

# EXTRAORDINARY MEETING

MONDAY 28 NOVEMBER 2011

The logo for the Mid-Western Regional Council features three overlapping, curved lines in orange, yellow, and green, with a blue line below them. The text "Mid-Western" is written in a large, bold, black font, and "REGIONAL COUNCIL" is written in a smaller, black font below it.

**Mid-Western**  
REGIONAL COUNCIL



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23 November 2011

Dear Councillor

MEETING NOTICE

EXTRAORDINARY MEETING COMMENCING AT 5PM

MONDAY 28 NOVEMBER 2011

An Extraordinary Meeting of Mid-Western Regional Council will be held at 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.

Yours faithfully

A handwritten signature in black ink, appearing to read "Warwick Bennett", written in a cursive style.

WARWICK BENNETT  
GENERAL MANAGER

## AGENDA

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**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: MAYORAL MINUTE (if any)**

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**ITEM 4: GENERAL BUSINESS**

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**4.1 DRAFT DEVELOPMENT CONTROL PLAN - TEMPORARY WORKERS  
ACCOMMODATION**

REPORT BY GROUP MANAGER DEVELOPMENT AND COMMUNITY SERVICES twadcp A0100052, A0420084
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**RECOMMENDATION****That:**

- 1. the report by Group Manager Development and Community Services on the Draft Development Control Plan - Temporary Workers Accommodation be received;**
- 2. Council endorse the planning opinion that Temporary Workers Accommodation falls within the definition *Tourist and Visitor Accommodation* for the purposes of the Mid-Western Local Environmental Plan 2008**
- 3. the submissions in relation to the exhibition of the Draft Development Control Plan Temporary Workers Accommodation be noted.**
- 4. the revised Draft Development Control Plan on Temporary Workers Accommodation be place on further public exhibition in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations as the changes are of such significance that warrants further community and key stakeholders input; and**
- 5. a further report be presented to Council upon the completion of the exhibition.**

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**EXECUTIVE SUMMARY**

Council exhibited the Draft Development Control Plan (Draft DCP) from 20 September 2011 to the 30 October 2011. 340 submissions were received and 3 petitions with 163 signatures.

The purpose of this report is to present a summary of the issues raised in the submissions, a full copy of the submissions, recommend appropriate amendments to the Draft Development Control Plan – Temporary Workers Accommodation and recommend that the DCP be re-exhibited in accordance with the provisions of the Environmental Planning and Assessment Act.

**DETAILED REPORT**

The Draft DCP as exhibited stated the following in relation to the permissibility of Temporary Workers Accommodation.

**4.0 Permissibility**

*Temporary Workers Accommodation as defined in this policy is not defined in any of the planning instruments currently applying to the Mid-Western Regional Local Government Area. As such the use will be considered as an innominate use. An innominate use is one*

*that is not defined by the relevant planning instrument. Permissibility will be guided by the objectives of the land zone and relevant planning instrument and determined by whether the zone is an “open” or “closed” zone. An assessment of the merits of any proposal will be carried out in accordance with the Environmental Planning and Assessment Act 1979.*

As a consequent of the submissions and feedback received during the exhibition of the Draft DCP a review of the appropriate characterisation of Temporary Workers Accommodation and therefore permissibility has been undertaken. As a consequence of the review it has been concluded that the question of definition and permissibility differ depending on the applicable Local Environmental Plan as described below.

#### Mid-Western Interim LEP 2008.

The Mid-Western Interim LEP 2008 applies to the former Mudgee LGA. It is considered that a Temporary Workers Accommodation would appropriately be defined for the purposes of the Mid-Western Interim LEP 2008 as *Tourist and Visitor Accommodation* which is defined as follows:

*tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers’ accommodation.*

This is considered the applicable definition for the Mid-Western Interim LEP as a Temporary Workers Accommodation provides temporary accommodation on a commercial basis.

Pursuant to the Mid-Western Interim LEP, *tourist and visitor accommodation* is permissible with consent in the following zones:

- Village Zone
- Neighbourhood Business Zone
- Mixed Use Zone
- Commercial Core Zone
- Light Industrial Zone
- General Industrial Zone

In accordance with the relevant LEP, any proposal is to have due regard to the objectives of the LEP and the objectives of zone in which the development is proposed.

#### Rylstone Local Environmental Plan 1998

The Rylstone Local Environmental Plan 1998 covers the former Rylstone LGA. Tourist and Visitor Accommodation is not a definition included in the Rylstone LEP 1998 and therefore the use remains an innominate use for the purposes of this LEP.

In accordance with the relevant LEP, any proposal is to have due regard to the objectives of the LEP and the objectives of zone in which the development is proposed.

#### Merriwa Local Environmental Plan 1992

The Merriwa LEP 1992 covers that part of the Mid-Western LGA that was formerly part of the Merriwa Shire. Again Tourist and Visitor Accommodation is not a definition included in the Merriwa LEP and therefore the use remains an innominate use for the purposes of this LEP.

In accordance with the relevant LEP, any proposal is to have due regard to the objectives of the LEP and the objectives of zone in which the development is proposed.

### Proposed Amendments

In light of the review of permissibility as outlined above and in response to submission made to the exhibition of the Draft LEP it is recommended that a number of amendments to the Draft DCP be undertaken as outline below. It is considered that the amendments recommended warrant the re-exhibition of the Draft LEP.

The significant amendments to the Draft DCP include:

- Recognition of the three different LEP's and clarification of the definition and permissibility of TWA within the LEP's
- Introduction of an additional objective relating to traffic generated by a TWA located remotely from a Major Infrastructure Project.
- Deletion of the two objectives that related to limits on the number of beds.
- Removal of the location restrictions with a reliance placed on permissibility in the LEP.
- Inclusion of further details relating to proposals that will connect to Council's reticulated system. The provision requires the applicant to demonstrate that the reticulated system can support the additional demand generated by the Temporary Workers Accommodation whilst allowing adequate capacity to service existing demand, demand to meet land already zoned within the catchment, uses already approved to connect to the reticulated service and land identified in the Comprehensive Land Use Strategy.
- The requirement for the provision of a Social Impact Statement and a guide to the issues that should be addressed.
- Removal of the 400 and 1, 200 bed limit with a reliance placed on the ability to service, traffic generation and demonstrated demand for the TWA.
- Requirement to address security as part of the Plan of Management.
- A provision linking the life of the TWA to the life of the Major Infrastructure Project that it nominates as part of its application to be servicing.

