE SECURITY CAMERAS AT WTS	53	0	53	0	0%	0	Consultation
RECYCLING PLANT UPGRADES	193	0	193	0	0%	123	Procurement
LEACHATE POND ENLARGEMENT	440	0	440	35	8%	139	Construction
KANDOS WTS OFFICE REPLACEMENT	115	0	115	70	61%	27	Final works

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
GULGONG WTS OFFICE REPLACEMENT	9	0	9	12	130%	0	Complete
MUDGEES LANDFILL WHEEL WASH	6	0	6	6	101%	0	Complete
CAUSEWAY IMPROVEMENTS	67	0	67	0	0%	0	Project Scope
MUDGEES FLOODPLAIN MANAGEMENT PLAN STAGE 2	150	0	150	0	0%	0	Procurement
KANDOS STORMWATER UPGRADE	441	0	441	196	44%	90	Construction
CULVERTS, SHOULDER & K&G - BELLVUE RD MUDGEES	160	0	160	0	0%	0	Consultation
DRAINAGE INSTALLATION - NICHOLSON STREET MUDGEES	40	0	40	0	0%	0	Consultation
DRAINAGE IMPROVEMENTS- MAYNE STREET GULGONG	58	0	58	0	0%	0	Consultation
PUTTA BUCCA WETLANDS TOILET	95	0	95	0	0%	0	Project Scope
PUTTA BUCCA WETLANDS - PATHWAYS AND CAR PARK*	50	0	50	0	0%	0	Consultation
PUTTA BUCCA WETLANDS INFRASTRUCTURE	613	0	613	0	0%	0	Consultation
WATER NEW CONNECTIONS	95	0	95	34	36%	1	Construction
WATER AUGMENTATION - MUDGEES HEADWORKS	2,273	0	2,273	6	0%	225	Procurement
WATER RYLSTONE DAM UPGRADE	2,063	0	2,063	0	0%	26	Project Scope
WATER MAINS - CAPITAL BUDGET ONLY	665	0	665	0	0%	0	Budget only
WATER MAINS - NICHOLSON ST COURT TO COX	200	0	200	4	2%	11	Initial works
WATER MAINS - BYRON PLACE	40	0	40	21	53%	16	Final works
WATER MAINS - MAYNE STREET	370	0	370	85	23%	52	Construction
WATER MAINS - NICHOLSON ST PERRY ROAD CROSSING	25	0	25	0	0%	0	Initial works
WATER MAINS - NICHOLSON ST COURT ST WEST ROAD CROSSING	25	0	25	0	0%	11	Initial works
WATER MAINS - NICHOLSON ST COURT ST EAST ROAD CROSSING	25	0	25	0	0%	7	Initial works
WATER PUMP STATION - CAPITAL RENEWALS	96	0	96	0	0%	16	Project Scope
RAW WATER SYSTEMS RENEWALS	21	0	21	0	0%	0	Project Scope
WATER RESERVOIR RENEWALS	100	0	100	9	9%	40	Construction
WATER TREATMENT PLANT - RENEWALS	150	0	150	0	0%	0	Design
RURAL CUSTOMER FILL STATIONS	189	0	189	116	62%	45	Final works

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
SEWER NEW CONNECTIONS	25	0	25	5	21%	0	Construction
SEWER AUGMENTATION - RYLSTONE & KANDOS	500	0	500	1	0%	0	Design
SEWER TELEMTRY	17	0	17	14	78%	0	Final works
SEWER MAINS - CAPITAL BUDGET ONLY	900	0	900	0	0%	0	Budget only
SEWER MAINS RELINING	126	0	126	38	30%	98	Complete
RISING MAIN ULAN RD TO PUTTA BUCCA	400	0	400	0	0%	0	Design
SEWER PUMP STATION - CAPITAL RENEWALS	75	0	75	0	0%	0	Project Scope
SEWER PUMP STATION - RACECOURSE MUDGEE	125	0	125	0	0%	0	Design
SEWER TREATMENT WORKS - RENEWALS	101	0	101	0	0%	9	Procurement
SEWER TREATMENT WORKS - GULGONG STP SPILLWAY	30	0	30	0	0%	0	Project Scope
MUDGEE STP EMERGENCY WORKS	73	0	73	4	5%	8	Final works
Total	11,631	0	11,631	680	6%	969	

Building a Strong Local Economy

CUDGONG WATERS CARAVAN PARK - KIOSK & OFFICE	500	0	500	10	2%	2	Design
RYLSTONE CARAVAN PARK - CAPITAL	515	0	515	23	4%	15	Procurement
RIVERSIDE CARAVAN PARK FIRE SERVICES	96	0	96	0	0%	0	Procurement
MUDGEE VALLEY PARK UPGRADE	319	0	319	138	43%	110	Construction
CUDGONG WATERS PARK HOUSE	250	0	250	0	0%	0	Procurement
MUDGEE VALLEY PARK EXPANSION	7,400	0	7,400	26	0%	169	Procurement
DIGITAL SIGNAGE	80	0	80	0	0%	0	Consultation
SALEYARDS - CATTLE CRUSH	17	0	17	0	0%	0	Procurement
PROPERTY - MUDGEE AIRPORT SUBDIVISION	1	0	1	1	101%	0	Complete
PROPERTY - EX SALEYARDS STAGE II	2,500	0	2,500	0	0%	0	Design
COMMERCIAL PROPERTY PURCHASE	1,100	0	1,100	0	0%	0	Consultation
Total	12,778	0	12,778	197	2%	295	

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
Connecting our Region							
URBAN RESEALS - BELMORE ST SEG 10-20,50-90	74	0	74	0	0%	0	Design
URBAN ROADS KERB & GUTTER CAPITAL	27	0	27	5	17%	0	Construction
URBAN REHAB - CHURCH / MEARES ST ROUNDABOUT	701	0	701	448	64%	145	Construction
URBAN HEAVY PATCHING	26	0	26	2	7%	2	Construction
URBAN REHAB - PERCY NOTT*	150	0	150	0	0%	0	Consultation
URBAN REHAB - DUNN STREET KANDOS SEG 10-30	182	0	182	0	0%	0	Consultation
URBAN REHAB - CHARBON	128	0	128	0	0%	0	Consultation
URBAN RESEALS - BOMBIRA	45	0	45	0	0%	0	Design
URBAN RESEALS - CHARBON	65	0	65	0	0%	0	Design
URBAN RESEALS - PUTTA BUCCA	44	0	44	0	1%	0	Design
ROAD EXTENSION - BETWEEN PUTTA BUCCA & GLEN WILLOW	840	0	840	194	23%	299	Construction
URBAN RESEALS - SMALL GULGONG RESEALS	34	0	34	0	0%	0	Design
URBAN RESEALS - SNELSONS LANE SEG 10 GULGONG	16	0	16	0	0%	0	Design
URBAN RESEALS - WHITE ST GULGONG SEG 10 20 50-90	31	0	31	0	0%	0	Design
URBAN RESEALS - ANGUS AVE SEG 40-60 KANDOS	70	0	70	0	0%	0	Design
URBAN RESEALS - DUNN ST KANDOS SEG 40 50	7	0	7	0	0%	0	Design
URBAN RESEALS - BANJO PATERSON AVE MUDGEE SEG 10-40	28	0	28	0	0%	0	Design
URBAN RESEALS - LAWSON ST MUDGEE SEG 30-90	67	0	67	0	0%	0	Design
URBAN RESEALS - MACQUARIE DR MUDGEE SEG 30	24	0	24	0	0%	0	Design
URBAN RESEALS - MEARES ST MUDGEE SEG 10	47	0	47	0	0%	0	Design
URBAN RESEALS - NICHOLSON ST MUDGEE SEG 10-30	58	0	58	0	0%	0	Design
URBAN RESEALS - ROBERTSON ST MUDGEE SEG 10	16	0	16	0	0%	0	Design
URBAN RESEALS - WENTWORTH AVE MUDGEE 10-20	13	0	13	0	0%	0	Design
URBAN RESEALS - SOUTH MUDGEE	53	0	53	0	0%	0	Design

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
URBAN RESEALS - MEROO CRESCENT MUDGEE SEG 10	5	0	5	0	0%	0	Design
URBAN RESEALS - RYLSTONE	32	0	32	0	0%	0	Design
URBAN REHAB - BOMBIRA AVENUE	50	0	50	0	0%	0	Consultation
HORATIO ST/PERRY ST SHOULDER SEALING	55	0	55	0	0%	0	Consultation
URBAN RESEALS - HENNESY PLACE	10	0	10	0	0%	0	Consultation
RESHEETING - URBAN ROADS	16	0	16	0	1%	1	Construction
ROAD SAFETY IMPROVEMENTS - MUDGEE SCHOOLS	60	0	60	0	0%	0	Project Scope
URBAN ROADS LAND MATTERS CAPITAL	24	0	24	1	2%	0	Initial works
GUTTERING BYLONG VALLEY WAY KANDOS	50	0	50	5	9%	6	Design
RURAL SEALED ROADS RESEALS BUDGET ONLY	12	0	12	0	0%	0	Budget only
RURAL SEALED ROAD REHAB & WIDENING - BUDGET ONLY	426	0	426	0	0%	0	Budget only
RURAL REHAB - CUDGEGONG RD	52	0	52	1	2%	49	Complete
RURAL REHAB - BARNEYS REEF RD	124	0	124	79	64%	13	Complete-awaiting invoices
HEAVY PATCHING	48	0	48	14	30%	1	Construction
RURAL REHAB - LUE ROAD MONIVAE SEG 100	469	0	469	9	2%	1	Consultation
RURAL RESEAL - CRUDINE RD SEG 40, 80 & 160	139	0	139	0	0%	0	Design
RURAL RESEAL - BUCKAROO	89	0	89	1	1%	0	Design
RURAL RESEAL - WINDEYER ROAD GRATTAI SEG 10	34	0	34	0	0%	0	Design
RURAL RESEAL - HARGRAVES	120	0	120	0	0%	0	Design
RURAL RESEAL - LUE ROAD LUE SEG 152-165	110	0	110	20	18%	15	Design
RURAL RESEAL - PYRAMUL RD PYRAMUL SEG 140-190	140	0	140	0	0%	0	Design
RURAL RESEAL - MOGO RD WOLLAR SEG 10 40	30	0	30	1	3%	0	Design
RURAL RESEAL - BURRENDONG DAM RD YARRABIN SEG 10	30	0	30	0	0%	0	Design
RURAL RESEAL - RYLSTONE	99	0	99	0	0%	0	Design
RURAL RESEAL - BLACK SPRINGS ROAD SEG 10 20 60 110 120 150	163	0	163	0	0%	0	Design
RURAL RESEAL - BUDGEE BUDGEE	117	0	117	0	0%	0	Design

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
RURAL RESEAL - ST FILLIANS	145	0	145	0	0%	0	Design
RURAL RESEAL - ABATTOIRS RD MENAH SEG 10 20	67	0	67	0	0%	0	Design
RURAL RESEAL - LOWER PIAMONG RD MENAH SEG 10-30	125	0	125	0	0%	0	Design
WILPINJONG MINE ENTRANCES - ULAN WOLLAR RD	536	0	536	93	17%	14	Construction
LUE RD/PYANGLE RD INTERSECTION WIDENING	210	0	210	0	0%	0	Consultation
RURAL SEALED ROAD LAND MATTERS	16	0	16	1	9%	0	Initial works
RURAL SEALED REGIONAL ROAD REPAIR PROGRAM *	800	0	800	0	0%	0	Consultation
MUNGHORN GAP REALIGNMENT & UPGRADE	2,380	0	2,380	100	4%	152	Construction
HILL END ROAD SAFETY IMPROVEMENTS	2,575	0	2,575	70	3%	9	Construction
BVW UPGRADE RNSW 2080	1,416	0	1,416	174	12%	53	Initial works
RURAL SEALED REGIONAL ROAD LAND MATTERS CAPITAL	9	0	9	0	4%	3	Initial works
SEAL EXTENSION - LOWER PIAMBONG RD	578	0	578	7	1%	0	Initial works
SEAL EXTENSION - AARONS PASS RD	1,747	0	1,747	4	0%	0	Initial works
SEAL EXTENSION - QUEENS PINCH RD	5,097	0	5,097	0	0%	0	Consultation
SEAL EXTENSION - COXS CREEK RD	1,360	0	1,360	0	0%	14	Initial works
SEAL EXTENSION - MEBUL RD	724	0	724	448	62%	17	Final works
SEAL EXTENSION - COX STREET LUE	50	0	50	67	134%	0	Final works
SEAL EXTENSION - BOTOBOLAR RD	1,122	0	1,122	15	1%	11	Initial works
SEAL EXTENSION - SPRING FLAT ROAD	250	0	250	39	16%	0	Construction
SEAL EXTENSION - CORICUDGY ROAD	2,354	0	2,354	0	0%	0	Consultation
SEAL EXTENSION - BOCOBLE ROAD	2,265	0	2,265	0	0%	0	Consultation
RESHEETING	2,025	0	2,025	457	23%	60	Construction
UNSEALED ROADS LAND MATTERS CAPITAL	21	0	21	1	5%	0	Initial works
GOODIMAN CREEK BRIDGE REPLACEMENT	1,150	0	1,150	14	1%	8	Procurement
DIXONS LONG POINT CROSSING	1,040	0	1,040	32	3%	84	Project Scope
BRIDGE TO PUTTA BUCCA ROAD	3,108	0	3,108	0	0%	0	Design
GOULBURN RIVER BRIDGE ULAN ROAD	1,456	0	1,456	199	14%	95	Construction

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
ULAN ROAD - BLACKSPRINGS ROAD TO BUCKAROO LANE	402	0	402	86	21%	7	Construction
FOOTWAYS - CAPITAL WORKS	138	0	138	7	5%	0	Construction
PEDESTRIAN - PUTTA BUCCA WALKWAY	28	0	28	30	108%	0	Complete
PUTTA BUCCA ECO TRAIL	134	0	134	136	101%	0	Complete
PEDESTRIAN ACCESS AND MOBILITY PLAN WORKS	370	0	370	163	44%	22	Construction
FOOTPATH - WALKERS OVAL TO CULTURAL PRECINCT	56	0	56	1	2%	49	Construction
SHARED PATHWAY - GLEN WILLOW TO PUTTA BUCCA WETLANDS AREA	87	0	87	14	16%	0	Construction
FOOTPATH - LIONS DRIVE	15	0	15	1	7%	30	Procurement
BUGGY PATH LIGHTING	2	0	2	0	0%	0	Project Scope
AIRPORT HANGER AND STUDIO	250	0	250	1	0%	0	Consultation
CARPARK - MUDGEES COMMON	50	0	50	0	0%	0	Consultation
CARPARK - GULGONG POOL	30	0	30	0	0%	0	Consultation
CBD PEDESTRIAN CROSSING LIGHTING UPGRADE	72	0	72	0	0%	0	Final works
Total	39,506	0	39,506	2,941	7%	1,161	

Good Government

MUDGEES ADMINISTRATION BUILDING UPGRADE	7	0	7	4	63%	6	Design
OLD POLICE STATION CAPITAL	15	0	15	0	0%	8	Consultation
BUILDINGS MASTER KEY SYSTEM	150	0	150	0	0%	0	Project Scope
CONCEPT PLANS FOR MAIN ADMIN BUILDING	775	0	775	11	1%	41	Construction
IT SPECIAL PROJECTS	32	0	32	0	0%	13	Consultation
IT - NETWORK UPGRADES	105	0	105	0	0%	19	Consultation
IT CORPORATE SOFTWARE	152	0	152	33	22%	2	Consultation
IT - DATACENTRE STORAGE ARRAY	150	0	150	0	0%	0	Design
PLANT PURCHASES	8,939	37	8,976	141	2%	6,114	Initial works
SOLAR FARM INITIATIVE	727	0	727	172	24%	350	Design

\$'000	Current Annual Budget	Proposed Variations	Proposed Annual Budget	Actual YTD	Actual YTD/ Proposed Annual Budget	Commitments	Project Status
WORKSHOP CONCRETE WORKS	18	0	18	0	0%	0	Consultation
SOLAR FARM INITIATIVE - STAGE 3	3,953	0	3,953	0	0%	0	Project Scope
Total	15,023	37	15,061	361	2%	6,553	
 Total Capital Works Program	 91,781	 53	 91,834	 5,379	 6%	 12,676	

9.4 Monthly Statement of Investments as at 30 September 2021

REPORT BY THE FINANCIAL PLANNING COORDINATOR
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, FIN300053

RECOMMENDATION

That Council:

1. receive the report by the Financial Planning Coordinator on the Monthly Statement of Investments as at 30 September 2021; and
2. note the certification of the Responsible Accounting Officer.

Executive summary

The purpose of this report is to certify that Council's investments have been made in accordance with legal and policy requirements, provide information on the detail of investments and raise other matters relevant to Council's investment portfolio as required.

Disclosure of Interest

Nil.

Detailed report

The attachment to this report provides information on the performance of the portfolio and provides a register of all investments held as at 30 September 2021.

It is noted that at the time of publishing the 30 September report the TCorp managed fund balances were not finalised. These balances may be subject to change.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Not applicable.

Council Policies

Council's Investments Policy requires a written report each month setting out the entire investment portfolio.

Legislation

As per Clause 212 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer certifies that;

- a) this report sets out details of all money that the Council has invested under Section 625 of the Act, and
- b) all investments have been made in accordance with the Act and the regulations.

Financial implications

Not applicable.

Associated Risks

Not applicable.

AMANDA COVER
FINANCIAL PLANNING COORDINATOR

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

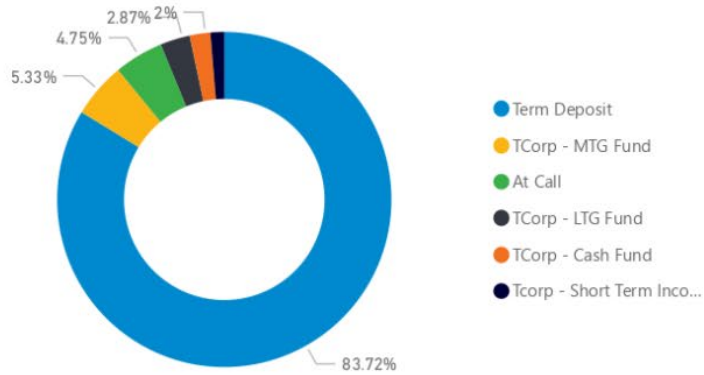
23 September 2021

Attachments: 1. Investment Report 30 September 2021.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Investments by Type

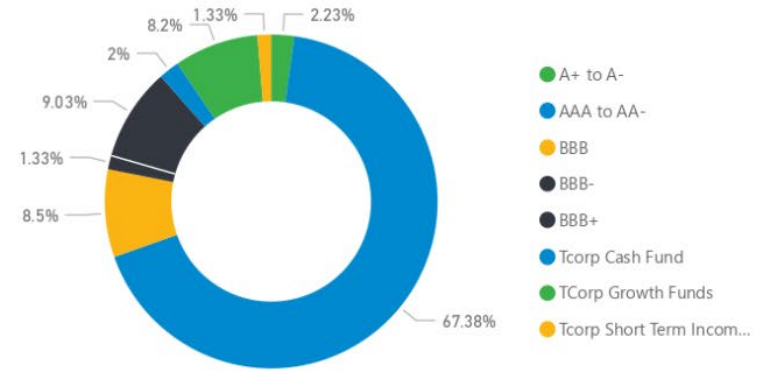


Mid-Western Regional Council Cash and Investments as at 30 September 2021

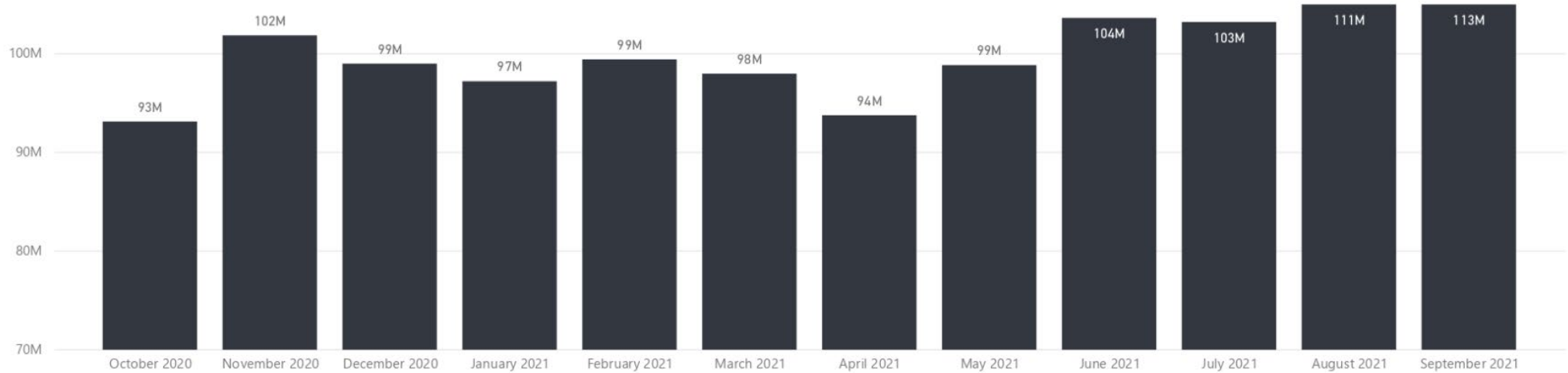
Total Investment Portfolio (\$)

112.90M

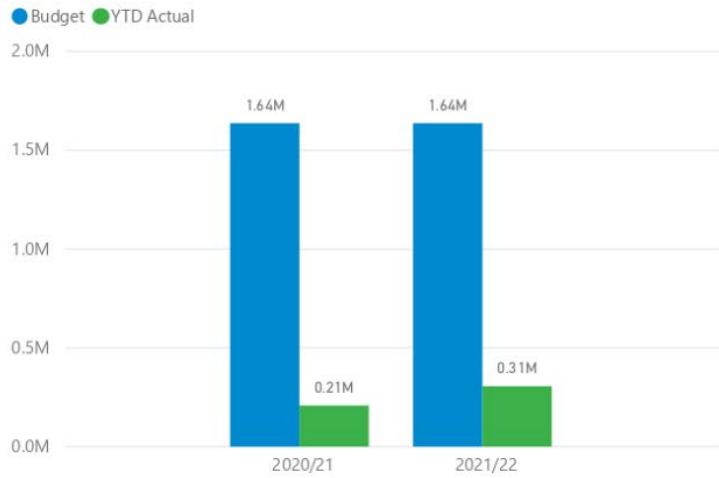
Investments by Long Term Rating



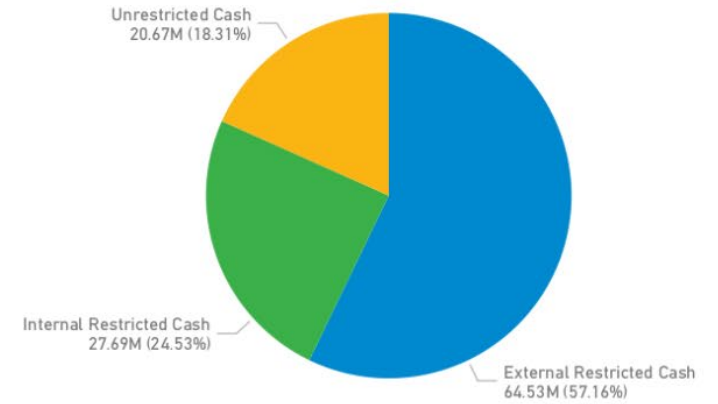
Portfolio Balance at End of Month (\$)



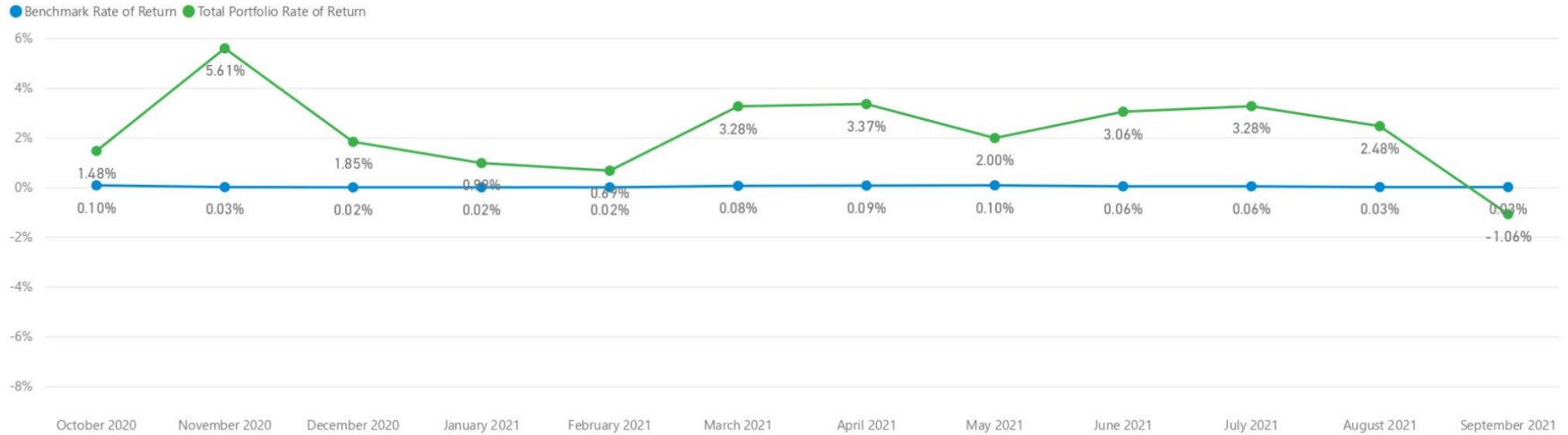
Income from Investments (\$)



Balance by Cash Category (\$)



Investment Performance



At Call Fund and Managed Funds

Institution	Yield	Term to Maturity	Principal	Amount
NAB	0.50%	0	\$	5,365,374
TCorp - Cash Fund	0.50%	1	\$	2,258,969
TCorp - Long Term Growth Fund	0.50%	5	\$	3,238,257
TCorp - Medium Term Growth Fund	0.50%	5	\$	6,018,135
Tcorp - Short Term Income Fund	0.50%	5	\$	1,501,580
Total			\$	18,382,315

Current Term Deposits

Institution	Yield	Term to Maturity	Principal	Amount
AMP	0.75%	69	\$	2,000,000
AMP	0.75%	125	\$	1,500,000
Bank Of Queensland	1.65%	41	\$	2,500,000
Bank Of Queensland	1.60%	139	\$	1,500,000
Bank Of Queensland	1.45%	153	\$	1,000,000
Bank Of Queensland	0.90%	363	\$	1,500,000
Bank Of Queensland	0.50%	300	\$	2,200,000
Bank Of Queensland	0.50%	405	\$	1,500,000
CBA	0.70%	13	\$	1,500,000
CBA	0.68%	55	\$	1,800,000
CBA	0.55%	20	\$	1,200,000
CBA	0.53%	111	\$	2,000,000
CBA	0.53%	125	\$	2,000,000
CBA	0.53%	167	\$	2,000,000
CBA	0.44%	209	\$	2,500,000
CBA	0.43%	195	\$	1,500,000
CBA	0.46%	237	\$	1,500,000
CBA	0.42%	251	\$	1,000,000
CBA	0.42%	265	\$	2,000,000
CBA	0.41%	251	\$	1,000,000
CBA	0.46%	307	\$	1,500,000
CBA	0.46%	293	\$	1,700,000
CBA	0.72%	979	\$	2,000,000
CBA	0.47%	335	\$	1,500,000
CBA	0.50%	391	\$	1,500,000
CBA	0.47%	391	\$	1,000,000
CBA	0.47%	447	\$	1,500,000
CBA	0.85%	1119	\$	2,500,000
CBA	0.48%	475	\$	2,000,000
CBA	0.77%	1077	\$	1,000,000
ING	1.13%	223	\$	1,500,000
Judobank	0.65%	328	\$	1,500,000
Macquarie	1.40%	517	\$	1,014,077
MyState Bank	0.75%	27	\$	2,600,000
MyState Bank	0.52%	279	\$	1,000,000
MyState Bank	0.52%	272	\$	1,500,000
MyState Bank	0.52%	293	\$	1,000,000
NAB	0.87%	321	\$	2,000,000
NAB	0.79%	349	\$	1,500,000
NAB	0.70%	377	\$	1,000,000
NAB	0.61%	83	\$	1,500,000
NAB	0.57%	174	\$	2,000,000
NAB	0.48%	181	\$	2,500,000
NAB	0.57%	517	\$	1,700,000
NAB	0.65%	636	\$	2,000,000
NAB	0.51%	448	\$	1,800,000
NAB	0.45%	419	\$	1,500,000
NAB	0.45%	433	\$	2,000,000
NAB	0.80%	1063	\$	1,500,000
NAB	0.64%	755	\$	3,000,000
NAB	0.45%	461	\$	1,500,000
NAB	0.70%	727	\$	2,500,000
St George	0.60%	97	\$	1,500,000
St George	0.60%	111	\$	1,500,000
Westpac	0.85%	309	\$	2,000,000
Westpac	0.62%	69	\$	1,500,000
Total			\$	94,514,077

Investment Portfolio Summary

Term to Maturity	Amount	Actual	Cumulative Actual	Cumulative Minimum	Policy Compliance
Less than 3 months	\$ 32,982,315	29%	29%	20%	OK
Between 3 months and 1 ye	\$ 47,400,000	42%	71%	40%	OK
Between 1 year and 2 years	\$ 22,514,077	20%	91%	50%	OK
Between 2 years and 4 year	\$ 10,000,000	9%	100%	85%	OK
More than 5 years	\$ -	0%	100%	0%	OK
Total	\$ 112,896,392				

Long Term Rating	Institution	Policy Limit	Policy Compliance (Institution)	% of Portfolio	Amount
AA-	CBA	40%	OK	32%	\$ 36,200,000
	NAB	40%	OK	30%	\$ 33,365,374
	St George	40%	OK	3%	\$ 3,000,000
	Westpac	40%	OK	3%	\$ 3,500,000
A+	Macquarie	20%	OK	1%	\$ 1,014,077
A	ING	20%	OK	1%	\$ 1,500,000
	Bank Of Queensland	10%	OK	9%	\$ 10,200,000
BBB+	AMP	5%	OK	3%	\$ 3,500,000
BBB	MyState Bank	5%	Over Limit	5%	\$ 6,100,000
	TCorp - Cash Fund	30%	OK	2%	\$ 2,258,969
TCorp Growth Funds	TCorp - Long Term Growth Fund	15%	OK	3%	\$ 3,238,257
	TCorp - Medium Term Growth Fund	15%	OK	5%	\$ 6,018,135
TCorp Short Term Income	TCorp - Short Term Income Fund	15%	OK	1%	\$ 1,501,580
BBB-	Judobank	5%	OK	1%	\$ 1,500,000
Grand Total				100%	\$112,896,392

Long Term Rating Group	Credit Policy Limit	Policy Compliance (SP Group)	% of Portfolio	Amount
AAA to AA-	100%	OK	67%	\$ 76,065,374
A+ to A-	50%	OK	2%	\$ 2,514,077
BBB+	20%	OK	9%	\$ 10,200,000
BBB	10%	OK	9%	\$ 9,600,000
TCorp Cash Fund	30%	OK	2%	\$ 2,258,969
TCorp Growth Funds	15%	OK	8%	\$ 9,256,392
TCorp Short Term Income	15%	OK	1%	\$ 1,501,580
BBB-	5%	OK	1%	\$ 1,500,000
Grand Total			100%	\$ 112,896,392

Monthly Investment Portfolio Activity

The below table shows investments activities of At Call Fund and Managed Funds

Bank Accounts	Opening Balance	Redeemed Balance	Re-invested Balance
NAB (At call account)	10,566,449		5,365,374
TCorp - Cash Fund	2,259,089		2,258,969
TCorp - Long Term Growth Fund	3,297,645		3,238,257
TCorp - Medium Term Growth Fund	6,080,004		6,018,135
TCorp - Short Term Income Fund	1,501,641		1,501,580
Total	23,704,828	-	18,382,315

The below table shows matured term deposits

Institution	Yield	Maturity Date	Principal Amount	Total Interest Amount
Westpac	0.80%	1/09/2021	1,000,000	7,978
Westpac	0.80%	15/09/2021	1,500,000	12,427
NAB	0.75%	22/09/2021	2,500,000	19,007
NAB	0.75%	29/09/2021	1,000,000	7,747
Total			6,000,000	47,159

The below table shows new term deposits

Institution	Yield	Maturity Date	Principal Amount	Total Interest Amount
CBA	0.85%	23/10/2024	2,500,000	66,836
CBA	0.48%	18/01/2023	2,000,000	13,256
NAB	0.64%	25/10/2023	3,000,000	41,241
Judobank	0.65%	24/08/2022	1,500,000	8,975

9.5 Community Grants Program - October 2021

REPORT BY THE FINANCIAL PLANNING COORDINATOR
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, FIN3000159

RECOMMENDATION

That Council:

1. receive the report by the Financial Planning Coordinator on the Community Grants Program - October 2021;
2. provide financial assistance to the following applications in accordance with the criteria and guidelines of the Community Grants Policy;

Mudgee Triathlon Club	1,113
Kandos Rylstone Men's Shed Inc.	1,138
Mudgee Lions Club	2,500
Gulgong Chamber of Commerce	7,500

3. decline to provide financial assistance to the following applicants, for the reasons provided in the report;

- Kandos Rylstone Community Radio Inc.

4. amend the following fee description as written to additionally allow a fee waiver for Little Wings, and place on public exhibition for 28 days; and

Service Type /Fee

Fee Amount (\$)

Mudgee Airport – Landing Fees – CareFlight, Child Flight, Sydney SLSA, Air Ambulance, Angel Flight or RFS nSW or charity flights

No charge

5. endorse the amended fee following the 28 days exhibition period if no submissions are received.

Executive summary

This report considers requests for financial assistance under Council's Community Grants Program Policy.

Provision is made in Council's Community Grants Program Policy to provide financial assistance to not-for-profit community-based organisations, groups and individuals that offer a significant contribution to community outcomes and goals as provided in the Towards 2030 Community Plan.

All applications were first reviewed for eligibility and then assessed by a panel of three staff against the following criteria relative to the amount of funding requested:

- Degree of benefit to the community aligned with the community plan.

- Level of consultation and collaboration with other local groups.
- Organisational capacity to deliver the program or project.

Even though an application meets the criteria it may be judged that there is not a significant enough benefit to the community in order to fund or fully fund the request. A summary of each application is shown below, together with panel recommendations.

Applicant	Project/Activity	Funding Request \$	Total Score out of 9	Recommended Amount \$
Mudgee Triathlon Club	Mudgee Pool Fees Wavier	1,113	7	1,113
Kandos Rylstone Community Radio Inc.	Rylstone-Kandos District Newsletter-Community Capers	2,000	6	-
Kandos Rylstone Men's Shed Inc.	Reimbursement of council rates	1,138	6	1,138
Mudgee Lions Club	Mudgee Lions Community Twilight Market and Festival	2,500	8	2,500
Gulgong Chamber of Commerce	Gulgong Chamber of Commerce administration	11,000	7	7,500
Total				12,251

Disclosure of Interest

Nil.

Detailed report

The information provided below gives more detail on each application and the scoring against the policy criteria. Copies of all applications are provided as attachments to the report.

Mudgee Triathlon Club

Mudgee Triathlon Club requests \$1,113 for Mudgee Pool Fees Wavier. The requested amount above is based on pool hire. We hold 7 club races a year including 1 interclub race (against Bathurst, Cowra, Dubbo and Orange).

Link to Community Plan: 1.1.3 Support networks, program and facilities which promote health and wellbeing and encourage healthy lifestyles 1.4.1 Support programs which strengthen the relationships between the range of community groups, 1.4.3 Provide equitable access to a range of places and spaces for all in the community.

COMMUNITY GRANT CATEGORY

Community Grants Category - Community Events: Cap \$ 5,000.

RECOMMENDATION:

\$ 1,113.

The Panel scored the application as a 7 and as it was not a large amount the full amount was recommended.

Kandos Rylstone Community Radio Inc.

Kandos Rylstone Community Radio Inc. requests \$2,000 for Rylstone-Kandos District Newsletter-Community Capers. Publish and distribute monthly community newsletter Community Capers across the region.

Link to Community Plan: 1.1.1 Maintain the provision of high quality, accessible community services that meet the needs of our community 1.4.1 Support programs which strengthen the relationships between the range of community group.

COMMUNITY GRANT CATEGORY

Community Grants Category - Specific Program/ Project: Cap \$10,000.

RECOMMENDATION:

\$ 0.

The Panel scored the application as a 6 but no amount was recommended as they have reached their CAP of \$ 10,000 for the financial year.

Kandos Rylstone Men's Shed Inc.

Kandos Rylstone Men's Shed Inc. requests \$1,138 for Reimbursement of council rates. Obtaining the rate relief will free up funds to assist day to day running of the shed. Seeking Rate relief as per previous years.

Link to Community Plan: 1.1.1 Maintain the provision of high quality, accessible community services that meet the needs of our community 1.3.1 Provide infrastructure and services to cater for the current and future needs of our community, 1.1.3 Support networks, program and facilities which promote health and wellbeing and encourage healthy lifestyle.