### Public Consultation

As detailed previous the draft DCP was placed on exhibition from the 20 September 2011 to 30 October 2011 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Below is a summary of the issues raised in the submissions. A full copy of the submissions including the petition is attached to this report for Council consideration.

ISSUE	STAFF COMMENT
<b>LOCATION</b>	
Should be located at the mine site	The location of TWAs at the mine site has merit in that it will reduce commuter traffic and reduce the potential for social impacts on any particular town or village. The location of a TWA will be governed by compliance with relevant planning instruments.
DCP protects Mudgee	It is not an objective of the DCP to <i>protect</i> any particular town from the establishment of a TWA but to provide guidelines for the appropriate form of development.

Could be located in industrial areas.	It is inappropriate for this form of development to be located within the industrial area as it will lead to conflict between industrial activity and the residential functions of the use.
The 20 km requirement would require location of a village south of Gulgong on the Castlereagh highway.	This was not an option in the Draft DCP as exhibited. The Draft DCP only allowed for three types of location: <ul style="list-style-type: none"> <li>• at mine site</li> <li>• adjacent to town</li> <li>• adjacent to village.</li> </ul> Location in the rural area remote from services and the mines was not an option.  Upon review of the nature of the use it is considered that the use would under the Mid-Western Interim LEP fall within the definition of <i>Tourist and Visitor Accommodation</i> and therefore location of the use is subject to the provisions of that LEP as discussed previously in this report.
Various suggestions for distance from the towns including 5km, 15 km, 20 km and a minimum setback of 1km from any road.	Location is essentially controlled by permissibility with the test included in the DCP regarding traffic generation.
Should not be allowed within 500 metres from village	See previous comment.
<b>SIZE</b>	
DCP should only allow smaller camps of 10 to 50 throughout region.	The size of camps should be subject to detailed consideration of the suitability and capability of a particular site to support a use, the potential social impacts and offsite impacts.
Size of TWA should be determined by the size of the town near which it is located representing no more than a 10% increase in the town or village population. For example Gulgong would have a maximum of 190 beds, Rylstone 60 beds and Mudgee 400 beds.	See previous comments regarding suitability and location of TWA's.
Only allow 4 beds on a single block	See previous comments regarding suitability.
Restrict size to 20 to 40 beds at rear of hotels	See previous comments regarding suitability.
The Draft DCP does not facilitate villages of an appropriate size, i.e. they should not be limited to an arbitrary 400 beds but be determined by : <ul style="list-style-type: none"> <li>• The characteristics of the site</li> <li>• The nature of the market and the developments in the region which it will service</li> <li>• The objects of the EP and A Act</li> <li>• All other environmental features.</li> <li>• (Intergenerational equity)</li> </ul>	The 400 bed limit was introduced to establish a balance between the potential impact on an existing town or village whilst recognising that a certain size was required to maintain economic viability. The advice regarding economic viability was verbal advice provided to Council by the Mac Group. As can be seen from other submissions to the Draft DCP there is concern regarding the impact of 400 beds on the edge of a town such as Gulgong. It is acknowledged that any assessment of a



	DA for a TWA should have due regard to the objects of the EP and A Act and other relevant Environmental Planning Instruments.
<p>The limits included in the draft DCP relating to 400 beds, 1,200 bed for the region and 20 km separation requirement are:</p> <ul style="list-style-type: none"> <li>• Inconsistent with State Government policies which encourage mining in the area;</li> <li>• Strict developments restrictions may prevent achievement of the object of the EP and A Act ;</li> <li>• Will not result in the permanent relocation of employees to the area but may reduce the number that relocated.</li> <li>• Will not reduce social impacts</li> <li>• Will not maximise economic returns</li> <li>• Will not preserve the character of towns and villages</li> <li>• Will not achieve the objectives of the DCP.</li> </ul> <p>The submission states that the limits should be removed and offers an alter wording relying on the achievement of the objectives of the DCP and EP and A Act.</p>	<ul style="list-style-type: none"> <li>• Notwithstanding any State government policies, every application must be assessed on merit. All mining and other industries associated with mining are subject to a full assessment in accordance with the provisions of the EP and A Act. The Draft DCP as exhibited or the new DCP is not inconsistent with any State Government Policy regarding mining.</li> <li>• Noted the restrictions were aiming to provide a clear guideline to developers regarding appropriate size of development. The new DCP places a greater emphasis on performance standards that seek to go to the proper management of the development to protect the environment including the social and economic welfare of the community.</li> <li>• It is considered that the higher the level of integration with the existing community, by living in residential area as part of the community, the greater the opportunity for relocation.</li> <li>• This provision is addressed in the new DCP through Social Impact assessment.</li> <li>• Noted.</li> <li>• Noted. This issue is largely addressed through the review of the definition of the use.</li> <li>• Noted.</li> </ul>
<b>DEFINITIONS</b>	
Definition of <i>Temporary</i> should be clarified.	Agreed – temporary refers to the length of stay of the occupiers and the definition has been clarified in the amended version
Suggested that approval should only be granted for 5 years with an extension should impacts be acceptable	This suggestion has merit but does not provide certainty for developer/operators as the use represents a significant investment.
Life of facility should be limited suggestion included 10, 15 or 20 years	Rather than limit the life of the TWA to a particular time span the new DCP suggest that the life of the TWA be limited to the life of the project that it services.
Definition of Legacy Infrastructure should be amended to exclude public ownership.	It is considered unnecessary to amend the definition for if the infrastructure is to remain in private ownership it is simply not <i>legacy infrastructure</i> . Retention of the ownership issue