COMMUNITY GRANT CATEGORY

Community Grants Category - Specific Program/ Project: Cap \$10,000.

RECOMMENDATION:

\$ 1,138.

The Panel scored the application as a 6 and as it was not a large amount the full amount was recommended.

Mudgee Lions Club

Mudgee Lions Club requests \$2,500 for Mudgee Lions Community Twilight Market and Festival. Combined market and fun festival for the whole community with a festive, Christmas theme. Held each year since 2014 (the 2020 event was held in April 2021 due to COVID restrictions), the principal focus is on fun and activities for all of the family while keeping costs as low as possible and also to get the involvement of as many community groups as possible.

Link to Community Plan: 1.4.1 Support programs which strengthen the relationships between the range of community groups 1.1.1 Maintain the provision of high quality, accessible community services that meet the needs of our community

COMMUNITY GRANT CATEGORY

Community Grants Category - Community Events: Cap \$ 5,000.

RECOMMENDATION:

\$ 2,500.

The Panel scored the application as 8 and there appear to be significant benefits linked with the objectives of Councils Community Plan so the full amount requested was recommended.

Gulgong Chamber of Commerce

Gulgong Chamber of Commerce requests \$11,000 for Gulgong Chamber of Commerce administration. Gulgong Chamber of Commerce administers, finances and operates 5 major community activities. It assists many community groups in our area to help ensure the smooth running of their events staged in the Mid-Western Regional Council area. Administration of the Gulgong Gossip, Mid-Western Mail, Community bus services and Heart of Gulgong are underpinned by program admin and financial input.

Link to Community Plan: 1.1.1 Maintain the provision of high quality, accessible community services that meet the needs of our community 1.3.1 Provide infrastructure and services to cater for the current and future needs of our community, 1.4.1 Support programs which strengthen the relationships between the range of community groups.

COMMUNITY GRANT CATEGORY

Community Grants Category - Specific Program/ Project: Cap \$10,000.

RECOMMENDATION:

\$ 7,500.

The Panel scored the application as 7 and as the amount requested was above the policy's Cap, we recommended 75% of the cap.

Little Wings

In July Council approved \$1,200 in airport landing fee waiver to Little Wings. To recap the organisation summary is provided below and an organisation summary provided as an attachment.

Little Wings provide free air and ground transport for chronically ill and seriously injured children and their family that live in rural and regional NSW, ensuring consistent and long-term access to life saving medical treatment that is only available in city based hospitals. Little Wings is an 89% volunteer led organisation and supports approximately 6 families in the Mudgee region.

In September Little Wings responded thanking Council and requesting to discuss options for future landings at Mudgee Airport. A copy of this correspondence is attached.

Upon review of this situation and the Council's fees and charges, it is noted that there are similar organisations approved to land at Mudgee Airport free of charge for non-emergency charitable medical transportation. It is therefore recommended to extend this type of support to Little Wings. The proposal to amend the fees and charges shall be placed on public exhibition for 28 in order for Council to consider submissions. If submissions are received they will be presented to the next available meeting. If no submissions are received the amended fee is endorsed.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Pursue efficiencies and ongoing business improvement

Strategic implications

Council Strategies

Not applicable.

Council Policies

Recommendations are made under the Community Grants Program Policy.

Legislation

In accordance with the Local Government Act 1993 Section 356 granting of financial assistance must be approved by a Council resolution.

Financial implications

Funding of \$110,000 is provided in the Operational Plan for financial assistance. \$18,826 has already been allocated, leaving a balance of \$91,174. Based on the scoring system above, the recommendation of staff is to provide \$12,251 in financial assistance. Should Council approve the recommendations in the report, a balance of \$78,923 will remain.

Associated Risks

Not applicable.

AMANDA COVER
FINANCIAL PLANNING COORDINATOR

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

22 September 2021

Attachments: 1. Community Grant. (separately attached)
2. Little Wings - Landing Fee Waiver Request.
3. Little Wings.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Neil Bungate

From: Flight Coordinator <flights@LittleWings.org.au>
Sent: Wednesday, 8 September 2021 2:55 PM
To: Council
Subject: Little Wings - Landing Fee Waiver Request

Good afternoon,

I would just like to start by saying a very big thank you for providing us with your generous grant to cover our landing fees at Mudgee Airport. We have paid all outstanding debts related to our Avdata Statement. We are able to use these funds to directly help more children receive treatment within the Sydney Children Hospitals Network.

For future movements in and out of Mudgee Airport, I would like to discuss the option of being granted ongoing landing fee waivers, once approved, is organised through Avdata. I believe this would be of great benefit to both of us in greatly reducing work load. We are currently providing transport fortnightly for a mother and daughter who is attending the Oncology Department at Westmead, so we are expecting several movements over the coming months.

If you would like to discuss further, please do reach out at any time on the below contact.

Hope to talk soon and again, a big thank you for supporting our service.

Best regards,



BROCK BADMAN FLIGHT COORDINATOR
PO Box 86, Georges Hall, NSW 2198
P 02 9709 2570 M 0439 684 642
E flights@littlewings.org.au
W www.littlewings.org.au

[Redacted content]

MID-WESTERN REGIONAL COUNCIL | 2021



CONTACT | CLARE PEARSON
CEO

M | 0499 026 685

E | CLARE.PEARSON@LITTLEWINGS.ORG.AU



**OUR PASSION AND GOALS |
EASING THE JOURNEY**

Little Wings is a children’s charity operating in New South Wales with one simple yet important mission; to provide support and care to sick children and their families by minimising the physical, emotional and financial strain of receiving lifesaving medical treatment.

Little Wings

- Support children, youth & families experiencing financial hardship, disadvantage and isolation across regional NSW
- Ensure access to life saving medical treatment regardless of postcode across NSW
- Work to assist the seriously ill child but to also to nurture families, keeping them united and thriving. In turn, supporting healthy and connected regional communities.

OUR STORY

Little Wings is a nonprofit organization that provides free, professional and safe flight and ground transport services for sick children in rural and regional NSW. We strive to ease the journey and help sick children access specialised medical services and treatments that are only available in major cities or towns. We do everything we can to support families by easing the financial burden, emotional strain and travel fatigue that they experience due to the long-distance travel associated with receiving vital medical treatment. Established in 2012, Little Wings started by providing services to children undergoing cancer treatment at The Children’s Hospital in Westmead, Sydney.

Since then, our services have extended to assist other seriously ill children receiving treatment at The Sydney Children’s Hospital Network and The John Hunter Children’s Hospital in Newcastle. It is our privilege to help families with regular, ongoing medical appointments to travel with ease, and we offer a welcome break to children during their treatment, by bringing them home for some much-needed quality time with family and friends. We believe in keeping families together during some of the most testing times of their lives. Together with our supporters and partners’ assistance and generosity, we will persevere with our mission of making a difference in the lives of sick children in regional New South Wales.

OUR SERVICE

Little Wings pilots collect families from their closet regional airport, flying them into Bankstown Aerodrome or Cessnock Airport, where they will then be greeted and transported to their treating hospital by a Little Wings volunteer driver and in our branded vehicles; transporting families to their treating hospital.

This door-to-door service works to both provide a hygienic and controlled environment for those patients that are immune compromised, but also, eases the journey in the instant but long-term as financial burdens are eased and families have more time together.

Being a 100% donor sponsored service, receiving zero government funding, we rely heavily on the support of community. Allowing us to assist families in need without hesitation. So today, we are seeking your help.

WHAT WE NEED

We are currently supporting a number of families from the Mudgee region, seeing Little Wings fly in and out of Mudgee Airport on a fortnightly basis. Further, one of these children is terminally ill, and subsequently, is flying routine to Westmead Children's Hospital for medical intervention and end-of-life care.

Therefore, we are requesting that all ongoing landing fees be waived. In doing so, you allow us redirect funding into flights, helping us ensure a stable service for families in great need.

YOUR INVESTMENT REALISED

In return for your generous support, you can expect the following:

- Original content provisions and impact reporting to share with your internal and external stakeholders;
- Bi-Annual social tags across various social platforms, highlighting your partnership and support;
- Access to the CEO for presentations and events if required;
- Content and branding in the Little Wings newsletter and annual report.





When families utilise the Little Wings service,
heathy siblings have a 77% increase in school attendance
families remain financially independent
marriages are more stable and home routines more consistent

HELP US SUPPORT FAMILIES ACROSS REGIONAL NSW

1500



The cost of every Little Wings flight. Ensuing that serious ill children with compromised immune systems are transported in safe, comfortable and controlled environments.

89



The percentage of volunteers leading Little Wings every day. Every pilot. Every driver. All volunteers.

55



The number of regions that Little Wings service across NSW. Further supporting children from ACT, NT, VIC and QLD if they are participating in medical trails or accessing specialist treatment at Westmead Children's Hospital.

550



The number of flights conducted annually. With demand increasing, we anticipate this reaching up to 800 flights per year in 2022. We desperately need assistance to respond to growing demand.



3



The number of aircraft that Little Wings own and centrally maintain at Bankstown Aerodrome. All aircraft are Beechcraft Barons; Twin engines, all fitted with modern avionics.

100



The number of children per week receiving support via our Medical Wings program. Seeing specialist teams conduct remote clinics to reach the most isolated.

3MILLION



The number of kilometres safely completed in the air, maintaining a zero harm standard for all. Because we value & prioritise safety in all aspect of the Little Wings service.

4



Our partners. Little Wings have formal MOU agreements in place with The Sydney Children's Hospital Network, Royal Far West, Manly and John Hunter Children's Hospital, Newcastle.

9.6 Hardship Provision Policy - Review for COVID-19 Relief

REPORT BY THE CHIEF FINANCIAL OFFICER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, RAT700035

RECOMMENDATION

That Council:

1. **receive the report by the Chief Financial Officer on the Hardship Provision Policy - Review for COVID-19 Relief;**
2. **place the revised Hardship Provision Policy on public exhibition for 28 days;**
3. **adopt the revised Hardship Provision Policy if no submissions are received; and**
4. **authorise the General Manager to approve fee reductions under the Hardship category of Covid-19 Relief, within the restrictions imposed by the Hardship Provision Policy.**

Executive summary

This report provides for a new category in the Hardship Provision Policy to cover hardship caused by economic impacts on users of Councils facilities from Public Health Order lockdowns associated with COVID-19.

Disclosure of Interest

Nil.

Detailed report

Council's Finance department have conducted a review of the Hardship Provision Policy in order to apply some flexibility around the partial waiver of fees, where appropriate, for facility use that is impacted by Covid-19 lockdowns.

The policy review proposes to add a category of Hardship: LGA, Section 610E: Waiver or reduction of fees under Covid-19 Hardship, and includes Definitions, Eligibility criteria and Provisions.

Community Plan implications

Theme	Looking After Our Community
Goal	Meet the diverse needs of the community and create a sense of belonging
Strategy	Provide equitable access to a range of places and spaces for all in the community

Strategic implications

Council Strategies

2021/22 Operational Plan – Fees and Charges.

Council Policies

- Privacy Management Plan.
- Debt Management and Recovery Policy.

Legislation

LOCAL GOVERNMENT ACT 1993 - SECT 610E.

Council may waive or reduce fees:

- (1) A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F(2) or (3).

Financial implications

This report recommends the ability to reduce fees where a hardship provision under Covid-19 lockdowns is met. Revenue loss associated with these partial waivers is not anticipated to have a material impact on the 2021/22 Operational Plan or future years.

Associated Risks

If delegation for partial fee waivers based on hardship is not provided to the general Manager under this policy change, there is a risk that undue stress may apply to users with regular hire agreements or other facility uses with time delays around reporting to Council, particularly with the Caretaker period coming into action on the 4 November.

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

30 September 2021

Attachments: 1. POLICY - REVISION - Hardship Provision_v2.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Hardship Provisions – Rates and Charges

*A prosperous
and progressive
community.*

EXHIBITION	VERSION NO	2.2
COUNCIL MEETING MIN NO 144/21	REVIEW DATE	MAY 2023
DATE: 49 MAY 2021 13 OCTOBER 2021	FILE NUMBER	RAT700035

Objective

The objectives of this policy are to:

Provide assistance where possible, in accordance with the Local Government Act 1993 NSW (LGA) and the Local Government (General) Regulation 2005 NSW, to those ratepayers who are experiencing substantial financial difficulties in paying their rates and charges.

Provide an administrative process to determine hardship applications.

Legislative requirements

- Local Government Act 1993 NSW
- Local Government (General) Regulation 2005 NSW
- Valuation of Land Act 1916 NSW

Related policies and plans

- Privacy Management Plan
- Debt Management and Recovery Policy

Policy

This Policy recognises that due to exceptional circumstances, ratepayers may at times encounter difficulty in paying rates and charges. The policy provides the framework to be followed in providing assistance to those ratepayers who are suffering substantial financial hardship. A ratepayer in substantial financial hardship is someone who is identified by themselves, the council or an independent financial counsellor as having the intention, but not the financial capacity to make the required payments within the timeframe set out in the rates and charges notice. Where a ratepayer falls within this definition, the council may apply its hardship provision – rates and charges policy.

- 1.1 The Local Government Act 1993 NSW (LGA) specifies a range of assistance measures that Council can provide to ratepayers who are experiencing substantial financial hardship, including those addressed in this policy - sections 567 and 601.

2. Eligibility

2.1 **Rates and Charges Relief** - This Policy is available to the ratepayers of all land categorised as Residential or Farmland for rating purposes within the Mid-Western Regional Council local government area, subject to the "definitions" and "provisions" as disclosed in this Policy.

~~POLICY: HARDSHIP PROVISIONS HARDSHIP PROVISION – RATES AND CHARGES | 2.2, ERROR! REFERENCE SOURCE NOT FOUND, 19 MAY 2021~~

Formatted: Font: 9 pt, Bold, Font color: Accent 1, English (Australia)

2.2 Covid Relief - This Policy is available to users of the relevant community facilities and services within the Mid-Western Regional Council local government area through periods of Public Health Order lockdown, subject to the "definitions" and "provisions" as disclosed in this Policy.

3. Definitions

- 3.1 Ratepayer – the person liable for payment of the rates of the property for which hardship is being claimed.
- 3.2 Residential or Farmland categorisation for rating purposes– all land categorised as Residential or Farmland for rating purposes in accordance with s515 and s516 LGA.
- 3.3 Principal place of residence – the property that the ratepayer occupies as their sole or dominant residence.
- 3.4 Property ownership qualifying period – the applicant, having been the ratepayer on the property for which the application is being made for a period of not less than 1 year.
- 3.5 Mixed developments – those properties which are subject to a Mixed Development Apportionment Factor (MDAF) furnished to Council by the Valuer General and are rated in accordance with the MDFA as part Residential and part Business. The part of the property that is subject to an MDFA and rated as Residential only, is to be considered in the calculation of the increase.
- 3.6 Rates payable calculation test – the increase in the general rates levied as a result of a General Revaluation must be, at the minimum, 25% above the previous year's rate levy, including any permissible rate increase adopted by Council in accordance with s506 & s508a LGA.

LGA, Section 567(c): Writing off of accrued interests

- 4.1 Accrued interest on overdue rates and charges may be written off where payment of the accrued interest would cause the ratepayer financial hardship.
- 4.2 Provisions.
- 4.3 The applicant/s must be the ratepayer/s of the property.
- 4.4 The property for which the ratepayer/s is requesting assistance is the only property in which the ratepayer/s has an interest.
- 4.5 The property must be the ratepayer/s principal place of residence.
- 4.6 The property must be land categorised as either Residential or Farmland for rating purposes.
- 4.7 The residential component of mixed developments will only be considered for the hardship provision assistance.
- 4.8 The ratepayer/s must enter into a payment agreement in accordance with s564(1) LGA, facilitated by Council's Debt Recovery Policy, for settlement of the overdue rates and charges.
- 4.9 Interest on overdue rates and charges will be written off, provided that the ratepayer/s honours the payment agreement entered into in accordance with s 564(1) LGA relating to the payment of

POLICY: [HARDSHIP PROVISIONS](#) [HARDSHIP PROVISION—RATES AND CHARGES](#) | [ERROR! REFERENCE SOURCE NOT FOUND.2.4](#)
[ERROR! REFERENCE SOURCE NOT FOUND.19 MAY 2021](#)

Formatted: Font: 9 pt, Bold, Font color: Accent 1, English (Australia)

the overdue amounts. If the payment agreement is not adhered to, the accrued interest on the overdue rates and charges will not be written off.

4.10 Only one successful application will be granted within the current ratepayer's ownership period.

LGA, Section 601: Hardship Resulting from certain Valuation Charges

5.1 A ratepayer who suffers substantial financial hardship as the consequence of the making and levying of a rate on the most recent valuation may apply to council for deferral of payment of the calculated amount as stipulated in the provisions, below. The rate will not be waived or reduced.

5.2 Provisions:

5.3 Assistance is only available in relation to general purpose rates. No assistance is provided for any other charges or special rates levied on the property.

5.4 Assistance is only available in the first year that the new valuations are used to levy the general purpose rate, i.e. only to 30 June of the financial year in which the general purpose rate was levied.

5.5 The application must be made within 3 months of the posting date of the Rates and Charges Notice in the first year of the use of the General Revaluation for rating purposes.

5.6 The applicant/s must be the ratepayer/s of the property and satisfy the property ownership qualifying period.

5.7 Hardship Provision relief will not be considered if the ratepayer/s has been convicted of fraud within the past 10 years.

5.8 The property must be the ratepayer/s principal place of residence.

5.9 The property must be land categorised as either Residential or Farmland for rating purposes.

5.10 The residential component of mixed developments will only be considered for the hardship provision assistance.

5.11 Applications for assistance must meet the 'rates payable calculation test'.

5.12 The ratepayer/s must enter into a payment agreement in accordance with s564(1) LGA, facilitated by Council's Debt Recovery Policy, for settlement of the deferred amount.

5.13 Interest on outstanding deferred amounts will not accrue, provided that the ratepayer/s honours the payment agreement entered into in accordance with s 564(1) LGA relating to the payment of the deferred amount. If the payment agreement is not adhered to, interest, in accordance with s566 LGA, will apply from the date of the default.

LGA, Section 610E: Waiver or reduction of fees under Covid Hardship Category

6.1 A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced. This Category also covers non-commercial leases and licenses for community facilities.

~~POLICY: HARDSHIP PROVISIONS HARDSHIP PROVISION – RATES AND CHARGES | 2.2, ERROR! REFERENCE SOURCE NOT FOUND, 19 MAY 2021~~

Formatted: Font: 9 pt, Bold, Font color: Accent 1, English (Australia)

6.2 Provisions:

6.3 The applicant must have a:

- a) ~~fee/s currently payable;~~
- b) ~~sundry debtor listing for regular fee amounts;~~
- c) ~~amount owing for community facility leases and licences; or~~
- d) ~~have paid or prepaid a fee, license or lease relevant to a facility use during the period of lockdown~~

Formatted: Font: (Default) +Body (Arial)

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.74 cm + Indent at: 1.38 cm

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial), 11 pt, Not All caps

Formatted: Font: (Default) +Body (Arial), 11 pt, Not All caps

~~that is material in nature (more than \$200 cumulative value).~~

~~6.4 The applicants use of the facilities must be impacted by the Covid-19 Public Health lockdowns, and the applicant must be able to describe a nexus between the Council fee charged and impact of the lockdown.~~

~~6.5 Fee waivers will be capped at 50% reduction or a cumulative maximum of \$2,500 (whichever is the lesser). This cap amount is a maximum and the amount of reduction/partial waiver will be at Councils discretion and dependant on:~~

- a) ~~impact of the fee;~~
- b) ~~use of the facility/service; and~~
- c) ~~ability of the user to pursue alternate options.~~

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.74 cm + Indent at: 1.38 cm

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial)

Formatted: Font: (Default) +Body (Arial), All caps

Formatted: List Paragraph, Indent: Left: 1.38 cm

~~6.6 Interest on outstanding fees and accounts may be waived in full, provided that the applicant has contacted Council to address the outstanding debtor account within a period of 90 days (from due date). Interest waivers are additional and not counted within the fee waiver cap.~~

~~6.7 Delegation for waivers and fee reductions is granted to the General Manager. The General Manager may sub-delegate this authority as appropriate.~~

~~6.8 This category is relevant only to fees, licenses or leases applicable from 1 August 2021, that meet all above provisions.~~

Procedure

7.1 Applications for Hardship Provision ~~–Rates and Charges~~ must be made on the Hardship Assistance application form available from Council's website or from any of Council's offices.

7.2 All Hardship Provision ~~–Rates and Charges~~ applications will be determined in accordance with Council delegations and where considered necessary, will be discussed only in a meeting of Council which is closed to the public.

7.3 Further information, supporting documentation or an interview with the ~~ratepayer/applicant~~ may be requested, if considered necessary, to fully understand the issues causing hardship.

7.4 All Hardship Provision ~~–Rates and Charges~~ applicants will be advised in writing of Council's decision within 30 days of receipt of the application.

7.5 Any applicant dissatisfied with Council's decision may request that the application be reconsidered. Such requests must be made within 7 days of being advised that the initial application was unsuccessful.

POLICY: ~~HARDSHIP PROVISIONS~~ ~~HARDSHIP PROVISION~~ ~~RATES AND CHARGES~~ | ~~ERROR! REFERENCE SOURCE NOT FOUND.2.4~~
~~ERROR! REFERENCE SOURCE NOT FOUND.19 MAY 2021~~

Formatted: Font: 9 pt, Bold, Font color: Accent 1, English (Australia)

7.6 All applicants have the obligation of informing Council within 21 days of any change in circumstances that may affect ultimate eligibility under the Hardship Provision ~~—Rates & Charges~~ ~~Policy~~.

7.7 All data collected through the Hardship Provision ~~—Rates and Charges~~ process will be dealt with by way of Council's Privacy Management Plan.

7.8 Sections 564(2), 567(a) and 567(b) LGA allow Council to write off or reduce interest accrued on rates and charges if a person complies with an agreement as to periodical payment or if the person was unable to pay the rates and charges by the due date for reasons beyond that person's control. These sections do not refer to financial hardship and are therefore covered in Council's *Debt Recovery Policy*.

Variations

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.

9.7 Retail & Other Commercial Leases (COVID-19) Amendment Regulation NSW 2021

REPORT BY THE MANAGER PROPERTY AND REVENUE AND PROPERTY OFFICER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400087, COU500044, PUB600025

RECOMMENDATION

That Council:

1. **receive the report by the Manager Property and Revenue and Property Officer on the enacted Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021;**
2. **authorise the General Manager to receive, negotiate, determine and approve all commercial or retail rent relief offers that meet the eligibility criteria in accordance with the *Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 (NSW)* during the period between 13 July 2021 and 13 January 2022; and**
3. **receive further reports documenting the amounts waived by the General Manager during the prescribed period between 13 July 2021 and 13 January 2022.**

Executive summary

The purpose of this Report is to inform Council of its obligation in accordance with *The Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021* (the Regulation) to provide rent relief to its commercial or retail tenants who have been impacted by the COVID-19 pandemic and who qualify for this relief; and to seek Council's resolution to delegate the negotiation, determination and approval of the relief in accordance with the Regulation, to the General Manager.

The Regulation is attached to this report as Attachment 1.

The relief is to be negotiated between the parties and negotiations are governed by the Regulation and the *National Code of Conduct for commercial tenancies – leasing principles* (the Code).

The Code is attached to this Report as Attachment 2.

The period this Regulation applies to is 13 July 2021 to 13 January 2022 – a period of 6 months.

Disclosure of Interest

Nil.

Detailed report

The COVID-19 pandemic has created a health and economic crisis globally and unfortunately this extends to the communities and local economy of the Mid-Western Region. Key industries of

tourism, hospitality and retail have been most significantly impacted to date as a result of emergency orders imposed by the government to reduce the risk and severity of the pandemic. It is important to note that the flow on impact of reductions in income and expenditure will ultimately impact the broader local economy.

On 14 July 2021, the NSW Government enacted the Regulation. Amendments passed on 13 August 2021 provided even greater protections to impacted tenants by reinstating National Cabinet's Code.

The Regulation requires landlords to renegotiate rent having regard to the Code. This requires landlords to provide rent relief in proportion with tenant's decline in turnover. Of the rent relief provided, at least 50 per cent must be in the form of a waiver, and the balance a deferral.

The eligibility criteria and the possible rent reductions and/or waivers allowable are;

Eligibility

- A commercial or retail tenant will be eligible for the rent relief protections if their business has annual turnover of less than \$50 million and is eligible for any of the following supports: the 2021 COVID-19 Micro-business Grant, 2021 COVID-19 Business Grant or the 2021 *JobSaver* Payment. Additionally, businesses that would have been eligible for one of these supports if they had not received the Commonwealth COVID-19 Disaster Payment are also eligible.
- Generally, businesses that have experienced a decline in turnover of at least 30 per cent due to the public health orders will be eligible. Not-for-profits must have at least a 15 per cent decline, corresponding with their eligibility under the *JobSaver* payment.

What rent reductions must property owners provide?

- Under the Regulation, property owners must renegotiate rent with eligible tenants in good faith having regard to the leasing principles in the Code and the economic impact of the COVID-19 pandemic.
- Under the leasing principles, property owners are required to reduce rent in proportion to the tenant's decline in turnover. This means if a tenant has experienced a 40 per cent decline in turnover due to COVID-19, then the property owner must provide a 40 per cent reduction in rent.
- As a default position, at least 50 per cent of any rent relief must be in the form of a rent waiver with the remainder a rent deferral. Any deferred rent must be paid back over the balance of the lease or for a period of no less than 24 months, whichever is greater.

Tenants should provide evidence of their decline in turnover to Council to enable the calculation of the appropriate rent reduction. Evidence could include a Business Activity Statement or an accountant's letter.

Council's commercial property consist of various property portfolios that may qualify for the rent relief as prescribed by the Regulation and Code.

To date, a number of tenants have requested rental relief.

Community Plan implications

Theme	Building a Strong Local Economy
Goal	A prosperous and diversified economy
Strategy	Support the attraction and retention of a diverse range of businesses and industries

Strategic implications

Council Strategies

Community Plan Towards 2030.

Council Policies

Not Applicable.

Legislation

The *Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 (NSW)* reintroduced the *National Code of Conduct for commercial tenancies – leasing principles* mandating rent relief for eligible tenants impacted by COVID-19.

Local Government Act 1993.

Financial implications

The legislation allows a property owner to request fortnightly evidence of losses and then calculate rent relief based on the information provided. Therefore, the financial implications of the rent relief cannot be quantified at the present time as they are calculated on the basis of fluctuating fortnightly or monthly impact on individual businesses.

Commercial rent revenue was around \$600,000 last financial year. The amount of relief should be no more than \$300,000 (6 month period of application) – maximum. It is likely to be materially less than this.

The period this Regulation applies to is 13 July 2021 to 13 January 2022 – a period of 6 months.

Budget variations will be processed through Monthly Budget reporting or Quarterly Budget Reviews, as appropriate.

Associated Risks

Council is required by the Regulation and the Code to negotiate rent relief for commercial and retail tenants. There is a genuine risk that the businesses will not be able to pay rent in the short term and may not survive at all in the long term. Should a tenant/operator no longer be able to pay rent and given the uncertainty in the current environment, there will be limited capacity to attract another tenant.

If delegation for rent waivers is not provided to the General Manager as recommended by this Report, there is a risk that undue stress may apply to tenants with time delays around reporting to Council, particularly with the Caretaker period coming into action on the 4 November. Further, there is risk that Council will not meet legislation requirements as listed in this report.

DIANE SAWYERS
MANAGER PROPERTY AND REVENUE

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

27 September 2021

- Attachments:*
1. Retail and Other Commercial Leases (Covid 19) Amendment Regulation 2021.
 2. National Code of Conduct for Commercial Tenancies 2020.
 3. Retail and Other Commercial Leases (Covid 19) Regulation.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



New South Wales

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021

under the

Retail Leases Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retail Leases Act 1994*.

DAMIEN TUDEHOPE, MLC
Minister for Finance and Small Business

Explanatory note

The *Retail and Other Commercial Leases (COVID-19) Regulation 2021* and the *Conveyancing (General) Regulation 2018*, Schedule 5 provide protections for certain commercial lessees (*impacted lessees*) where related businesses have had a fall in turnover due to lockdowns in New South Wales.

The object of this Regulation is to extend those protections as follows—

- (a) to extend the prescribed period, which began on 13 July 2021, until 13 January 2022,
- (b) to prohibit a lessor increasing rent during the prescribed period if the lessee is an impacted lessee,
- (c) to require an impacted lessee to give the lessor evidence that the lessee is an impacted lessee,
- (d) to require lessors and impacted lessees to renegotiate rent and other terms of the lease if 1 party requests the renegotiation,
- (e) to require a renegotiation to be conducted in good faith with consideration being given to the leasing principles set out in the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* (the *National Principles*),
- (f) to require a lessor to do the following before taking action in relation to certain breaches of the lease occurring during the prescribed period—
 - (i) to attempt to mediate the dispute with the impacted lessee, and
 - (ii) to engage in a renegotiation if required,
- (g) to provide that actions an impacted lessee takes to comply with a law are not breaches of a commercial lease,
- (h) to require a court or tribunal to consider the National Principles when considering whether to make certain orders or decisions relating to commercial leases.

This Regulation is made under—

- (a) the *Retail Leases Act 1994*, including sections 85, the general regulation-making power, and 87, and
- (b) the *Conveyancing Act 1919*, section 202, the general regulation-making power.

This Regulation is made with the agreement of the Minister for Customer Service who administers the *Conveyancing Act 1919*.

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Explanatory note

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021

under the

Retail Leases Act 1994

1 Name of Regulation

This Regulation is the *Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 1 Amendment of Retail and Other Commercial Leases (COVID-19) Regulation 2021

Schedule 1 Amendment of Retail and Other Commercial Leases (COVID-19) Regulation 2021

[1] Clause 3 Definitions

Insert in alphabetical order—

National Code of Conduct means the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted on 7 April 2020.

Note. The National Code of Conduct can be accessed at <https://www.pm.gov.au/sites/default/files/files/national-cabinet-mandatory-code-of-conduct-sme-commercial-leasing-principles.pdf>

[2] Clause 3, definition of “prescribed period”

Omit “20 August 2021”. Insert instead “13 January 2022”.

[3] Clause 4 Meaning of “impacted lessee”

Omit clause 4(1)(a). Insert instead—

- (a) the lessee qualifies for 1 or more of the following—
 - (i) 2021 COVID-19 Micro-business Grant,
 - (ii) 2021 COVID-19 Business Grant,
 - (iii) 2021 JobSaver Payment, and

[4] Clauses 6–6E

Omit clause 6. Insert instead—

6 Application of Part

This Part applies if, during the prescribed period, a lessee is an impacted lessee.

6A Provision of information

- (1) An impacted lessee must give the lessor the following information in respect of the impacted lease—
 - (a) a statement to the effect that the lessee is an impacted lessee,
 - (b) evidence that the lessee is an impacted lessee.
- (2) The information—
 - (a) may be given before, or as soon as practicable after, a prescribed breach occurs, and
 - (b) must be given within a reasonable time after it is requested by the lessor.

6B Obligation to not increase rent

The rent payable under an impacted lease must not be increased during the prescribed period, other than rent or a component of rent determined by reference to turnover.

6C Compulsory mediation

- (1) A lessor must not take prescribed action against an impacted lessee on the grounds of a prescribed breach of the impacted lease that has occurred during the prescribed period unless—

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 1 Amendment of Retail and Other Commercial Leases (COVID-19) Regulation 2021

- (a) the matter has been referred for mediation under the Act, Part 8, Division 2, and the Registrar has certified in writing that the mediation has failed to resolve the dispute, and
 - (b) if the lessee has requested a renegotiation under clause 6D, the lessor has complied with that clause.
- (2) Nothing in this clause prevents a lessor and impacted lessee agreeing to action, including prescribed action, being taken in relation to the impacted lease without mediation or without complying with clause 6D.

6D Obligation to renegotiate

- (1) A party to an impacted lease may request that the other parties renegotiate the rent payable under, and other terms of, the impacted lease.
- (2) A party to the impacted lease may make a second or subsequent request under subclause (1), but, unless the parties otherwise agree, an impacted lessee may make a second or subsequent request only if the request—
 - (a) is made during the prescribed period, and
 - (b) does not relate to rent or outgoings for a period for which the rent or outgoings have already been reduced, waived or deferred following a renegotiation under this clause.
- (3) A party to an impacted lease must, if requested under this clause—
 - (a) renegotiate in good faith the rent payable under, and other terms of, the impacted lease, and
 - (b) commence renegotiations within—
 - (i) 14 days of receiving the request, or
 - (ii) another period agreed to by the parties.
- (4) The parties must renegotiate the rent payable under, and other terms of, the impacted lease taking into consideration—
 - (a) the economic impacts of the COVID-19 pandemic, and
 - (b) the leasing principles set out in the National Code of Conduct.
- (5) If the impacted lessee does not comply with subclauses (3) or (4) or clause 6A, the lessor is taken to have complied with this clause.
- (6) To avoid doubt, a renegotiation commenced but not concluded before the expiry of the prescribed period may be continued and concluded after the expiry.

6E Actions required by law are not breaches

An act or omission of an impacted lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—

- (a) is taken not to amount to a breach of the impacted lease to which the impacted lessee is a party, and
- (b) does not constitute grounds for termination of the impacted lease or the taking of any prescribed action by the lessor against the impacted lessee.

[5] Part 3, heading

Move heading to after clause 7.

[6] Clause 8 Dispute resolution

Omit “clause 4(2)” from clause 8(2), definition of *impacted commercial lease dispute*.

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 1 Amendment of Retail and Other Commercial Leases (COVID-19) Regulation 2021

Insert instead “clause 4C(1)”.

[7] Clause 9A

Insert after clause 9—

9A Tribunal and court consideration of National Code of Conduct leasing principles

The Tribunal or a court, when considering whether to make a decision or order relating to any of the following, must consider the leasing principles set out in the National Code of Conduct—

- (a) the recovery of possession of premises or land from an impacted lessee,
- (b) the termination of an impacted lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor under an impacted lease.

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 2 Amendment of Conveyancing (General) Regulation 2018

Schedule 2 Amendment of Conveyancing (General) Regulation 2018

[1] Schedule 5 Commercial leases—COVID-19 pandemic special provisions

Insert in alphabetical order in clause 1—

National Code of Conduct means the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted on 7 April 2020.

Note. The National Code of Conduct can be accessed at <https://www.pm.gov.au/sites/default/files/files/national-cabinet-mandatory-code-of-conduct-sme-commercial-leasing-principles.pdf>

[2] Schedule 5, clause 1, definition of “prescribed period”

Omit “20 August 2021”. Insert instead “13 January 2022”.

[3] Schedule 5, clause 2(1)(a)

Omit the paragraph. Insert instead—

- (a) the lessee qualifies for 1 or more of the following—
 - (i) 2021 COVID-19 Micro-business Grant,
 - (ii) 2021 COVID-19 Business Grant,
 - (iii) 2021 JobSaver Payment, and

[4] Schedule 5, clauses 4–4E

Omit clause 4. Insert instead—

4 Application of Part

This Part applies if, during the prescribed period, a lessee is an impacted lessee.

4A Provision of information

- (1) An impacted lessee must give the lessor the following information in respect of the impacted lease—
 - (a) a statement to the effect that the lessee is an impacted lessee,
 - (b) evidence that the lessee is an impacted lessee.
- (2) The information—
 - (a) may be given before, or as soon as practicable after, a prescribed breach occurs, and
 - (b) must be given within a reasonable time after it is requested by the lessor.

4B Obligation to not increase rent

The rent payable under the impacted lease must not be increased during the prescribed period, other than rent or a component of rent determined by reference to turnover.

4C Compulsory mediation

- (1) A lessor must not take prescribed action against an impacted lessee on the grounds of a prescribed breach of the impacted lease that has occurred during the prescribed period unless—

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 2 Amendment of Conveyancing (General) Regulation 2018

- (a) the matter has been referred for mediation under the *Retail Leases Act 1994*, Part 8, Division 2, and the Registrar of Retail Tenancy Disputes has certified in writing that the mediation has failed to resolve the dispute, and
 - (b) if the lessee has requested a renegotiation under clause 4D, the lessor has complied with that clause.
- (2) Nothing in this clause prevents a lessor and impacted lessee agreeing to action, including prescribed action, being taken in relation to the impacted lease without mediation or without complying with clause 4D.

4D Obligation to renegotiate

- (1) A party to an impacted lease may request that the other parties renegotiate the rent payable under, and other terms of, the impacted lease.
- (2) A party to the impacted lease may make a second or subsequent request under subclause (1), but, unless the parties otherwise agree, an impacted lessee may make a second or subsequent request only if the request—
 - (a) is made during the prescribed period, and
 - (b) does not relate to rent or outgoings for a period for which the rent or outgoings have already been reduced, waived or deferred following a renegotiation under this clause.
- (3) A party to an impacted lease must, if requested under this clause—
 - (a) renegotiate in good faith the rent payable under, and other terms of, the impacted lease, and
 - (b) commence renegotiations within—
 - (i) 14 days of receiving the request, or
 - (ii) another period agreed to by the parties.
- (4) The parties must renegotiate the rent payable under, and other terms of, the impacted lease taking into consideration—
 - (a) the economic impacts of the COVID-19 pandemic, and
 - (b) the leasing principles set out in the National Code of Conduct.
- (5) If the impacted lessee does not comply with subclauses (3) or (4) or clause 4A, the lessor is taken to have complied with this clause.
- (6) To avoid doubt, a renegotiation commenced but not concluded before the expiry of the prescribed period may be continued and concluded after the expiry.