	in the definition allows for clarity when discussing and assessing a development application. It may well be that not all infrastructure would be transitioned in public ownership upon cease of the TWA but this needs to be clear at the outset.
<b>ECONOMIC</b>	
A TWA will devalue properties in the town and surrounding land.	Any potential impacts associated with a particular development will be assessed in accordance with the provisions of the EP and A Act. It should be noted, though, that property values are not a relevant consideration under Section 79C of the EP and A Act.
The camp at Narrabri has devalued the town.	Council has been investigating and implementing a number of options to address the shortage and affordability in housing so that TWA's are not the only solution.
A TWA will encourage drive-in drive-out workforce and therefore will remove opportunities for employment of locals.	A TWA caters for a drive in drive out workforce and for short term construction workforce. The availability of work for local people is beyond the scope of assessment for a TWA.
The Council should encourage mines to provide permanent housing	Council has consistently encouraged mines to provide permanent housing in the town and villages of the LGA. The approval process for mines is controlled by the State Government with Council only being one of many of the stakeholders in the process.
A TWA will provide no economic benefit to town – just profit for developers.	The potential economic impact of a particular proposal would need to be addressed as part of the SEE.
Rosters of 7 days on 7 off will not allow involvement in the community.	Noted. This would need to be addressed in the Social Impact Assessment.
The proposal at Gulgong has already deterred potential purchasers.	The DCP seeks to control development for TWAs in the whole LGA and does not relate just to one potential DA. This is not a matter for consideration under the Environmental Planning and Assessment Act 1979.
Affordable rental will be scarce for non-miners. TWA will address rental shortages.	Anecdotal evidence suggests that there has been an impact on affordable rental in the LGA. Council has been investigating and implementing a number of options to increase housing option to assist in addressing this issue. Appropriately design and located TWAs can be part of that solution.
Shops already busy in Gulgong and a TWA will increase traffic congestion.	This submission relates to one potential application. The potential impact of traffic on an area would need to be addressed as part if the Traffic Impact Assessment.
A TWA will reduce rental return in Gulgong.	This is not a matter for consideration under the Environmental Planning and Assessment Act 1979.

DCP should require the proponent to outline economic benefit.	Included as a requirement of the Social Impact Statement.
Developers owned by overseas company therefore profit is going offshore.	This is not a matter for consideration under the Environmental Planning and Assessment Act 1979.
<b>SOCIAL</b>	
The DCP should require Social Impact Statement.	Agree. The new DCP has included a specific requirement for a Social Impact Statement.
Location of a TWA on the edge of Gulgong would have a dramatic negative impact on the on safety and the perception of safety, and the character of the community.	This submission relates to a particular potential development application. Assessment of the potential impacts would be undertaken during the assessment of a development application.
A TWA on edge of town will result in a disproportionate number of male to females.	Accommodation provided by a TWA is not restricted to male tenants. The potential impacts would be assessed during the assessment of the DA.
Don't want brothels and tattoo parlors in towns	It is beyond the scope of the TWA DCP to address the appropriate development of brothels and tattoo parlours. The development of brothels is controlled by the Brothels (Sex Services Premises) Development Control Plan.
Location of a TWA on the edge of Gulgong would have a dramatic negative impact on the on safety and the perception of safety, and the character of the community.	This submission relates to a particular potential development application. Assessment of the potential impacts would be undertaken during the assessment of the DA. Potential social impacts are to be identified in the Social Impact statement including possible mitigation measures.
Contractors already behaving badly.	This is beyond the scope of the DCP.
TWA will address shortages in rental accommodation	Agree, although the long term aim is to encourage the relocation of workers to the area.
If housing demand is not met workers may seek accommodation in illegal or inappropriate places.	This may occur to a small degree but it is expected that the more likely impact is an increase in rent costs.
Should permanent housing be provided to meet temporary demand these houses will become vacant or derelict when the demands ceases. (after mining)	It is expected that the demand generated by mining will extend for at least 20 to 30 years. A diversified economy will promote sustainable development.
The submission cites <i>intergenerational equity</i> stating that creation of future derelict or vacant housing will not <i>enhance the health of the environment for future generations</i> .	In reference to intergenerational equity, the submission is based on the assumption that future housing will be derelict and does not allow for the growth and diversity of the economy. Notwithstanding the state of housing in the future the local community are concerned that the establishment of the TWA at the edge of the community will have significant impacts on the environment, including the social environment, of existing residents and children and may result in the demise of the Gulgong community.  It is considered that the Draft DCP is consistent

	with the objects of the EP and A Act as it considers all relevant objects of the Act allowing for the proper management of development.
That a Complaints Handling Procedure be required.	Agreed. This has been included in Section 18 Plan of Management
<b>OTHER IMPACTS</b>	
Not possible to limit visual impact due to the nature of the design.	It is considered that the visual impact of TWAs can be reduced through appropriate design and location.
Loss of sense of place.	This would need to be assessed as part of the Social Impact Assessment.
Land Owners seeking compensation for loss of views and impact.	Owners would need to seek their own legal advice regarding any potential compensation but Council is unaware of any avenue within the NSW legislative framework to seek such compensation.
A TWA is an urban use and therefore not suitable for rural locations.	Certainly the location of a TWA in a rural location may raise a range of potential impacts that would need to be assessed as part of any DA. Having regard to the permissibility in the LEP the DCP aims to mitigate these impacts.
Negative amenity impacts on adjoining owners.	The DCP is to inform the DA process and to set some control parameters. Impacts of a particular development would need to be assessed as part of a development application.
Cope Road is major tourist route and therefore a TWA should not be located on this road.	This submission relates to a particular potential development application. Assessment of the potential impacts would be undertaken during the assessment of the DA.
Potential Impact on Heritage	The Draft LEP already included provision requiring the consideration of heritage however the amended version has provided additional clarification.
<b>SERVICES</b>	
Negative impact on roads with an increase in traffic.	Any application is required to address the traffic impact and would be required to upgrade roads if necessary as a condition of any approval.  The location of the a TWA should be such so as to minimise increase in traffic movement whether through traffic generated by the tenants or through servicing requirements. This has been addressed through an additional objective of the Draft DCP.
Traffic Impact assessment- Request the removal from the DCP of the requirement for assessment for road access, road capacity and capability assessment and replace with Traffic Impact Assessment.	It is proposed to amend the draft DCP to require a Traffic Impact Statement including assessment for road access, road capacity and capability assessment.
Removal of a requirement to provide a footpath/	The requirement for the footpath/cycleway was