4E Actions required by law are not breaches

An act or omission of an impacted lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—

- (a) is taken not to amount to a breach of the impacted lease to which the impacted lessee is a party, and
- (b) does not constitute grounds for termination of the impacted lease or the taking of any prescribed action by the lessor against the impacted lessee.

[5] Schedule 5, clause 6A

Insert after clause 6—

Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 [NSW]
Schedule 2 Amendment of Conveyancing (General) Regulation 2018

6A Court consideration of National Code of Conduct leasing principles

A court, when considering whether to make a decision or order relating to any of the following, must consider the leasing principles set out in the National Code of Conduct—

- (a) the recovery of possession of premises or land from an impacted lessee,
- (b) the termination of an impacted lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor under an impacted lease.

National Code of Conduct for commercial tenancies - leasing principles

In negotiating and enacting appropriate temporary arrangements under the Code of Conduct, the following leasing principles should be applied as soon as practicable on a case-by-case basis:

1. Landlords must not terminate leases due to non-payment of rent during the COVID-19 pandemic period (or reasonable subsequent recovery period).
2. Tenants must remain committed to the terms of their lease, subject to any amendments to their rental agreement negotiated under this Code. Material failure to abide by substantive terms of their lease will forfeit any protections provided to the tenant under this Code.
3. Landlords must offer tenants proportionate reductions in rent payable in the form of waivers and deferrals (as outlined under "definitions," below) of up to 100% of the amount ordinarily payable, on a case-by-case basis, based on the reduction in the tenant's trade during the COVID-19 pandemic period and a subsequent reasonable recovery period.
4. Rental waivers must constitute no less than 50% of the total reduction in rent payable under principle #3 above over the COVID-19 pandemic period and should constitute a greater proportion of the total reduction in rent payable in cases where failure to do so would compromise the tenant's capacity to fulfil their ongoing obligations under the lease agreement. Regard must also be had to the Landlord's financial ability to provide such additional waivers. Tenants may waive the requirement for a 50% minimum waiver by agreement.

5. Payment of rental deferrals by the tenant must be amortised over the balance of the lease term and for a period of no less than 24 months, whichever is the greater, unless otherwise agreed by the parties.
6. Any reduction in statutory charges (e.g. land tax, council rates) or insurance will be passed on to the tenant in the appropriate proportion applicable under the terms of the lease.
7. A landlord should seek to share any benefit it receives due to deferral of loan payments, provided by a financial institution as part of the Australian Bankers Association's COVID-19 response, or any other case-by-case deferral of loan repayments offered to other Landlords, with the tenant in a proportionate manner.
8. Landlords should where appropriate seek to waive recovery of any other expense (or outgoing payable) by a tenant, under lease terms, during the period the tenant is not able to trade. Landlords reserve the right to reduce services as required in such circumstances.
9. If negotiated arrangements under this Code necessitate repayment, this should occur over an extended period in order to avoid placing an undue financial burden on the tenant. No repayment should commence until the earlier of the COVID-19 pandemic ending (as defined by the Australian Government) or the existing lease expiring, and taking into account a reasonable subsequent recovery period.
10. No fees, interest or other charges should be applied with respect to rent waived in principles #3 and #4 above and no fees, charges nor punitive interest may be charged on deferrals in principles #3, #4 and #5 above.
11. Landlords must not draw on a tenant's security for the non-payment of rent (be this a cash bond, bank guarantee or personal guarantee) during the period of the COVID-19 pandemic and/or a reasonable subsequent recovery period.
12. The tenant should be provided with an opportunity to extend its lease for an equivalent period of the rent waiver and/or deferral period outlined in item #2 above. This is intended to provide the tenant additional time to trade, on existing lease terms, during the recovery period after the COVID-19 pandemic concludes.
13. Landlords agree to a freeze on rent increases (except for retail leases based on turnover rent) for the duration of the COVID-19 pandemic and a reasonable subsequent recovery period, notwithstanding any arrangements between the landlord and the tenant.
14. Landlords may not apply any prohibition on levy any penalties if tenants reduce opening hours or cease to trade due to the COVID-19 pandemic.

Tags

COVID-19

Date

07 May 2020

- [Who we are](#)
- [Get help](#)
- [News](#)
- [Contact](#)

FORMS & RESOURCES

[Language](#)

[SIGN UP](#)

Go

- [Home](#)
- [Get help](#)
- [National Code of Conduct for commercial tenancies](#)

National Code of Conduct for commercial tenancies - leasing principles

In negotiating and enacting appropriate temporary arrangements under the Code of Conduct, the following leasing principles should be applied as soon as practicable on a case-by-case basis:

1. Landlords must not terminate leases due to non-payment of rent during the COVID-19 pandemic period (or reasonable subsequent recovery period).
2. Tenants must remain committed to the terms of their lease, subject to any amendments to their rental agreement negotiated under this Code. Material failure to abide by substantive

terms of their lease will forfeit any protections provided to the tenant under this Code.

3. Landlords must offer tenants proportionate reductions in rent payable in the form of waivers and deferrals (as outlined under “definitions,” below) of up to 100% of the amount ordinarily payable, on a case-by-case basis, based on the reduction in the tenant’s trade during the COVID-19 pandemic period and a subsequent reasonable recovery period.
4. Rental waivers must constitute no less than 50% of the total reduction in rent payable under principle #3 above over the COVID-19 pandemic period and should constitute a greater proportion of the total reduction in rent payable in cases where failure to do so would compromise the tenant’s capacity to fulfil their ongoing obligations under the lease agreement. Regard must also be had to the Landlord’s financial ability to provide such additional waivers. Tenants may waive the requirement for a 50% minimum waiver by agreement.
5. Payment of rental deferrals by the tenant must be amortised over the balance of the lease term and for a period of no less than 24 months, whichever is the greater, unless otherwise agreed by the parties.
6. Any reduction in statutory charges (e.g. land tax, council rates) or insurance will be passed on to the tenant in the appropriate proportion applicable under the terms of the lease.
7. A landlord should seek to share any benefit it receives due to deferral of loan payments, provided by a financial institution as part of the Australian Bankers Association’s COVID-19 response, or any other case-by-case deferral of loan repayments offered to other Landlords, with the tenant in a proportionate manner.
8. Landlords should where appropriate seek to waive recovery of any other expense (or outgoing payable) by a tenant, under lease terms, during the period the tenant is not able to trade. Landlords reserve the right to reduce services as required in such circumstances.
9. If negotiated arrangements under this Code necessitate repayment, this should occur over an extended period in order to avoid placing an undue financial burden on the tenant. No repayment should commence until the earlier of the COVID-19 pandemic ending (as defined by the Australian Government) or the existing lease expiring, and taking into account a reasonable subsequent recovery period.
10. No fees, interest or other charges should be applied with respect to rent waived in principles #3 and #4 above and no fees, charges nor punitive interest may be charged on deferrals in principles #3, #4 and #5 above.
11. Landlords must not draw on a tenant’s security for the non-payment of rent (be this a cash bond, bank guarantee or personal guarantee) during the period of the COVID-19 pandemic and/or a reasonable subsequent recovery period.
12. The tenant should be provided with an opportunity to extend its lease for an equivalent period of the rent waiver and/or deferral period outlined in item #2 above. This is intended to provide the tenant additional time to trade, on existing lease terms, during the recovery period after the COVID-19 pandemic concludes.

13. Landlords agree to a freeze on rent increases (except for retail leases based on turnover rent) for the duration of the COVID-19 pandemic and a reasonable subsequent recovery period, notwithstanding any arrangements between the landlord and the tenant.
14. Landlords may not apply any prohibition on levy any penalties if tenants reduce opening hours or cease to trade due to the COVID-19 pandemic.

Tags

- [COVID-19](#)

Date

07 May 2020



New South Wales

Retail and Other Commercial Leases (COVID-19) Regulation 2021

under the

Retail Leases Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retail Leases Act 1994*.

DAMIEN TUDEHOPE, MLC
Minister for Finance and Small Business

Explanatory note

The object of this Regulation is to limit the exercise of certain rights by a lessor under retail and certain other commercial leases for a breach of the lease if—

- (a) the lessee is a business that qualifies for certain grants due to the impact of the COVID-19 pandemic, and
- (b) the breach is a prescribed breach that occurs between 13 July 2021 and 20 August 2021.

Before exercising the right, the lessor must try to resolve the breach using mediation.

This Regulation is made under—

- (a) the *Retail Leases Act 1994*, including sections 85, the general regulation-making power, and 87, and
- (b) the *Conveyancing Act 1919*, section 202, the general regulation-making power.

This Regulation is made with the agreement of the Minister for Customer Service, being the Minister administering the *Conveyancing Act 1919*.

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Contents

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Meaning of “impacted lessee”	4
5 Application of Regulation	4
Part 2 Impacted leases	
6 Prohibitions and restrictions relating to impacted leases	5
7 Lessor action for non-COVID-19 pandemic related reasons	5
8 Dispute resolution	5
Part 3 Miscellaneous	
9 Equity and law preserved	6
10 Repeals	6
Schedule 1 Amendment of Conveyancing (General) Regulation 2018	7

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Part 1 Preliminary

Retail and Other Commercial Leases (COVID-19) Regulation 2021

under the

Retail Leases Act 1994

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Retail and Other Commercial Leases (COVID-19) Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Definitions

In this Regulation—

business means an undertaking, whether or not carried on with a view to profit, involving the manufacture, sale or supply of goods or services.

commercial lease means a retail shop lease, but does not include the following—

- (a) a lease entered into on or after 26 June 2021, but not—
 - (i) a lease entered into by means of an option to extend or renew the lease, or
 - (ii) any other extension or renewal of an existing lease on the same terms as the existing lease,
- (b) a lease under the *Agricultural Tenancies Act 1990*,
- (c) a commercial lease within the meaning of the *Conveyancing (General) Regulation 2018*, Schedule 5.

impacted lease means a commercial lease to which an impacted lessee is a party.

impacted lessee—see clause 4.

lessee means the person who has the right to occupy premises or land under a commercial lease.

lessor means the person who grants the right to occupy premises or land under a commercial lease.

prescribed action means taking action under the provisions of a commercial lease or seeking orders or issuing proceedings in a court or tribunal for any of the following—

- (a) eviction of the lessee from premises or land the subject of the commercial lease,
- (b) exercising a right of re-entry to premises or land the subject of the commercial lease,
- (c) recovery of the premises or land,
- (d) distraint of goods,

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Part 1 Preliminary

- (e) forfeiture,
- (f) damages,
- (g) requiring a payment of interest on, or a fee or charge related to, unpaid rent otherwise payable by a lessee,
- (h) recovery of the whole or part of a security bond under the commercial lease,
- (i) performance of obligations by the lessee or any other person pursuant to a guarantee under the commercial lease,
- (j) possession,
- (k) termination of the commercial lease,
- (l) any other remedy otherwise available to a lessor against a lessee at common law or under the law of this State.

prescribed breach of an impacted lease means—

- (a) a failure to pay rent, or
- (b) a failure to pay outgoings, or
- (c) the business operating under the lease not being open for business during the hours specified in the lease.

prescribed period means the period commencing at the beginning of 13 July 2021 and ending at the end of 20 August 2021.

the Act means the *Retail Leases Act 1994*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Meaning of “impacted lessee”

- (1) A lessee is an **impacted lessee** if—
 - (a) the lessee qualifies for 1 or more of the following grants—
 - (i) Micro-business COVID-19 Support Grant,
 - (ii) COVID-19 NSW Business Grant,
 - (iii) Job Saver Grant, and
 - (b) the following turnover in the 2020–2021 financial year was less than \$50 million—
 - (i) if the lessee is a franchisee—the turnover of the business conducted at the premises or land concerned,
 - (ii) if the lessee is a corporation that is a member of a group—the turnover of the group,
 - (iii) in any other case—the turnover of the business conducted by the lessee.
- (2) To avoid doubt, in this clause, **turnover** of a business includes any turnover derived from internet sales of goods or services.
- (3) In this clause, corporations constitute a **group** if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

5 Application of Regulation

This Regulation applies to the exercise or enforcement of rights under an impacted lease in relation to a prescribed breach of the lease occurring during the prescribed period.

Part 2 Impacted leases

6 Prohibitions and restrictions relating to impacted leases

- (1) This clause applies if, during the prescribed period, a lessee is an impacted lessee.
- (2) The lessor must not take prescribed action against the impacted lessee on the grounds of a prescribed breach of the impacted lease occurring during the prescribed period unless—
 - (a) the matter has been referred for mediation under the Act, Part 8, Division 2, and
 - (b) the Registrar has certified in writing that the mediation has failed to resolve the dispute.
- (3) An impacted lessee must give the lessor the following information in respect of the impacted lease—
 - (a) a statement to the effect that the lessee is an impacted lessee,
 - (b) evidence that the lessee is an impacted lessee.
- (4) The information—
 - (a) may be given before, or as soon as practicable after, the prescribed breach occurs, and
 - (b) must be given within a reasonable time after it is requested by the lessor.
- (5) An act or omission of an impacted lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—
 - (a) is taken not to amount to a breach of the impacted lease to which the impacted lessee is a party, and
 - (b) does not constitute grounds for termination of the impacted lease or the taking of any prescribed action by the lessor against the impacted lessee.
- (6) Nothing in this clause prevents a lessor and impacted lessee agreeing to the parties taking action in relation to the impacted lease, including the lessor taking prescribed action or the parties agreeing to terminate the impacted lease.

7 Lessor action for non-COVID-19 pandemic related reasons

Nothing in this Regulation prevents a lessor taking prescribed action on grounds not related to the economic impacts of the COVID-19 pandemic.

Note. For example, a lessor may terminate a commercial lease if the lessee has breached the lease by damaging the premises concerned or may take action if a lessee fails to vacate premises following the expiry of a fixed term commercial lease.

8 Dispute resolution

- (1) The Act, Part 8 extends to an impacted commercial lease dispute as if it were a retail tenancy dispute within the meaning of that Part.
- (2) In this clause—

impacted commercial lease dispute means a dispute about a prescribed breach of an impacted lease as referred to in the *Conveyancing (General) Regulation 2018*, Schedule 5, clause 4(2).

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Part 3 Miscellaneous

Part 3 Miscellaneous

9 Equity and law preserved

Nothing in this Regulation excludes the rules of equity and of common law from applying to the determination of a dispute concerning—

- (a) the recovery of possession of premises or land from a lessee, or
- (b) the termination of a commercial lease by a lessor, or
- (c) the exercise or enforcement of another right of a lessor of premises or land.

10 Repeals

- (1) This Regulation is repealed at the end of the day that is 6 months after the day on which the Regulation commences, except as provided for in subclause (2).

Note. See section 87(4) of the Act regarding the duration of regulations made under Part 11 (Response to COVID-19 pandemic) of the Act.

- (2) Schedule 1 of this Regulation is repealed on the day that is one day after the day on which this Regulation commences.

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Schedule 1 Amendment of Conveyancing (General) Regulation 2018

Schedule 1 Amendment of Conveyancing (General) Regulation 2018

Schedule 5

Insert after Schedule 4—

Schedule 5 Commercial leases—COVID-19 pandemic special provisions

Part 1 Preliminary

1 Definitions

In this Schedule—

business means an undertaking, whether or not carried on with a view to profit, involving the manufacture, sale or supply of goods or services.

commercial lease means any agreement to which the Act applies relating to the leasing of premises or land for commercial purposes, but does not include the following—

- (a) a lease entered into on or after 26 June 2021, but not—
 - (i) a lease entered into by means of an option to extend or renew the lease, or
 - (ii) any other extension or renewal of an existing lease on the same terms as the existing lease,
- (b) a retail shop lease under the *Retail Leases Act 1994*,
- (c) a lease under the *Agricultural Tenancies Act 1990*.

impacted lease means a commercial lease to which an impacted lessee is a party.

impacted lessee—see clause 2.

lessee means the person who has the right to occupy premises or land under a commercial lease.

lessor means the person who grants the right to occupy premises or land under a commercial lease.

prescribed action means taking action under the provisions of a commercial lease or seeking orders or issuing proceedings in a court or tribunal for any of the following—

- (a) eviction of the lessee from premises or land the subject of the commercial lease,
- (b) exercising a right of re-entry to premises or land the subject of the commercial lease,
- (c) recovery of the premises or land,
- (d) distraint of goods,
- (e) forfeiture,
- (f) damages,
- (g) requiring a payment of interest on, or a fee or charge related to, unpaid rent otherwise payable by a lessee,
- (h) recovery of the whole or part of a security bond under the commercial lease,

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Schedule 1 Amendment of Conveyancing (General) Regulation 2018

- (i) performance of obligations by the lessee or any other person pursuant to a guarantee under the commercial lease,
- (j) possession,
- (k) termination of the commercial lease,
- (l) any other remedy otherwise available to a lessor against a lessee at common law or under the law of this State.

prescribed breach of an impacted lease means—

- (a) a failure to pay rent, or
- (b) a failure to pay outgoings, or
- (c) the business operating under the lease not being open for business during the hours specified in the lease.

prescribed period means the period commencing at the beginning of 13 July 2021 and ending at the end of 20 August 2021.

2 Meaning of “impacted lessee”

- (1) A lessee is an **impacted lessee** if—
 - (a) the lessee qualifies for 1 or more of the following grants—
 - (i) Micro-business COVID-19 Support Grant,
 - (ii) COVID-19 NSW Business Grant,
 - (iii) Job Saver Grant, and
 - (b) the following turnover in the 2020–2021 financial year was less than \$50 million—
 - (i) if the lessee is a franchisee—the turnover of the business conducted at the premises or land concerned,
 - (ii) if the lessee is a corporation that is a member of a group—the turnover of the group,
 - (iii) in any other case—the turnover of the business conducted by the lessee.
- (2) To avoid doubt, in this clause, **turnover** of a business includes any turnover derived from internet sales of goods or services.
- (3) In this clause, corporations constitute a **group** if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

3 Application of Schedule

This Schedule applies to the exercise or enforcement of rights under an impacted lease in relation to a prescribed breach of the lease occurring during the prescribed period.

Part 2 Impacted leases

4 Prohibitions and restrictions relating to impacted leases

- (1) This clause applies if, during the prescribed period, a lessee is an impacted lessee.
- (2) The lessor must not take prescribed action against the impacted lessee on the grounds of a prescribed breach of the impacted lease occurring during the prescribed period unless—

Retail and Other Commercial Leases (COVID-19) Regulation 2021 [NSW]
Schedule 1 Amendment of Conveyancing (General) Regulation 2018

- (a) the matter has been referred for mediation under the *Retail Leases Act 1994*, Part 8, Division 2, and
 - (b) the Registrar of Retail Tenancy Disputes has certified in writing that the mediation has failed to resolve the dispute.
- (3) An impacted lessee must give the lessor the following information in respect of the impacted lease—
- (a) a statement to the effect that the lessee is an impacted lessee,
 - (b) evidence that the lessee is an impacted lessee.
- (4) The information—
- (a) may be given before, or as soon as practicable after, the prescribed breach occurs, and
 - (b) must be given within a reasonable time after it is requested by the lessor.
- (5) An act or omission of an impacted lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—
- (a) is taken not to amount to a breach of the impacted lease to which the impacted lessee is a party, and
 - (b) does not constitute grounds for termination of the impacted lease or the taking of any prescribed action by the lessor against the impacted lessee.
- (6) Nothing in this clause prevents a lessor and impacted lessee agreeing to the parties taking action in relation to the impacted lease, including the lessor taking prescribed action or the parties agreeing to terminate the impacted lease.

5 Lessor action for non-COVID-19 pandemic related reasons

Nothing in this Schedule prevents a lessor taking prescribed action on grounds not related to the economic impacts of the COVID-19 pandemic.

Note. For example, a lessor may terminate a commercial lease if the lessee has breached the lease by damaging the premises concerned or may take action if a lessee fails to vacate premises following the expiry of a fixed term commercial lease.

Part 3 Miscellaneous

6 Equity and law preserved

Nothing in this Schedule excludes the rules of equity and of common law from applying to the determination of a dispute concerning—

- (a) the recovery of possession of premises or land from a lessee, or
- (b) the termination of a commercial lease by a lessor, or
- (c) the exercise or enforcement of another right of a lessor of premises or land.

7 Repeal of Schedule

This Schedule is repealed at the end of the day that is 6 months after the day on which this Schedule commences.

Note. See section 87(4) of the *Retail Leases Act 1994* regarding the duration of regulations made under Part 11 (Response to COVID-19 pandemic) of that Act.

Item 10: Operations

10.1 Exemption from Tendering – Provision of Hydrated Lime, Graymont Limited

REPORT BY THE PROJECT OFFICER, WATER AND SEWER
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, WAT50001

RECOMMENDATION

That Council:

1. **receive the report by the Project Officer, Water and Sewer on the Exemption from Tendering – Provision of Hydrated Lime, Graymont Limited;**
2. **approve an exemption from tender, in accordance with Section 55(3)(l) of the Local Government Act 1993, for the purchase of Hydrated Lime directly from the Graymont Limited; based on the unavailability of competitive or reliable tenderers;**
3. **approve an exemption timeframe of 5 years, after which time the continued need for this exemption will be assessed and another report brought back to council, if required; and**
4. **note that staff will consider alternative suppliers (mined elsewhere) if/when they become evident in the market.**

Executive summary

This report seeks exemption from tender for the provision of hydrated lime. An exemption from Tender is required as Graymont Limited are the only organisation that mines Hydrated Lime in NSW (that Council is able to identify). Other organisations do sell hydrated lime, however this comes from the sole supplier Graymont Limited.

By accepting this recommendation to exempt tendering for the above services, staff will be able to source hydrated lime more efficiently and also at optimum price by purchasing from the company that mines the product.

Disclosure of Interest

Nil.

Detailed report

Tendering Requirements

Section 55 of the Local Government Act stipulates that Tenders are required for spend estimated to exceed \$250,000.

Section 55 (3) (i) states: a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

This exemption is based on the unavailability of competitive or reliable tenderers.

Graymont Limited have purchased assets owned by competitors, therefore currently owning the market in NSW with regards to the supply & delivery of Hydrated Lime.

Council have previously purchased this product from different organisations that have the ability to supply only, however source their product from Graymont and on sell. Therefore any other organisation is purchasing from Graymont on our behalf. We as an organisation then pay (on average) an additional 25% for this service.

Council can source directly from Graymont Limited for the lower rate so approving this exemption Council can prove value for money for our community with a common sense approach to the purchase of this product.

It should also be acknowledged that should there be an increase of suppliers in NSW and appropriate market available, this exemption would be revoked and a tender undertaken, either internally or by seeking pricing via a prescribed entity.

There are suppliers operating in other states, however the cost of transport would not prove competitive to the NSW supplier.

Hydrated Lime

Hydrated Lime is an essential product used in the clarifier at Mudgee and Gulgong water treatment plants as part of the water softening process.

Council spend \$75,000 - \$120,000 annually on hydrated lime. The usage is weather dependent and fluctuates accordingly. When weather is warmer, more hydrated is used.

Exemption Term

The request for a 5 year exemption is to allow Council to operate more efficiently for this period of time as it would be a direct engagement. Council would, however agree to a supply agreement and set annual rate, with the application of CPI on renewal. Details are attached confidentially to this report.

The value for the exemption, based on highest estimated spend would be \$600,000 over the five year period.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Provide total water cycle management
Strategy	Maintain and manage water quantity and quality

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Procurement Policy.

Legislation

Local Government Act 1993.
Local Government (General) Regulations 2005.

Financial implications

Not Applicable. Purchase of hydrated lime already accounted for in operational costs.

Associated Risks

If this recommendation is not adopted, then Council will be in breach of its Procurement Policy and furthermore, Section 55(3)(l) of the Local Government Act 1993.

If a tender is undertaken there is a risk that the NSW (mining) supplier would not respond, therefore forcing us to engage with an alternate out of state, more expensive option.

GEMMA WILKINS
PROJECT OFFICER, WATER AND SEWER

CLAIRE CAM
MANAGER WATER AND SEWER

GARRY HEMSWORTH
DIRECTOR OPERATIONS

14 September 2021

Attachments: 1. Graymont Hydrated Lime Quotation. (Confidential - separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

10.2 Gate Application on the road reserve off Queens Pinch Road

REPORT BY THE MANAGER WORKS
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, R0790016

RECOMMENDATION

That Council:

1. **receive the report by the Manager Works on the Gate Application on the road reserve off Queens Pinch Road; and**
2. **reject the Gate Application in line with Council's "Grids and Gates" policy, as the road reserve is fenced on both sides.**

Executive summary

Council received an application under the Roads Act 1993 for the installation of a gate on the unnamed and unmaintained road reserve west off Queens Pinch Road, approximately 1km south from the intersection of Horse Flat Lane.

This report recommends that Council rejects the application, in line with Council's "Grids and Gates" Policy, as the road reserve is fenced on both sides.

Disclosure of Interest

Nil.

Detailed report

Council received an application under the Roads Act 1993 for the installation of a gate on the unnamed and unmaintained road reserve west off Queens Pinch Road, approximately 1km south from the intersection of Horse Flat Lane. The gate is proposed approximately 20m along the unmaintained road reserve off Queens Pinch Road. Under Council's Grids and Gates Policy, the application details were advertised in the local newspaper and notifications sent to the adjacent land owners inviting interested persons to lodge submissions in writing allowing 28 days for this to occur.

Council received three written objections to the installation of the gate and hence prepared this report for submission to Council for determination.

The objections received noted impediment of access particularly in relation to movement of stock and the fact the road reserve is fenced so it is against Council's policy and there is no reason for gates.

The roads reserve where the gate is requested has recently been fully fenced and the gate that was situated at the start of the road was subsequently removed. It is recommended that Council reject the gate application, as it is inconsistent with Council's Grids and Gates policy that states, "*Applications will not be accepted if the road is fully fenced*".

Community Plan implications

Theme	Connecting Our Region
Goal	High quality road network that is safe and efficient
Strategy	Provide a roads network that balances asset conditions with available resources and community needs

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Grids and Gates policy influences this decision as it states; *"Applications will not be accepted if the road is fully fenced"*.

Should the recommendation be altered it may create a precedent for future grid and/or gate applications where the road reserve is fenced both sides.

Legislation

Roads Act 1993.

Financial implications

Not Applicable.

Associated Risks

Should the recommendation be altered it may create a precedent for future grid and/or gate applications where the road reserve is fenced both sides.

ANDREW KEARINS
MANAGER WORKS

GARRY HEMSWORTH
DIRECTOR OPERATIONS

24 September 2021

- Attachments:**
1. Application for installation of grid-gate on Public Road.
 2. Location Map of proposed gate.
 3. Grids & Gates Policy.
 4. Objection 1. (Confidential - separately attached)
 5. Objection 2. (Confidential - separately attached)
 6. Objection 3. (Confidential - separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Application for Installation of Grid / Gate on Public Road

Name: **Alfred Papallo**
Address: **688 Queens Pinch Rd
Mullamuddy N.S.W. 2850
0411478912**

MID-WESTERN REGIONAL COUNCIL
RECORDS
RECEIVED
29 JUN 2021
 SCANNED
 REGISTERED

Contact Phone #

Describe proposed location (distance from nearest cross road / direction)

~ 20 metres from previous gate installation on Queens Pinch Road

Estimate Date for construction

July / August 2021

Estimated Traffic Volume per Day (No of Vehicles)

2 to 4

Supporting Information (if deemed appropriate by the applicant)

- ① Only other property owner affected - [redacted] has been notified and is in agreement.
- ② To replace previous existing gates on the boundary to Queens Pinch Rd and prevent cattle from entering Queens Pinch Rd.

Agreement:

Please find enclosed the fee applicable for granting of the permit and advertising the proposed grid and/or gate as identified in the Annual Fees & Charges of the Council. I understand that final approval and issue of the permit will not be provided until the designated public exhibition period has been completed. Further that if approval is not given due to objections leading to a Council resolution to refuse, then these fees are not refundable.

Alfred Papallo
Signed & Dated (Applicant)

Office Use Only:

Complies with Policy (Yes / No) _____

Any drainage implications known _____

Recommended course of action. _____

Assessment / Inspection Undertaken by (print) _____

Signed & Dated: _____

Project Approved to proceed if agreement signed and returned (reason if refused)? _____

Signed & Dated (General Manager): _____

NOTES:

MID-WESTERN REGIONAL COUNCIL
Customer Services
RECEIVED
29 JUN 2021
 SCANNED

Procedure for Grids and Gates Assessment

Road Name : Unmaintained Council Rd Reserve

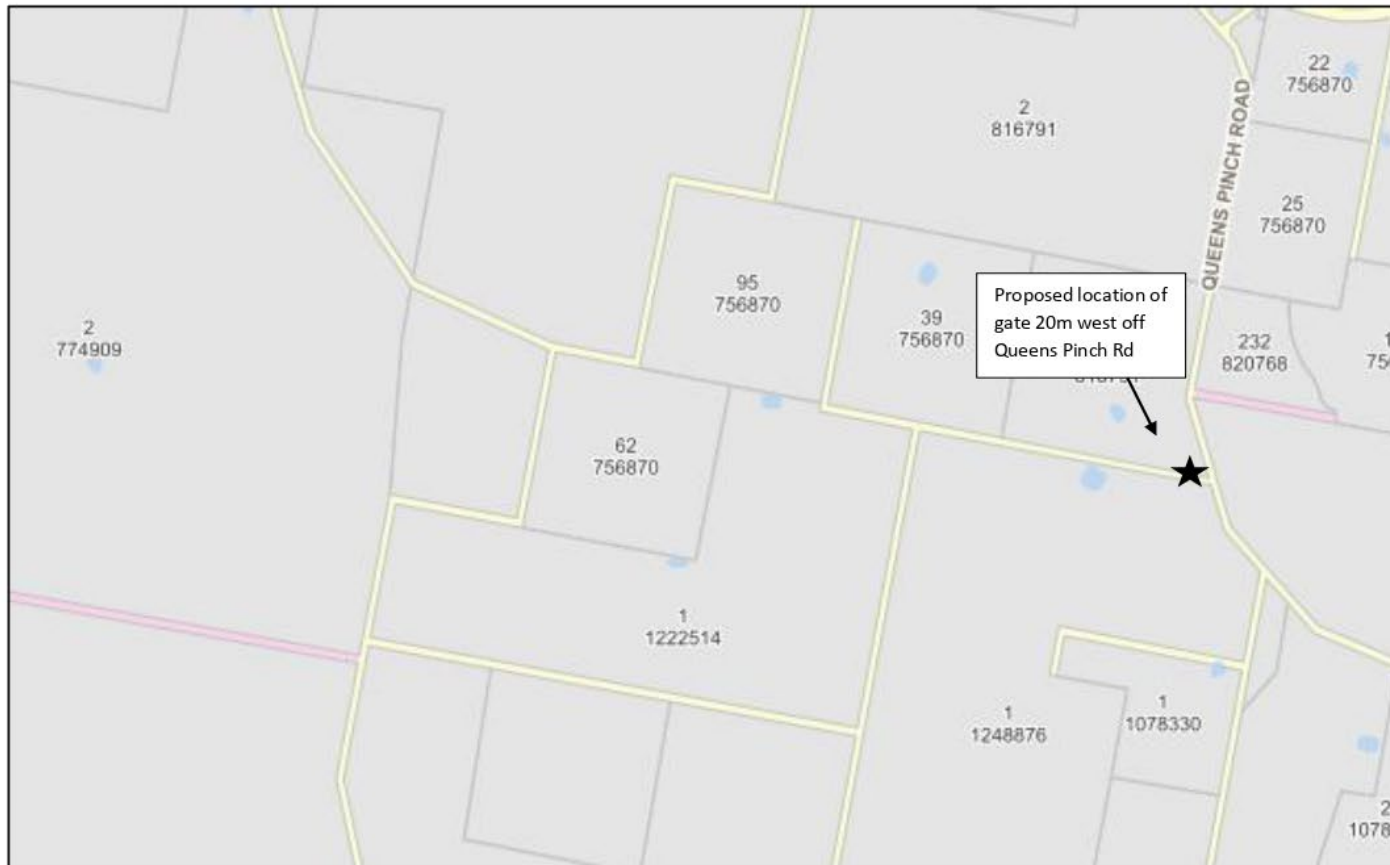
Action	Approx time	Responsible Person	Comments	Date completed
Initial assessment of viability				
Complies with policy and standards				
Traffic Volume (V<10, 10<V<20, V>20)				
Lodgment of application and payment of fee				
Copy of mapping image /Lot DP details				
Site inspection				
Initial Approval to proceed with notification				
Notify Owner				
A list of landowners whose land be affected by road restriction				
Send letters to all affected landowners				
Place Ad in Community News				
28 days ad period				
Have any objections been received				
If objections, report to Council prepared				
14 Day notification Prior to Construction.				
Construction completion advised				
Final Inspection				


Name of Applicant: _____

Advert date: _____

Close Date: _____

Proposed Gate Location and Property Details



	POLICY	ADOPTED C/M 15 th July 2015 Minute No. 217-15
	Grids and Gates	REVIEW: July 2017 FILE No. A0100021

OBJECTIVE

To provide guidance and approve the location and standard of grids and/or gates on public roads.
To ensure that grids and gates are installed and maintained to an acceptable standard.

POLICY

All grids and gates on Public roads that are controlled by Council must be approved by Council. The land owner is responsible under the Roads Act NSW 1993 for maintenance of the grid and gate, the bypass road to the gate and 20m of road on each approach to a grid.

Gates shall not be permitted on roads with a traffic volume greater than 10 vehicles per day unless they are located adjacent to a grid. All grids are required to have a gate and bypass road installed beside them.

Use of electrified grids is NOT permitted.

In the event of the ownership of the subject property being transferred, so does the responsibility of the grid and/or gate

Approval

Grids and gates shall only be erected at locations approved by Council and as directed by the General Manager or his delegate.

Approval may be granted to erect a stock grid and/or gate across road reserves subject to the applicants concurrence with the conditions contained within this policy

The owner or occupier of the land must apply to Council to install the stock grid and/or gate on the designated form attached to this policy. Such application must be accompanied by the prescribed fee as set out in Council's schedule of fees and charges and the written consent of the adjoining land owner(s) if they are acceptable to the application.

Prior to permission being granted for the erection of a grid and/or gate, Council will advertise in the local newspaper inviting interested persons to lodge objections in writing allowing 28 days for this to occur. Notice shall also be given to the adjacent land owner/s if their consent is not provided with the application. If objections are received a report shall be prepared for submission to Council for determination.

Applications will not be accepted if the road is fully fenced or the road is classified as Collector and above. For other roads with an average daily traffic volume greater than 20 (ADT > 20), only double grids will be permitted, whilst where the volume is less than 20 (ADT < 20), a single grid may be accepted.

Construction

Prior to commencement, approval must be obtained in writing from the General Manager or his delegate. Then at least 14 days notice shall be given to the General Manager or his delegate prior to commencing any work - the exact position of the grid and gate as agreed by council must be pegged on site.

The applicant shall fully indemnify Council in relation to the works required and to any and all damage to other services including water, electricity supply and communication services.

All work must be appropriately sign posted during construction in accordance with Roads and Maritime Services (RMS) standards as set out in the RMS manual "Traffic Control at Worksites". All work is to be undertaken at the owners' expense and risk.

The centre of the grid (or gate if gate only installed) shall coincide with the centreline of the road. Grids and gates shall be constructed at right angles to the road centreline.

Council requires all grids on roads to meet technical requirements including minimum width, load-bearing capacity, materials and visibility markings, according to the type of road (each grid must be paralleled by a gate). In the case of existing but previously unlicensed grids, a physical standard below that required for new installations may be accepted at the discretion of Council for the life of the current installation.

When the grid is on a curve, the cross fall of the grid shall conform to that of the road. The surface of the grid shall be 0.5m (\pm 0.1m) above the natural surface of the surrounding country.

Approach ramps shall be constructed for the full width of the running surface of the grid. The longitudinal grade of the approach ramps shall be such that the surface levels of the ramps deviate from the existing average grade of the road by not more than 1%. The fill used in the approach ramps shall be thoroughly compacted and finished to the satisfaction of the General Manager or his delegate.

The owner shall construct and maintain the approaches for a minimum of 20 metres each side of the grid and/or gate and must be fully reinstated and compacted the pavement to the requirements of the General Manager or his delegate. The approach surface is to start flush with the grid. At 20m from the grid, the road surface is to grade away from the centreline of the road at a 6% crossfall. Alternatively, Council may require a one way crossfall of 6%. Council may also require the first 20m on each side of the grid to be sealed. The surface shall be constructed such that it does not become slippery when wet. Any repair/compaction required to be undertaken by Council will be charged for as Private Works.

A fully compacted 4m wide bypass road will also need to be constructed around each grid, through the adjacent gate.

The applicant shall construct drainage under the grid and adjacent gated bypass road, to ensure that no damming or ponding shall occur on the roadway.