cycleway due to safety and experience has demonstrated lack of use.	to encourage integration and use of facilities located in the town. Perhaps use of the footpath could be encouraged by the developer/operating providing bicycles for use by workers. It is considered that provision of a separated footpath would be far safer than forcing any pedestrian onto the road.
The proponent should be required to address transport to and from local facilities.	This is addressed in Section 18 Plan of Management.
Health services should be provided on the site suggested that were a facility exceeds 200 beds there should be a 24 hour nurse on site.	The provision of Health Services would need to be addressed as part of any DA and would relate to range of issues such as location and size. The TWA DCP requires consideration of the impact of a proposal on health services.
Health services should be provided by mining companies.	This is not relevant to the consideration of the Draft DCP but to the assessment of the applications for mines which is undertaken by the Department of Planning and Infrastructure.
A TWA will place additional strain on services when the hospital has been lost.	This would need to be addressed as part of the Social Impact Statement however the workers will require health services regardless of where they reside.
Waste Removal – who pays?	The developer will be required to address and pay for waste services.
A TWA will place additional strain on the Police service. There is no 24 hour service located in Gulgong.	All applications would be referred to the police for comment. The Plan of Management would be required to address the behaviour of residents when on site.
Town Water and Sewer Schemes- no capacity.	With each DA that is lodged it is a requirement of the EP and A Act that an assessment be made on the ability to service the development.
Will other properties have access to the water and sewer?	Water and sewer would be extended to any site at the full cost of the developer including the requirement to upgrade or provide infrastructure such as pump stations.
The sewer and water capacity of Gulgong is significantly compromised. Mac Group will contribute to upgrade of facilities.	The water and sewer system of Gulgong are not compromised or restricted. Council has recently introduced the Park Irrigation Scheme which can cater for the immediate growth and are looking at an upgrade of the infrastructure to cater for future growth. All development whether long term residential or TWA are required to contribute to infrastructure development. Depending on the scale of the development the relevant developer maybe required to upgrade facilities should they wish to proceed with the development.
<b>DESIGN CRITERIA</b>	
Various suggestions for landscape buffer width including 50m, 75m.	It is considered that the width of the landscaping buffer should be determined by the characteristics of the site, the location, the adjoining development and the design of the facility.
DCP should require mature landscaping.	Requirements in the landscaping plan have

	been amended to include a focus on mature vegetation where that vegetation is to act as a buffer or screening.
A TWA should not be visible from any boundary.	This is considered an excessive requirement with the visual impact to be assessed on the merit of a particular application.
The DCP should include noise controls	The Plan of Management should address the operation of the facility (which is largely residential nature) rather than the establishment of particular noise control. The operation of the facility would be subject to the same controls as other residential development under the Protection of the Environment Operations Act 1997.
Suggest the reduction in the requirement for car parking as a 1:1 ratio will result in excessive car parking and that workers are bussed to the mine site.	The Mac Group experience in this regard has largely related to Queensland and Fly in Fly Out operations. Having regard to the potential location of TWA's in the LGA it is considered that Mid-Western will experience a higher rate of drive in and drive out and therefore the 1:1 car parking requirement is necessary.
The DCP should include a requirement for visitor car parking.	It is considered that the provision of one space per bed is adequate to cater for car parking. There will be times when there is not full occupancy. Delivery areas will be required for provisions.
Removal of the clause relating to the replication of facilities within town to allow the provision of a gym due to the requirements of shift work.	Agreed the DCP should be amended to exclude gyms specifically but that the clause be retained.
Council should require housing to exceed the requirements of BASIXs	These developments consist largely of prefabricated components and therefore are built to comply with statutory standards in terms of BASIX. It is considered that should Council wish to promote better environmental performance of housing it would be better to focus on permanent housing.
<b>PLANNING AND DCP</b>	
More local planning to make it easier for permanent housing	See previous comments in relation to Council encouraging permanent housing. The Draft LEP 2011 identifies a range of land for housing.
Questions regarding the demand for TWA's.	The Draft DCP requires that the demand for the TWA be demonstrated.
Letter of support from Mount Penny Coal	Noted
Temporary population should be included in the population adopted for the planning of the provision of services and infrastructure.	Agreed but this consideration is beyond the scope of the Draft DCP
Proponents should pay contributions to the community	Agree. This would be addressed through Section 94 contributions or a Voluntary Planning Agreement.
TWA's should be self sufficient in terms of water.	Provision of water has been addressed in the Draft DCP and where a reticulated system is not available the TWA needs to provide water without relying on trucking water in.