Cattle Grids are to be capable of carrying a W7 or T44 legal axle loading with a factor of safety. These are available through a number of manufacturers. Details of the grid proposed to be installed and the proposed installation layout shall be submitted to Council for approval with the application.

Signs must be erected for any new ramp/grid installed on roads in this Council area which is less than 4.8m width, be signed as per Australian Standard 1742.2 - 2009, which requires the following: if the grid is less than 4.8m wide, width markers should be erected at the Grid, the sign NO OVERTAKING OR PASSING (R6-1a) should be erected 70m to 200m in advance of the Grid and Warning signs GRID (W5-16) and ONE LANE (W8-16) should be erected in advance of the sign R6-1a.

Details of grid structure, foundations, abutment, approach ramps, horizontal and vertical alignment shall be submitted with application and shall be sufficient to guarantee the safe transit of vehicles and shall not interfere with the natural drainage of the area.

Sufficient guide posts and rails shall be provided to satisfy road traffic safety requirements at the specific location.

Gates shall be a minimum 4.0 metres wide and be fully functional to enable unimpeded access.

Maintenance / Repairs

Where the Grid/Gate is on a maintained Council Road and has been constructed to Councils standards and approved for use by Council, the applicant shall be fully responsible for all maintenance and repairs of the gate/grid, signposting and the road approaches either side of the gate/grid.

Where an existing gate/grid is not being maintained to the appropriate standard, Council will serve notice on the occupier/owner to carry out remedial works within 7 days. Failure to comply with the notice will result in the levying of penalties as contained in the Roads Act, or cancellation of the permit. The General Manager may cancel the permit for failure to carry out remedial work or when changes occur to the classification or alignment of the road.

The owner or occupier shall be responsible for all removal and road reinstatement costs. The permission for any existing gates or cattle grids erected prior to the adoption of this policy shall be revised, and the owner or occupier be requested to comply with the current policy where deemed reasonable. Where the owner or occupier wishes to transfer permission for the gate or grid, they shall apply to Council and be subject to approval from the General Manager or his delegate.

Any damage caused to the grid, gate etc. by Council or contractors engaged by Council during maintenance/construction of the road to be repaired at the owners cost unless proven to be negligence of Council.

Renewal / Removal

Council may at any time revoke the approval or alter the above conditions.

Where an application is received for the removal of a gate/s and replacement by a grid the same conditions shall apply.

Application for Installation of Grid / Gate on Public Road

Name:	
Address:	
Contact Phone #	
Describe proposed location (distance from nearest cross road / direction)	
Estimate Date for construction	
Estimated Traffic Volume per Day (No of Vehicles)	
Supporting Information (if deemed appropriate by the applicant)	
<p>Agreement: Please find enclosed the fee applicable for granting of the permit and advertising the proposed grid and/or gate as identified in the Annual Fees & Charges of the Council. I understand that final approval and issue of the permit will not be provided until the designated public exhibition period has been completed. Further that if approval is not given due to objections leading to a Council resolution to refuse, then these fees are not refundable.</p>	
_____ Signed & Dated (Applicant)	
Office Use Only:	
Complies with Policy (Yes / No)	
Any drainage implications known	
Recommended course of action.	
Assessment / Inspection Undertaken by (print)	
Signed & Dated:	
Project Approved to proceed if agreement signed and returned (reason if refused)?	
Signed & Dated (General Manager):	

NOTES:

Procedure for Grids and Gates Assessment

Road Name ; _____

Action	Approx time	Responsible Person	Comments	Date completed
Initial assessment of viability				
Complies with policy and standards				
Traffic Volume (V<10, 10<V<20, V>20)				
Lodgment of application and payment of fee				
Copy of mapping image /Lot DP details				
Site inspection				
Initial Approval to proceed with notification				
Notify Owner				
A list of landowners whose land be affected by road restriction				
Send letters to all affected landowners				
Place Ad in Community News				
28 days ad period				
Have any objections been received				
If objections, report to Council prepared				
14 Day notification Prior to Construction.				
Construction completion advised				
Final Inspection				

Name of Applicant; _____

Advert date; _____

Close Date; _____

ROADS ACT NSW 1993

128 Roads authority may grant permit

- (1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.
- (2) A permit may not be granted with respect to a classified road except with the concurrence of the RTA.
- (3) A roads authority must cause notice of the granting of the permit to be published in a local newspaper.
- (4) The occupier for the time being of the land to which a permit relates is taken to be the holder of the permit.

129 Erection and maintenance of public gates

- (1) The holder of a public gate permit may, at any time after one month from the publication of the notice of the granting of the permit, erect a gate in accordance with the permit.
- (2) The holder of a public gate permit must ensure that:
 - (a) a notice is attached to both sides of the gate bearing the words "PUBLIC GATE" in letters at least 75 millimetres high, and
 - (b) both the gate and the notice are maintained in good condition.

Maximum penalty: 10 penalty units.

130 Revocation of permit

- (1) The roads authority may at any time revoke a public gate permit.
- (2) The occupier of the land the subject of a public gate permit that has been revoked must remove the gate within one month after notice of the revocation is served.

Maximum penalty: 10 penalty units.

131 Effect of permit

While a public gate permit is in force, the public gate to which it relates is taken not to constitute a public nuisance and does not give rise to an offence against this or any other Act.

132 Offences with respect to public gates

- (1) A person must not cause any damage to a public gate or to any notice attached to the gate in accordance with this Division.

Maximum penalty: 10 penalty units.

- (2) A person who opens a public gate must cause it to be closed again immediately after it has been used.

Maximum penalty: 10 penalty units.

(3) A person who fails to cause a public gate to be closed is liable for any loss or damage suffered by the occupier of the land adjoining the public road on which the gate is situated as a result of the gate having been left open.

133 Construction of by-pass around road gate

(1) An occupier of land adjoining an unfenced public road across which a public gate is situated at the point where the road intersects a boundary fence:

(a) must not, unless the appropriate roads authority so permits, and

(b) must, if the appropriate roads authority so requires,

construct a by-pass for vehicles at the intersection of the road with the boundary fence.

Maximum penalty: 10 penalty units.

(2) The roads authority may not permit or require the construction of a by-pass:

(a) if the by-pass is to be used in connection with a public gate across a main road, except with the concurrence of the RTA, and

(b) if the public gate is part of a rabbit proof, dog proof or marsupial proof fence, except with the concurrence of the local rural lands protection board.

(3) A by-pass is to consist of:

(a) a ramp to allow vehicles to be driven over the top of the boundary fence, or

(b) a cattle grid or sheep grid located beside the gate,

and must be constructed in accordance with such specifications as may be approved by the roads authority.

(4) If the appropriate roads authority so requires, the person permitted or required to construct a by-pass:

(a) must construct the by-pass along the line of the road, and

(b) must re-locate the gate beside the by-pass.

Maximum penalty: 10 penalty units.

(5) The occupier for the time being of land to which a permit relates is taken to be the holder of the permit.

134 Notice board to be erected at by-pass

(1) The occupier of land on which a by-pass is constructed must ensure that:

(a) a notice, in the form required by the appropriate roads authority, is exhibited on a conspicuous notice board near each end of the by-pass, and

(b) both the by-pass and the notice are maintained in good condition.

Maximum penalty: 10 penalty units.

(2) A notice may prohibit vehicles exceeding a specified laden weight from being driven over the by-pass.

(3) If the appropriate roads authority requires a person to construct a by-pass, that authority may contribute to the cost of construction and erection of the notices.

135 Closing of by-pass

(1) A by-pass may be closed and the notices relating to the by-pass may be removed:

(a) if the public gate in connection with which the by-pass was constructed is removed, or

(b) if the fence of which the by-pass forms part is made rabbit proof, dog proof or marsupial proof.

(2) A person who closes a by-pass:

(a) must give notice of the closure to the appropriate roads authority before or immediately after the closure, and

(b) must take such steps as the appropriate roads authority directs to ensure the safety of persons using the road.

136 Revocation of by-pass permit

(1) The roads authority may revoke a permit given with respect to a by-pass by means of a notice served on the holder of the permit.

(2) The occupier of the land the subject of the permit must, within the time specified in the notice:

(a) remove the by-pass and its notices, and

(b) take such steps as are specified in the notice to ensure the safety of persons using the road.

Maximum penalty: 10 penalty units.

137 Offences

(1) A person must not:

(a) drive a vehicle over a by-pass in contravention of a notice displayed in connection with the by-pass, or

(b) wilfully damage or remove a notice displayed in connection with a by-pass, or

(c) wilfully obstruct or damage a by-pass.

Maximum penalty: 10 penalty units.

(2) A person who causes damage to a by-pass as a result of driving a vehicle over the by-pass in contravention of such a notice is liable for:

(a) the cost of any repairs to the by-pass necessary as a result of the contravention, and

(b) any loss or damage suffered by any other person as a result of the damage to the by-pass.

Item 11: Community

11.1 Mudgee Arts Precinct Project Update

REPORT BY THE DIRECTOR COMMUNITY
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, GOV400088, COR400301, REC800038

RECOMMENDATION

That Council:

1. **receive and note the report by the Director Community on the Mudgee Arts Precinct Project Update.**

Executive summary

The attached report provides an update on the progress of the Mudgee Arts Precinct Project.

Disclosure of Interest

Nil.

Detailed report

The attached report provides a summary update of the project.

The Mudgee Regional Art Gallery Project is a major project that has attracted \$5.3 million in State and Federal funding from a total budget of \$8.1million.

The project continues to progress well with the August opening of the gallery with opening exhibition by Archibald Prize winning artist Guido Maestri.

Recent approval has been granted to allow for the commencement of the secondary workshop building which is due to be completed by June 2022.

Community Plan implications

Theme	Looking After Our Community
Goal	Meet the diverse needs of the community and create a sense of belonging
Strategy	Support arts and cultural development across the Region

Strategic implications

Council Strategies

Community Strategic Plan.

Council Policies

Not Applicable.

Legislation

Not Applicable.

Financial implications

There are no financial implications from this report.

Associated Risks

Regular reporting to Council provides an opportunity to communicate and manage any ongoing unexpected risks that emerge with this project.

SIMON JONES
DIRECTOR COMMUNITY

20 September 2021

Attachments: 1. Mudgee Arts Precinct Progress Report.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



MUDGEE ARTS
PRECINCT PROJECT
PROGRESS REPORT

20 SEPTEMBER 2021

MID-WESTERN REGIONAL COUNCIL

SELECT YOUR DEPARTMENT.

■ ■ ■ ■ ■ TOWARDS 2030



[CLICK TO SELECT YOUR DEPARTMENT.](#) | MUDGEES ARTS PRECINCT PROJECT PROGRESS REPORT

Project Update

As at 30 August 2021 the overall project progress for the Mudgee Arts Precinct Project was approximately

OVERALL PROJECT PROGRESS



GALLERY AND TOURISM BUILDING PROGRESS



PROJECT EXPENDITURE



CLICK TO SELECT YOUR DEPARTMENT.

Achievements and Highlights

- Construction of the Gallery complete and opened to the public on August 7 2021 with opening exhibition by Guido Maestri
- Café Management Agreement has been made with Mudgee Cake and Dessert Co
- Brand platform, name and logo have been decided and implemented
- Designs for the workshop space have been completed
- DA for the workshop space has been approved

The Next 3 Months

- Works to commence on the refurbishment and construction of the old childcare centre to workshop space

[CLICK TO SELECT YOUR DEPARTMENT.](#) | [MUDGEES ARTS PRECINCT PROJECT PROGRESS REPORT](#)

PHOTOS



[CLICK TO SELECT YOUR DEPARTMENT.](#) | MUDGEES ARTS PRECINCT PROJECT PROGRESS REPORT



11.2 Glen Willow Stage 2 Update

REPORT BY THE DIRECTOR COMMUNITY

TO 13 OCTOBER 2021 ORDINARY MEETING

GOV400088, GOV400088, COR400303, COR400277, COR400332, PAR300585, COR400273

RECOMMENDATION

That Council receive and note the report by the Director Community on the Glen Willow Stage 2 Update.

Executive summary

The attached report provides an update on the Progress of the Glen Willow Stage 2 Project.

Disclosure of Interest

Nil.

Detailed report

The Glen Willow Stage 2 Project is a major project that has attracted \$17 million in funding from State and Federal governments. It is the most significant project currently under construction by Mid-Western Regional Council. The attached report provides an update on the project.

The project continues to progress with construction nearing completion on the Rugby Union Clubhouse, Canteen and Change rooms along with field construction and road and carpark construction.

There are series of sections of fencing and pathways that are also being completed over the coming months along with lighting and site finalisation.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Community Strategic Plan.

Glen Willow Master Plan.

Council Policies

Not Applicable.

Legislation

Not Applicable.

Financial implications

Not Applicable.

Associated Risks

Regular reporting to Council provides an opportunity to communicate and manage any ongoing or unexpected risks that emerge with this project.

SIMON JONES
DIRECTOR COMMUNITY

20 September 2021

Attachments: 1. Glen Willow Stage 2 Update.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



GLEN WILLOW STAGE
TWO PROGRESS
REPORT

20 SEPTEMBER 2021

MID-WESTERN REGIONAL COUNCIL

SELECT YOUR DEPARTMENT.

■ ■ ■ ■ ■ TOWARDS 2030



[CLICK TO SELECT YOUR DEPARTMENT.](#) | GLEN WILLOW STAGE TWO PROGRESS REPORT

Project Update

As at 30 August 2021 the overall project progress for Stage Two of the Glen Willow Project was approximately 79%.

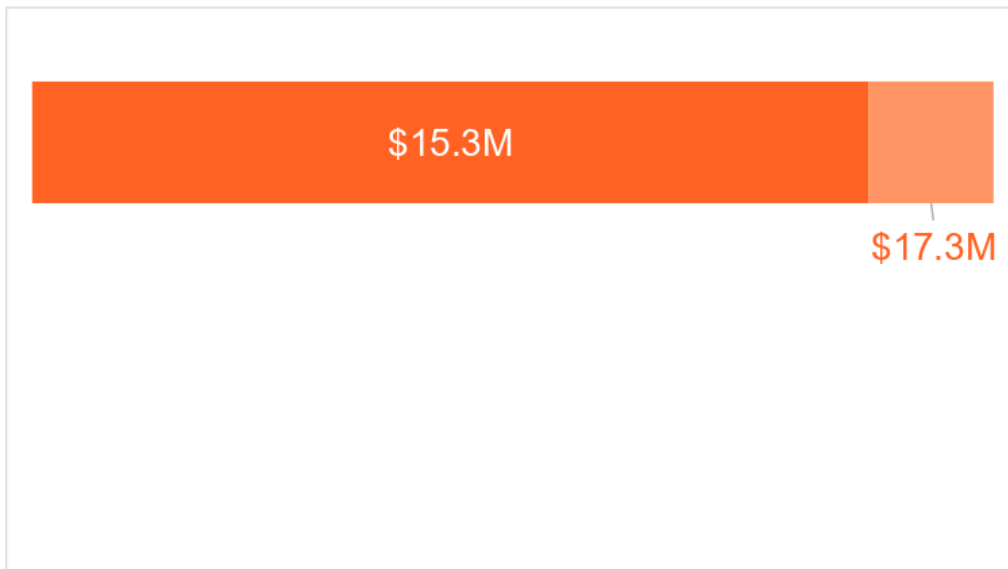
OVERALL PROJECT PROGRESS



PROJECT EXPENDITURE



PROJECT EXPENDITURE COMMITTED



CLICK TO SELECT YOUR DEPARTMENT.

Achievements and Highlights

- Carpark construction on the road to completion
- Sewer extension services have been completed
- New power supply to netball courts and junior rugby league clubhouse has been completed
- Construction of touch, cricket and rugby league shed has been completed
- Rugby Union Clubhouse construction at 95% complete
- New dog park was officially opened
- Fields have reached 90% completion
- Field fencing is now underway
- 6 field lighting towers have been constructed

[CLICK TO SELECT YOUR DEPARTMENT.](#) | GLEN WILLOW STAGE TWO PROGRESS REPORT

PROJECT No.	PROJECT & COMPONENTS	PROGRESS NOTES	CONTRACT	PROJECTED END DATE	% COMPLETE
1	Site Prep - North			Dec 2019	100%
2	Junior Rugby League Building			July 2020	100%
3	Roads & Carpark Design & Construction			October 2021	80%
4	Services			October 2021	95%
5	Site Prep - South			July 2020	100%
6	Rugby Union Building			September 2021	95%
7	Field Construction			October 2021	90%
8	Field Lighting			November 2021	40%
9	Site Finalisation			Dec 2021	40%

[CLICK TO SELECT YOUR DEPARTMENT.](#) | [GLEN WILLOW STAGE TWO PROGRESS REPORT](#)

The Next 3 Months

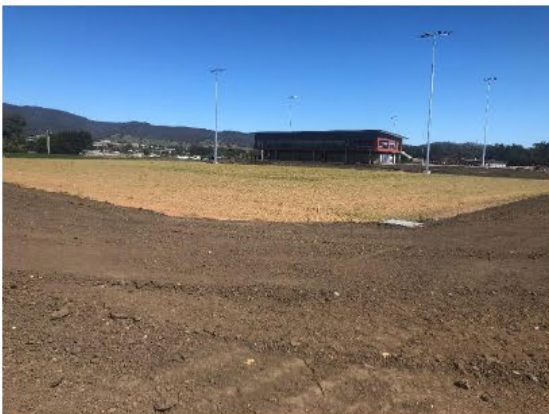
- Field fencing continues
- Field lighting installation
- Completion of roads and carparks
- Completion of Rugby Union Building
- Completion of fields
- Site Finalisation

[CLICK TO SELECT YOUR DEPARTMENT.](#) | GLEN WILLOW STAGE TWO PROGRESS REPORT

Photos



[CLICK TO SELECT YOUR DEPARTMENT.](#) | [GLEN WILLOW STAGE TWO PROGRESS REPORT](#)



[CLICK TO SELECT YOUR DEPARTMENT.](#) | [GLEN WILLOW STAGE TWO PROGRESS REPORT](#)



[CLICK TO SELECT YOUR DEPARTMENT.](#) | GLEN WILLOW STAGE TWO PROGRESS REPORT



11.3 Exemption from Tender - Cudgegong Waters Park House

REPORT BY THE DIRECTOR COMMUNITY
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, P2044711

RECOMMENDATION

That Council:

1. **receive the report by the Director Community on the Exemption from Tender - Cudgegong Waters Park House;**
2. **approve an exemption from tender, in accordance with section 55 (3) (i) of the Local Government Act 1993, for the construction of a house at the Cudgegong Waters Park, noting that due to the unavailability of competitive or reliable tenderers, a satisfactory result would not be achieved by inviting tenders;**
3. **note the reasons why a satisfactory outcome would not be achieved by inviting tenders are:**
 - a) **the market has already been tested appropriately, via public marketplace on VendorPanel – 99 suppliers over 3 categories selecting all suppliers under these categories;**
 - b) **the same organisations would be targeted if we had tendered (via VendorPanel which picks from the marketplace) so there is no benefit in re-advertising as a tender;**
 - c) **the response time on the Request For Quote was already extended by two weeks in the hope of receiving additional responses;**
4. **accept Taylor Made Buildings Pty Ltd for the supply & install a modular dwelling in accordance with Clause 178 of the Local Government (General) Regulation 2005 – Part 7 for the price of \$XXXX.XX inc GST; and**
5. **delegate authority to the Director Community to finalise the contract and approve variations to an accumulative total of +/-10% of the finalised contract sum.**

Executive summary

The Cudgegong Waters Park is a Council managed Crown Land facility, operated under licence.