Stop mines	This submission is beyond the scope of the DCP
DCP is inconsistent with Draft LEP.	Disagree.
DCP does not stipulate a timeframe for public consultation.	Disagree. The DCP required the included the following requirement: <i>All applications for Temporary Workers Accommodation will require a 21 days notification and include as a minimum the following forms of notifications:</i> <ul style="list-style-type: none"> <li>• Letter to Adjoining Owners;</li> <li>• Notice in the Local Press; and</li> <li>• Notice on the Site.</li> </ul>
Under location the DCP states that the facilities would not be supported in areas of <i>particular scenic or visual attraction</i> . This requires a subjective judgement.	The purpose of this paragraph was to protect area of <b>particular</b> scenic value for example escarpments, or area adjacent to reserves. It is acknowledges that it requires a merit based judgement.
Should require a full environmental impact study and social impact study	Any Development Application for a temporary workers accommodation facility will require a Statement of Environmental Effects.(SEE) As most proposal are not designated development there is no requirement for an EIS. Concerns regarding the environmental impacts and ways to mitigate those impacts are addressed in the SEE.  Although the social impact of the development would also be required to be addressed as part of the SEE the DCP has been amended to explicitly state that a social impact statement is required.
Section 6 – Plan of Management – does not require the plan to address the social impact even though it is required under section 6.2 It addition, the Plan of Management should address the provision of security.	Section 6 can be amended to require the Plan of Management to address measures to mitigate the social impact. Identification and assessment of the social impact will be considered at Development Application stage. Section 6 has been amended to require the Plan of Management to address security measures.
Consultation should occur with the local police.	It is considered that this should occur during the preparation of the Social Impact Statement. The Draft DCP has been amended to include this requirement.

FINANCIAL IMPLICATIONS

Not applicable

STRATEGIC OR POLICY IMPLICATIONS

At this stage Council does not have a policy framework to assist in the assessment of development applications for Temporary Workers Accommodation. A Development Control Plan will provide guidance to the Council, developers and community for the development of this form of

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accommodation. A Development Control Plan is a statutory planning instrument if it is made in accordance with the requirements of the Environmental Planning and Assessment Act. The strength of the controls within a DCP relies on it being current, relevant and consistently applied.

CATHERINE VAN LAEREN  
GROUP MANAGER DEVELOPMENT AND COMMUNITY SERVICES

20 November 2011

Attachments: 1. Amended Draft Local Environmental Plan – Temporary Workers  
Accommodation  
2. Submissions – Under Separate Cover in three volumes.

APPROVED FOR SUBMISSION:

WARWICK BENNETT  
GENERAL MANAGER





## **Development Control Plan**

### **Temporary Workers Accommodation**

**20 November 2011**

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# Commencement: XX August 2011

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## Introduction

Temporary Workers accommodation is occasionally required in the Mid-Western Region in response to the need for short term workers accommodation mainly for mining and larger scale projects.

Temporary Workers Accommodation for the purposes of this policy does not relate to the typical transient workforce requirements where seasonal accommodation may be required for workers in the local agricultural or tourism sectors.

## 2.0 Area to which the Plan Applies

The Development Control Plan – Temporary Workers Accommodation applies to all land within the Mid-Western Local Government Area. The following Local Environmental Plans also apply to the land:

- Mid-Western Interim Local Environmental Plan 2008;
- Rylstone Local Environmental Plan 1996; and
- Merriwa Local Environmental Plan 1992.

## 3.0 Commencement

This DCP commences on ...

## 4.0 Definitions

Pursuant to the Mid-Western Local Environmental Plan 2008 Temporary Workers Accommodation is characterised as *Tourist and Visitor Accommodation*.

Pursuant to the Rylstone LEP 1996 and the Merriwa LEP 1992 Temporary Workers Accommodation is considered as an innominate use. An innominate use is one that is not defined by the relevant planning instrument. Permissibility will be guided by the objectives of the land zone and relevant planning instrument.

Attention is drawn to the requirement for this DCP to be read in conjunction with the objectives of the relevant LEP.

For the purposes of this policy a “Temporary Workers Accommodation” is defined as:

*“Development which remains in place on a temporary basis that provides temporary accommodation for mine-related workers or those associated with large scale infrastructure projects and their dependents (usually employed on a “drive in / drive out or Fly in /fly out basis) and consists of accommodation units, and associated amenity building.”*

For the purposes of this policy “Legacy Infrastructure” is defined as:

*“Infrastructure and civil works such as roads, sewer pump stations, or community facilities that have been undertaken to support the installation and use of a site for the purposes of Temporary Workers Accommodation which upon decommissioning of the Temporary Workers Accommodation is transitioned into public ownership for its ongoing use.”*

## 5.0 Objectives

The objectives of this policy are:

- To ensure that applications for the development of Temporary Workers Accommodation are assessed in a consistent, fair and timely manner.
- To provide guidance to staff, Councillors, landowners, developers, consultants and the general public regarding the permissibility and criteria for assessment of applications for Temporary Workers Accommodation.
- To provide guidelines that promote the development of Temporary Workers Accommodation in a way that maximises social integration of the workforce and economic benefits whilst minimising social costs.
- To minimise any negative impacts on the visual residential and/or rural living amenity of surrounding area.
- To ensure that the location of accommodation does not result in land use conflict with other existing or any reasonably anticipated future use of land such as tourism and agriculture.
- To encourage the location of Temporary Workers Accommodation at locations that minimises increases in traffic movements including traffic generated by the commute to the major infrastructure project or by servicing.

## 6.0 Location

6.1 Council would discourage the location of Temporary Workers Accommodation in the following locations:

- In a position or area that would adversely detract from any area of particular scenic or visual attraction.
- Areas remote from the major infrastructure project sites due to the potential increase traffic movements to the Temporary Workers Accommodation and the commute to the place of employment. Any application for location of a Temporary Workers Accommodation remote from a major infrastructure project will need to justify the proposed location over sites that would be located within closer proximity of the major infrastructure projects in terms of potential traffic generation.
- Areas adjacent to tourist routes unless there is provision of significant established mature vegetative screen.
- On land zoned for industry or land adjacent to land zoned for industrial development due to the potential for land use conflict.
- On land where the location of the accommodation facility may adversely affect the existing use or any reasonably anticipated future use.

6.2 Any development application for Temporary Workers Accommodation must demonstrate that the site on which the proposal relates is both capable and suitable of supporting the use. Any application must also comply with the following criteria as relevant to the location of the proposal.