To complement the in progress grant funded community infrastructure, a new operational manager's residence will be constructed at the Cudgegong Waters Park.

A request for quote was sent out to 99 potential vendors, with one response received.

This report seeks exemption from tender for the construction of the house as the RFQ has identified all potential tenderers.

Disclosure of Interest

Nil.

Detailed report

Council sought quotes from 99 vendors for the supply and install of a modular dwelling consisting of 4 bedrooms, 2 bathrooms. The main bathroom to include a separate shower and bath and separate WC, ensuite off the master bedroom, laundry, linen cupboard, kitchen, separate living and dining rooms and entry deck. All bedrooms to include built in robes.

One response was received from Taylor Made Buildings Pty Ltd. The quote was in excess of the tender threshold - Section 55 of the Local Government Act stipulates that Tenders are required for spend estimated to exceed \$250,000 incl. GST.

Section 55(3)(i) states: a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

This request for exemption is based on the fact that we have already gone to market to all potential applicants and going to tender will not provide any further information.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Community Plan.

Council Policies

Procurement Policy.

Legislation

Local Government Act 1993.

Financial implications

There are no financial implications at this time. Council has already set an expenditure budget of \$250,000 exclusive of GST.

Associated Risks

Council will not be able to deliver the approved construction at Cudgegong Waters Park due to the unavailability of contractors.

SIMON JONES

DIRECTOR COMMUNITY

27 September 2021

Attachments: 1. Cudgegong Waters Park House RFQ Report. (Confidential - separately attached)
2. Taylor Made Buildings - Orana brochure.

APPROVED FOR SUBMISSION:

BRAD CAM

GENERAL MANAGER



Orana 4 Ens



LIVING	137.26
TOTAL sq.m	137.26
sq	14.78

TEL: 0268826066

ADDRESS 2R Gilgandra Road, Dubbo NSW 2830

E-MAIL: admin@taylormadebuildings.com.au

Item 12: Reports from Committees

12.1 Local Traffic Committee Meeting Minutes - 17 September 2021

REPORT BY THE EXECUTIVE ASSISTANT, OPERATIONS
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, A0100009

RECOMMENDATION

That Council :

1. receive the report by the Executive Assistant, Operations on the Local Traffic Committee Meeting Minutes - 17 September 2021;
2. approve the event 'Mudgee Triathlon Race Season 2021/22';
3. approve in principle the installation of the roundabout on Putta Bucca Road;
4. approve the temporary suspension of 'Alcohol Free' zone during the event Flavours of Mudgee;
5. note feedback in relation to the Mudgee Parking Study report; and
6. approve the event 'Sunset Sound' at Craigmoor Wines on 30 October 2021
approve the event 'Flavours of Mudgee Street Festival.

Executive summary

The purpose of this report is to advise Council and seek support of the considerations and recommendations of the Local Traffic Committee (LTC).

Disclosure of Interest

Nil.

Detailed report

The Local Traffic Committee meeting was held on Friday 17 September 2021.

Three event reports were considered:

- Flavours of Mudgee Street Festival
- Mudgee Triathlon Season 2021/22
- Sunset Sounds – Craigmoor Wines

Two traffic reports were considered:

- Update on Mudgee Parking Study

- Putta Bucca roundabout

General Business items included

- Update – Cox Street Rail opening

Correspondence items included:

- Kidney Kar Rally

Full discussion notes are included in the attached report.

Community Plan implications

Theme	Connecting Our Region
Goal	High quality road network that is safe and efficient
Strategy	Provide traffic management solutions that promote safer local roads and minimise traffic congestion

Strategic implications

Council Strategies

Not applicable.

Council Policies

Not applicable.

Legislation

Not applicable.

Financial implications

Not applicable.

MICHELLE NEILSEN
EXECUTIVE ASSISTANT, OPERATIONS

GARRY HEMSWORTH
DIRECTOR OPERATIONS

30 September 2021

Attachments: 1. Minutes - Local Traffic Committee - September 2021.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Mid-Western Regional Council

Date: 17 September 2021

Minutes of the Local Traffic Committee

Held at the Council Chambers, Via Teams Link,
17 September 2021.

Present	Wayde Hazelton (RMS), Mark Fehon (NSW Police), Samantha Cecchini (MWRC), Risha Rayan(MWRC), Ray Kearns(MWRC)
Apologies	Garry Hemsworth (MWRC), Cr Alex Karavas, Garry McGovern (NSW Police) Phil Blackman
Secretary	Emma Broadfield (MWRC)

The LTC meeting commenced at 9:35am.

MINUTES OF PREVIOUS MEETING

RECOMMENDATION

No minutes were received for the August 2021 meeting.

2

MATTERS IN PROGRESS

SUBJECT	RES NO. & DATE	RESOLUTION	ACTION
Mudgee Town Pedestrian Crossings	20 Jan LTC Meeting	Council conduct an audit on all crossings, place counts on Market and Church Street and provide a report to the committee with findings and suggestions for improvements	Moving forward. Assets Coordinator is working on this project and it should be finished by July 2021. Follow up required for the July 2021 LTC meeting. 16/7/2021 – Completion date delayed till late August due to delay with material delivery. <i>Pedestrian crossing lights are on Market Street. Waiting on a part to complete project.</i>
Perry Street Parking Issues	15 June 2018	To monitor the parking issues that surround Mudgee High School	Subject to funding. Follow up if there is a budget for this new parking. 16/7/2021 - Budget confirmed for 21/022 for investigations on safety improvements around schools. <i>Progressing to procurement of consultant to start.</i>
Request to review traffic flow of Gulgong CBD	November 2018 February 2019 August 2019 Nov 2020	Request a review of the traffic management and parking within the Gulgong CBD Report to be presented recommending 'no parking' signs changed to 'no stopping' in front of IGA Gulgong Investigate alternative crossing options for pedestrians in the CBD of Gulgong and present findings to Traffic Committee	Review is underway. 17/9/2021- will continue to investigate
Mudgee CBD High Pedestrian Area	November 2018	Council in support of 40km CBD zone investigation.	Will go to the July 2021 Council meeting for approval. There is an amendment to extend the HPAA further up Perry Street and Gladstone Street Mudgee. <i>Work with TfNSW to start project</i>

SUBJECT	RES NO. & DATE	RESOLUTION	ACTION
St Matthews Traffic Flow	February 2019	Organise meeting onsite Prue Britt, the safety around schools officer with Council, NSW Police and Principal to discuss options	It appears to be driver behaviour that causes issues. Police will be advising the school at the beginning of every term of the rules. There will be no leniency from the Police but they do want to educate the people of the road usage. Continue discussions with the school will take place with the Police and the Council. 16/7/2021 – adjustment to the rollout of the awareness campaign made due to health orders. <i>17/9/2021- rollout will commence once the health orders have changed.</i>
Ulan Road and Buckaroo Road	December 2020	Further investigation to take place at this intersection.	Traffic Counts have been done. Report to be finalised. <i>Council is undertaking shoulder widening works during 2021</i>
3T signage on Short Street			Remove the 3T signage. <i>To be confirmed by Council.</i>
Rocky Waterhole Road			Further investigation required.
Reedy Creek Rd Bridge	May 2021		Further investigation required.
Henry Lawson Drive and Ulan Road	March 2021	Speed and signage at the intersection.	Traffic counts have been completed. Report to follow. <i>Further investigation required.</i>
Lisbon Road	June 2021	Investigate the removal of 3 parking spots on Lisbon Rd at the intersection of Oporto Road.	Report to follow. No action.
Madeira Road	June 2021	Report to Councillor Karavas any past incidents at the intersection of Madeira Road and Oporto Road	Report to follow.

PAST EVENT DEBRIEF

EVENT	

CALENDAR OF EVENTS

2021		
JANUARY	DATE	COMMENTS

4

Kandos Street Machine and Hot Rod Show	21-24 th January 2021	Approved – Did not go ahead
FEBRUARY	DATE	COMMENTS
NRL Charity Shield	27 Feb 2020	Approved
MARCH	DATE	COMMENTS
Femta	13 March 2021	Approved
Can Cruises	20 March 2021	For LTC information only
APRIL	DATE	COMMENTS
NRL Event – Manly vs Titans	17 April 2021	Approved
Wings, Wine and Wheels Air show	18 April 2021	For LTC information only
ANZAC Day Services Mudgee	25 April 2021	Approved
ANZAC Day Services Gulgong	25 April 2021	Approved
MAY	DATE	COMMENTS
Mudgee Classic	2 May 2021	Debrief took place
JUNE	DATE	COMMENTS
JULY	DATE	COMMENTS
Small Farm Field Days	2 nd – 4 th July 2021	Cancelled until 2022
AUGUST	DATE	COMMENTS
Outback Classic	August 2021	
Mudgee Running Festival	22 August 2021	Cancelled till 2022
SEPTEMBER	DATE	COMMENTS
Flavours Of Mudgee	18 September 2021	Cancelled
Mudgee High School Rainbow Day	16 September 2021	
OCTOBER	DATE	COMMENTS
Mudgee Triathlon Season	24 October 2021	
Sunset Sounds	30 October 2021	
NOVEMBER	DATE	COMMENTS
Mudgee 200	22 November 2021	On hold
Small Farm Field Days	5-6 th November 2021	
DECEMBER	DATE	COMMENTS

Red = Unapproved

Green = Approved

21/039 2021-2022 MUDGEE TRIATHLON SEASON

That Council Approve the event – “Mudgee Triathlon Race Season 2021/22”, be classified as a Class 2 Event under the ‘Guide to Traffic and Transport Management for Special Events Version 3.5’ and proceeds with the following conditions:

- a) Events are to be undertaken in accordance with the “Guidelines for Bicycle Road Races”;
- b) A Special Events Transport Management Plan (TMP), is to be prepared in accordance with the “Guide to Traffic and Transport Management for Special Events Version 3.5 and submitted to and approved by Council prior to the event;
- c) Events are to be undertaken in accordance with the requirements of the NSW Police Force with their approval documentation forwarded to Council for notation;

- d) Controlling noise as required by the Protection of the Environment Operations (Noise Control) Regulation 2000;
- e) Reimbursing Council for the cost of damage repairs;
- f) Complying with any of Council's Law Enforcement Officers reasonable directives;
- g) Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;
- h) A Traffic Guidance Scheme (TGS) certified by a person with a 'Select & Modify' or a 'Design and Audit' Certificate be included in the TMP;
- i) Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;
- j) Council must be provided with a current copy of a public liability insurance policy in the amount of at least \$20 million. Such a policy is to note that Council, Transport For NSW and NSW Police Force is indemnified against any possible action as the result of the event;
- k) The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;
- l) Maintain a four-metre wide emergency vehicle lane;
- m) Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;
- n) The organiser is to have a debrief with Council and Police with all traffic guidance documentation and controls tabled for review; and
- o) Transport for NSW consent required for use of the State and Regional road network

Committee comments

- No mention of single lane bridge on Rocky Water Hole in the risk assessment.
- Mortimer / Burrundulla / Mulgoa intersection – there are two traffic domes (Street View 2010). If these are still in place they will need to be protected/highlighted (e.g. traffic bollard) to ensure a cyclist does not run into them. Also, if they are still there they should be removed.
- Rocky Waterhole Rd crossing of the Cudgegong River – it is signposted as a one-lane section, but priority, i.e. a Give Way sign, is not provided. An event marshal may be required here.
- Street View shows one cyclist and two people (separate locations) walking a dog along Rocky Waterhole Rd
- difficult to read the Notes to the schemes; it appears to refer to the old version of TCAWS, the latest is Version 6, September 2020.
- Other references to TCAWS and TCS in the risk assessment should also be updated and emergency contact details confirmed for the coming year.

MOTION CARRIED: Transport for NSW Wayde Hazelton / Inspector Mark Fehon

The motion was carried with Councillors voting unanimously.

MOTION:

That the above recommendation be accepted and approved.

21/040 PUTTA BUCCA ROAD ROUNDABOUT

RECOMMENDATION

6

MID-WESTERN REGIONAL COUNCIL | LOCAL TRAFFIC COMMITTEE - 17 SEPTEMBER 2021

That Council approve in principle the installation of the roundabout on Putta Bucca Road, with further designs to be presented to LTC.

Committee Comments

- Discussion on current roundabout design has larger vehicles crossing onto to wrong side of road. This was not supported by TfNSW.
- Discussion on
- Approval of roundabout but not in its current format

AMENDMENT: Transport for NSW Wayde Hazelton / Inspector Mark Fehon

MOTION: Roundabout is supported although current design is no accepted as the larger vehicle crossing into the wrong side of the road.

21/041 FLAVOURS OF MUDGEES - TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE

RECOMMENDATION

That Council approve the temporary suspension of the 'Alcohol Free Zone' in Market and Church Streets Mudgee for the Flavours of Mudgee events in 2021, 2022 and 2023.

MOTION CARRIED: NSW Police Mark Fehon / Wayde Hazelton

The motion was carried with Councillors voting unanimously.

MOTION:

That the above recommendation be accepted and approved.

21/042 MUDGEES PARKING STUDY - UPDATE

RECOMMENDATION

That Council

- Provide feedback in relation to the report.
- Engage in community consultation in relation to the proposed changes near St Matthews Catholic School.

Committee Comments-

- Accept the removal of sign on Short Street Section 1447
- Church street segment 40- agree the on the removal of no stopping sign
- Lewis Street segment 20
- Mudgee Parking Study Update- All comments to be back to Rusha 24/9/2021

MOTION CARRIED: Transport for NSW Wayde Hazelton / Inspector Mark Fehon

The motion was carried with Councillors voting unanimously.

MOTION:

That the above recommendation be accepted and approved.

21/046 SUNSET SOUNDS FESTIVAL

RECOMMENDATION

That Council approve the event – “Sunset Sounds” at Craigmoor Wines, 30 October 2021” – be classified as a Class 2 Event under the “Guide to Traffic and Transport Management for Special Events Version 3.4” and proceeds with the following conditions:

- A Special Events Transport Management Plan (TMP), is to be prepared in accordance with the Guide to Traffic and Transport Management for Special Events Version 3.4 and submitted to and approved by Council prior to the event;**
- b. Events are to be undertaken in accordance with the requirements of the NSW Police Force with their approval documentation forwarded to Council for notation;**
 - c. Controlling noise as required by the Protection of The Environment Operations (Noise Control) Regulation 2000;**
 - d. Reimbursing Council for the cost of damage repairs;**
 - e. Complying with Council's Law Enforcement Officers' reasonable directives;**
 - f. Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;**
 - g. A Traffic Guidance Scheme (TGS), certified by a person with a "Worksite Traffic Control Certificate" be included in the TMP;**
 - h. Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;**
 - i. Council must be provided with a current copy of a public liability insurance policy in the amount of at least \$20 million. Such a policy is to note that Mid-Western Regional Council, Transport For NSW and the NSW Police are indemnified against any possible action as the result of the event;**
 - j. The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;**
 - k. Maintain a four-metre wide emergency vehicle lane;**
 - l. Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;**
 - m. The event organiser apply to the Transport For NSW for a direction to restrict the speed limit as proposed.**
 - n. The organiser is to notify NSW Fire and Rescue and the NSW Ambulance Service of the event.**
 - o. The organiser is to debrief with Council and Police with all traffic control documentation and controls tabled for review.**

Committee Comments

- Wayde will review and check TGS Monday 20/9/2021

MOTION CARRIED: NSW Police Mark Fehon / Wayde Hazelton

The motion was carried with Councillors voting unanimously.

MOTION:

That the above recommendation be accepted and approved.

8

MID-WESTERN REGIONAL COUNCIL | LOCAL TRAFFIC COMMITTEE - 17 SEPTEMBER 2021

21/044 GENERAL BUSINESS

COX STREET RAIL OPENING – UPDATE

In order for Cox Street Rail crossing to be opened Council must provide the following evidence:

- Exhausted every other avenue available in relation to access included grade separation
- Provide analysis of possible risks associated with the new level crossing and the management measures proposed to mitigate these risks
- Any opportunities to use the existing level crossing
- Provide a comprehensive analysis of traffic patterns supporting the proposal.

21/045 CORRESPONDANCE

KIDNEY KAR RALLY

Supported by LTC 17/9/2021

CLOSURE

There being no further business the meeting concluded at 10.45am.

Item 13: Urgent Business Without Notice

URGENT BUSINESS WITHOUT NOTICE

As provided by Clauses 19 & 20 of Council's Code of Meeting Practice (Clause 14 LGMR).

GIVING NOTICE OF BUSINESS

19. (1) The Council must not transact business at a meeting of the Council:
- (a) unless a Councillor has given notice of the business in writing at least two (2) days prior to the day on which the agenda and business paper is prepared and delivered to Councillors; and
 - (b) unless notice of the business has been sent to the Councillors in accordance with Clause 6 of this Code. (see Section 367 LGA & Clause 14(1) LGMR)
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before the Council (see Clause 14(2)(a) LGMR); or
 - (b) is the election of a chairperson to preside at the meeting as provided by Clause 12(1) (see Clause 14(2)(b) LGMR); or
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with Clause 21 (see Clause 14(2)(c) LGMR); or
 - (d) is a motion for the adoption of recommendations of a committee of the Council; (see Clause 14(2)(d) LGMR); or
 - (e) relates to reports from officers, which in the opinion of the Chairperson or the General Manager are urgent;
 - (f) relates to reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the Committee; and
 - (g) relates to urgent administrative or procedural matters that are raised by the Mayor or General Manager.

BUSINESS WITHOUT NOTICE

20. (1) Despite Clause 19 of this Code, business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting; and
 - (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. Such a motion can be moved without notice. (see Clause 14(3) LGMR)
- (2) Despite Clause 30 of this Code, only the mover of a motion referred to in subclause (1) can speak to the motion before it is put. (see Clause 14(4) LGMR)

Item 14: Confidential Session

Nil

CONFIDENTIAL
SESSION

Item 15: Urgent Confidential Business Without Notice

Item 16: Open Council

Item 17: Closure