Location	Requirements
Within or Adjacent to Towns (within 1.5km from the edge of the urban zone).	<ul style="list-style-type: none"> <li>• Connection available or to be made available to reticulate water and sewerage. The applicant must demonstrate that the reticulated system can support the additional demand generated by the Temporary Workers Accommodation whilst allowing adequate capacity to service existing demand, demand to meet land already zoned within the catchment , uses already approved to connect to the reticulated service and land identified in the Comprehensive Land Use Strategy.</li> <li>• Provision of legacy infrastructure including a road layout that can be converted to a residential subdivision (This will need to be demonstrated at the time of lodgment of application).</li> <li>• Provision of a footpath/ cycleway built to Council's specifications linking the accommodation facility to the town. (beginning of the 50km speed zone)</li> <li>• Provision of facilities that do not replicate any facilities that are currently provided by the town. For example, bar facilities. The exceptions to this requirement is the provision of food (not including take away food and drink premises) and gyms for the use of the residents of the facility.</li> <li>• Provision of a Traffic Impact Statement which addresses but is not limited to the following: <ul style="list-style-type: none"> <li>○ provision of road access that does not unduly impact on adjoining residential areas or traffic circulation on main roads.</li> <li>○ Provision of road capacity and capability assessment that considers the impact of commuter traffic from the accommodation to the relevant mine or work site(s).</li> </ul> </li> <li>• Design of the accommodation so as not to negatively impact on the visual and residential amenity of any surrounding development.</li> <li>• Submission of a plan of management to address the social impact having regard to the particular location of the accommodation.</li> <li>• Where the accommodation facility is located within a Heritage Conservation Area or considered to have potential impacts on a Heritage Conservation Area or in the vicinity of a Heritage Item the application will include a Heritage Impact Statement.</li> <li>• Provision of a Social Impact Assessment. See Section 8 of this DCP.</li> <li>• The application should identify and address potential positive and negative economic impacts of the proposal.</li> </ul>
Within or adjacent to villages (within 500 metres from the edge	<ul style="list-style-type: none"> <li>• Provision of suitable arrangements for the disposal of</li> </ul>

<p>of a Village zone).</p>	<p>waste water and the provision of a water supply. It should be noted that proposals relying on the provision of water transported by tankers will not be supported.</p> <ul style="list-style-type: none"> <li>• Provision of legacy infrastructure including a road layout that can be converted to a residential subdivision (This will need to be demonstrated at the time of lodgment of application).</li> <li>• Provision of a footpath/ cycleway built to Council's specifications linking the accommodation facility to the village. (beginning of the 50km speed zone)</li> <li>• Provision of facilities that do not replicate any facilities that are currently provided by the village. For example, bar facilities. The exceptions to this requirement is the provision of food (not including take away food and drink premises) and gyms for the use of the residents of the facility..</li> <li>• Provision of a Traffic Impact Statement which addresses but is not limited to the following:             <ul style="list-style-type: none"> <li>○ Provision of road access that does not unduly impact on adjoining residential areas or traffic circulation on main roads.</li> <li>○ Provision of road capacity and capability assessment that considers the impact of commuter traffic from the accommodation to the relevant mine or work site(s).</li> </ul> </li> <li>• Design of the accommodation so as not to negatively impact on the visual and residential or rural amenity of any surrounding development.</li> <li>• Submission of a plan of management to address the social concerns having regard to the particular location of the accommodation.</li> <li>• Where the accommodation facility is located within a Heritage Conservation Area or considered to have potential impacts on a Heritage Conservation Area or in the vicinity of a Heritage Item the application will include a Heritage Impact Statement.</li> <li>• Provision of a Social Impact Assessment. See Section 8 of this DCP.</li> <li>• The application should identify and address potential positive and negative economic impacts of the proposal.</li> </ul>
<p>At the Major Infrastructure Project site, that is, located within 5km of the central / main site administration office.</p>	<ul style="list-style-type: none"> <li>• Provision of suitable arrangements for the disposal of waste water and the provision of a water supply. It should be noted that proposals relying on the provision of water transported by tankers will not be supported.</li> <li>• Design of the facility to ensure that there is no adverse visual impact discernable from outside the project site.</li> <li>• Submission of a plan of management to address the social concerns having regard to the particular location of the accommodation.</li> <li>• The application should address health and residential amenity issues that arise due to the location near the major infrastructure project site.</li> <li>• Provision of additional access and parking</li> </ul>

	<p>infrastructure commensurate with the additional demand.</p> <ul style="list-style-type: none"> <li>• Provision of a Social Impact Assessment. See Section 8 of this DCP.</li> <li>• The application should identify and address potential positive and negative economic impacts of the proposal.</li> </ul>
Other Locations	<ul style="list-style-type: none"> <li>• Provision of suitable arrangements for the disposal of waste water and the provision of a water supply. It should be noted that proposals relying on the provision of water transported by tankers will not be supported.</li> <li>• Any application for location of a Temporary Workers Accommodation remote from a major infrastructure project will need to justify the proposed location over sites that would be located within closer proximity of the major infrastructure projects in terms of potential traffic generation to service the Temporary workers accommodation and commuter traffic generated by its remote location. The application should particularly address the traffic studies undertaken during the Environmental Assessment of the Major Infrastructure Project addressing any assumption made in the study having regard to the likely location where workers would reside.</li> <li>• Design of the facility to ensure that there is no adverse visual impact discernable from outside the project site.</li> <li>• Submission of a plan of management to address the social concerns having regard to the particular location of the accommodation.</li> <li>• Provision of additional access and parking infrastructure commensurate with the additional demand.</li> <li>• Provision of a Social Impact Assessment. See Section 8 of this DCP.</li> <li>• The application should identify and address potential positive and negative economic impacts of the proposal.</li> </ul>

**7.0 Need**

The proponent shall demonstrate a need for the Temporary Workers Accommodation. The proponent shall demonstrate the need for the facility by providing an analysis of the number of major infrastructure project (including mining) jobs currently approved and the total number of temporary workers accommodation beds approved. The expected life of the Temporary Workers Accommodation facility shall be included in the Statement of Environmental Effects indicating the expected timing of decommissioning to relate to the life of the major infrastructure project.

**8.0 Social Impact Statement**

There are many definitions of *social impact*. A contemporary definition (Armour, 1992) defines social impacts as changes that occur in:

- People’s way of *life* (how they live, work, play and interact with one another on a day-today basis);

- Their *culture* (shared beliefs, customs and values); and
- Their *Community* (its cohesion, stability, character, services and facilities).

#### 8.1 Key principles of assessing social impacts.

To achieve a useful and appropriate framework for assessing social impacts, a number of key principles are important.

- The purpose of assessing social impacts is to provide focused relevant details on the significant or problematic impacts.
- It is essential to consider the positive and negative social aspects of the development.
- Persons and groups that may be affected by the proposal should be consulted. Community consultation should identify the possible impacts and mitigating measures that may be introduced. Community consultation should occur early in the process and should lead to the formulation of the terms of reference of the Social Impact Statement. It is a requirement that the proponent consult the NSW Police Local Area Command and local health providers during the preparation of the Social Impact Statement. It is recommended that the proponent consult Council after the terms of reference are formulated.
- The proponent should incorporate practical measures that will enhance the positive aspects, may improve the development and limit any possible negative social impacts.

The Social Impact Statement should include but is not limited to the following:

- Identification and an in-depth analysis of social impacts of the proposal.
- Outline the process of community consultation and address issues raised by the community.
- consideration of cumulative impacts, intergenerational equity, impacts on the provision of all services and identify ways to address these impacts.
- The results of consultation with relevant service providers including police and health providers.
- Identification of a strategy to mitigate impacts, encourage integration with the community, and permanent relocation to the area, timeframe for implementation of the strategy and a monitoring program.

## 9.0 National Construction Code

All applications should as a minimum comply with the requirements of the National Construction Code.

## 10.0 Moveable Buildings

The application must illustrate that all transportable buildings can be permanently affixed to the site by footings in accordance with the requirements of the National Construction Code and associated Engineer's Certification.

Detail that all buildings and structures will have adequate form and appearance, including material and colors in soft earth browns, creams and greens, which do not detract from the visual amenity of the area. The use of reflective cladding material on walls will not be permitted. Where the use of second hand buildings is proposed the application must be accompanied by the following information:

- Photographs clearly showing the condition from all four elevations of the building
- An inspection report from a certified structural engineer or accredited building surveyor that the buildings are suitable for the proposed use and relocation.



## 11.0 Accessibility

Accessibility requirements established by Access to Premises Standard, the National Construction Code and the associated Australian Standards are to be addressed in the application.

## 12.0 Density

The overall density of development for Temporary Workers Accommodation shall not exceed 100 beds per hectare.

## 13.0 Facilities

The accommodation facility is to provide the following facilities as a minimum:

- Ablution facilities to be provided in each accommodation room including shower, toilet and wash basin connected to an approved effluent disposal system. ;
- Communal laundry and associated facilities connected to an approved effluent disposal system
- A covered/ sheltered entry for each building;
- An outdoor activity area of which part shall be shaded;
- Adequate and secure storage space for workers, equipment and other material associated with the management and maintenance of the accommodation facility;
- Adequate Lighting for pedestrian and vehicular safety and security throughout the complex.
- Paved internal pedestrian access to and between all buildings and facilities is to be provided.

## 14.0 Traffic and Parking

- Internal road and vehicular access provided in accordance with Council's Carparking Development Control Plan and Australian Standard No. AS2890 Council standard.
- Provision of one car parking space per room and one space per staff member in accordance with Council's Car Parking Development Control Plan.
- Designated bus parking and collection/drop off area located within the development area with sufficient maneuvering area to allow the bus to enter and leave the site in a forward direction.
- Designated delivery areas.

## 15.0 Services

- Provision of a potable water supply capable of providing a minimum of 140 litres per person per day. A lower daily minimum may be acceptable where the proposed development includes water saving measures such as recycling systems or non-potable water supply sources.
- A water balance is to be submitted demonstrating that the proposed provisions for water and sewer services can be met by the development.
- Demonstration of adequate water supply to maintain the accommodation facility including landscaping.
- Where the facility is to connect to a reticulated system proved by the local authority, the applicant must demonstrate that the reticulated system can support the additional demand generated by the Temporary Workers Accommodation whilst allowing adequate capacity to service existing demand, demand to meet land already zoned within the catchment, uses already approved to connect to the reticulated service and land identified in the Comprehensive Land Use Strategy.

- Provision of waste collection and where necessary entering into a waste disposal agreement with Council or an approved waste collection operator.
- First aid facilities.

## 16.0 Landscaping

A landscape plan should be provided with the application. Where possible, remnant vegetation should be retained. Landscaping should focus on:

- Providing a buffer to surrounding land, in this case vegetation should consist a combination of mature trees and shrubs to achieve a visual buffer;
- Providing privacy within the development;
- Improving the residential amenity through the provisions of shade.
- Consist mainly of native species or species that thrive in this locality.
- At least 25% of the site should be open space.

It will be a requirement of any development consent that the landscaping is to be maintained for the life of the development in accordance with the approved landscaping plan.

## 17.0 Plan of Management

The applicant shall provide a Plan of Management that shall form part of any approval granted by Council. The Plan shall address, but is not limited to, the following issues:

- Identification of measures introduced to mitigate social impacts
- Management of security and safety of tenants, community and surrounding residents.
- Noise, dust, odour, light spill and litter.
- Potential conflict with adjoining owners/occupiers that may be affected by the operation of the accommodation facility.
- The method of transport of the workers to the project site.
- The consumption of alcohol at the accommodation facility (if applicable).
- Where adjacent to a town or village, access to facilities.
- Access to medical services.
- Method for the collection of waste within the site.
- Emergency response procedures.
- Soil, groundwater and surface water protection methods.
- Details of signage at the entrance to the accommodation which is to include the following:
  - Site Manager / Operator
  - Specific Rules of the Accommodation site
  - Emergency Contact Details
- Complaints Handling Procedure that will be publicly available and include a compliant contact phone number.

## 18.0 Decommissioning Plan

The application shall be accompanied by a Decommissioning Plan that shall form part of any approval granted by Council. The Plan shall address the following issues:

- When the facility shall be decommissioned (the timing of the decommissioning should relate to the demonstrated demand as required by Clause 8 of this DCP);
- Works or facilities that shall remain in place following decommissioning;
- Details of the clean –up and rehabilitation of the site;
- The proposed use of the site after decommissioning; and

- The transfer to public ownership of any legacy infrastructure.

## 19.0 Developer Contributions

Council will seek to negotiate planning agreements for major developments in accordance with s93F of the Environmental Planning and Assessment Act 1979. Proposal involving less than 50 beds will be assessed in accordance with Council Section 94 Contributions Plan as commercial development.

## 20.0 Application Process

### Pre – Lodgement Meeting

Applicants are encouraged to meet with staff at every stage of the application including prior to site selection.

The intent of a pre-lodgement meeting is to avoid delays in the processing of development applications due to incomplete or absent information. In this regard Council aims to identify potential issues with the type of development proposed and/or the particular site so that the specific matters may be addressed in the final application. Where possible, Council officers will suggest alternative and acceptable solutions for the applicant to consider prior to lodging the full application.

Any application submitted to Council for consideration is subject to the full rigor of an assessment in accordance with the relevant provision of the Environmental Planning and Assessment Act, 1979 and advice given during a pre-lodgement meeting can not be taken as inferring a reasonable expectation as to the outcome of the assessment process. Council is however, enthusiastic and committed to providing quality advice to all potential applicants in the Mid-Western and you are encouraged to discuss your proposal big or small with the Planning and Development Team. To arrange a pre-lodgement meeting contact Council's Planning and Development Department on (02) 6378 2850.

### Lodgment of Applications

Upon lodgment of application it will be checked that the application is complete. Council will not accept an incomplete application. Applicants should complete the attached checklist and the development application form to ensure that the application is complete.

### Notification

Notification of the development application shall be undertaken in accordance with Council's Notification DCP.

All applications for Temporary Workers Accommodation will require a 21 days notification and include as a minimum the following forms of notifications:

- Letter to Adjoining Owners;
- Notice in the Local Press; and
- Notice on the Site.

### Determination

Due to the potential impacts of Temporary Workers Accommodation and the public interest all development applications shall be reported to Council for determination.

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**Checklist for Lodgment of Development Application**

Completed Development Application Form	
Statement of Environmental Effects including	
Landscaping Plan	
Traffic Impact Assessment	
Social Impact Statement	
Accommodation Facility Management Plan	
Decommission Plan	

**References**

Armor, A. 1992, 'The challenge of assessing social impacts', *Social Impact: The Social Impact Management Bulletin*, vol.1 no.4.

Newcastle City Council. 1999, Social Impact Assessment Policy for Development Applications

**CONFIDENTIAL SESSION**

**TO**

**FOLLOW**

**CONFIDENTIAL**

**SESSION**

CLOSED COMMITTEELOCAL GOVERNMENT ACT, 1993**10A Which parts of a meeting can be closed to the public?**

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
  - (a) the discussion of any of the matters listed in subclause (2), or
  - (b) the receipt or discussion of any of the information so listed.
  
- (2) The matters and information are the following:
  - (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
  
- (3) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
  
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

CLOSED COMMITTEE

LOCAL GOVERNMENT ACT, 1993

**664 Disclosure and misuse of information**

- (1) A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:
  - (a) with the consent of the person from whom the information was obtained, or
  - (b) in connection with the administration or execution of this Act, or
  - (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
  - (d) in accordance with a requirement imposed under the [Ombudsman Act 1974](#) or the *Freedom of Information Act 1989*, or
  - (e) with other lawful excuse.
- (1A) In particular, if part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10A (1), a person must not, without the authority of the council or the committee, disclose (otherwise than to the council or a councillor of the council) information with respect to the discussion at, or the business of, the meeting.
- (1B) Subsection (1A) does not apply to:
  - (a) the report of a committee of a council after it has been presented to the council, or
  - (b) disclosure made in any of the circumstances referred to in subsection (1) (a)-(e), or
  - (c) disclosure made in circumstances prescribed by the regulations, or
  - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.
- (2) A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.
- (3) A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
  - (a) the determination of an application for an approval, or
  - (b) the giving of an order.

Maximum penalty: 50 penalty units.



## CONFIDENTIAL SESSION

**MOTION**

**I move that pursuant to the provisions of Section 10 of the Local Government Act, 1993 the meeting be closed to the public.**

After a motion to close the meeting has been moved and seconded and before the vote, the Chairman will ask if there are any other matters, besides those listed on the agenda which should be considered in Confidential Session.

He will then announce those matters to be considered in Confidential Session. In doing so, the Chairman will give reasons why those matters are to be considered in Confidential Session and explain the way in which discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Chairman

*The following matter has been listed for consideration in Confidential Session:*

*Subject:*

***The reason for dealing with this report confidentially is that it is in accordance with Section 10A(2) of the Local Government Act, 1993.***

***Discussion of this matter in an open meeting would be, on balance, contrary to the public interest.***

The Chairman will then ask the General Manager if there are any written representations from the public on the proposed closure of the meeting.

The General Manager will read out any written representations received.

The Chairman will ask if anyone in the gallery would like to make verbal representations in regard to the matters now to be considered in Confidential Session.

The Chairman will then put the motion “to close the meeting” to the vote.

**ITEM 5: CONFIDENTIAL SESSION**

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