



ORDINARY MEETING



Wednesday 6 June 2012





PO BOX 156
MUDGEE NSW 2850

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

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30 May 2012

Dear Councillor

MEETING NOTICE
Ordinary Meeting

Wednesday, 6 June 2012

Open Day at 5.30pm

Council Meeting commencing at conclusion of Open day

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.

Members of the public may address the Committee Meeting at Open Day. Speakers are given 5 minutes to outline any issue of relevance to the Council. If you wish to speak at Open Day please contact the Mayor's Office on 1300 765 002 or 02 6378 2850 by 3.00 pm on the day of the meeting. Alternatively, please make yourself known to the Manager Governance prior to the commencement of the meeting.

Yours faithfully

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

WARWICK BENNETT
GENERAL MANAGER

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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: Confirmation of Minutes**3.1 Minutes of Ordinary Meeting held on 16 May 2012***COUNCIL DECISION:*

That the Minutes of the Ordinary Meeting held on 16 May 2012, Minute Nos 184/12 to 214/12 be taken as read and confirmed.

The Minutes of the Ordinary Meeting are attached:

Minutes of the Ordinary Meeting of Council
Held at the Council Chambers, 86 Market Street, Mudgee
on Wednesday 16 May 2012, commencing at 6.04 pm and concluding at 7.00 pm

PRESENT Cr D Kennedy (Mayor), Cr R Holden, Cr E Lang, Cr EE Martens (AM), Cr PA Shelley, Cr JP Thompson, Cr MB Walker, Cr JK Weatherley, Cr JR Webb.

IN ATTENDANCE General Manager (W Bennett), Group Manager Mid-Western Operations (B Cam), Group Manager Development and Community Services (C Van Laeren), Group Manager Finance and Administration (C Phelan), Manager Environment (S Murphy), Financial Accountant (N Bungate), Manager Governance (I Roberts)

MEDIA REPRESENTATIVES Mudgee Guardian / The Weekly (R Murray), Radio 2MG (C Ross).

Councillor Thompson moved a vote of thanks to all volunteers which was acknowledged by acclamation.

The Mayor drew the meeting's attention to the recent passing of Jack Tindale, Tom Knowles, former Councillors of adjoining councils and requested that all present rise and observe one minute's silence.

Item 1: Apologies

There were no apologies.

Item 2: Disclosure of Interest

Councillor Walker declared a pecuniary conflict of interest in Item 6.2.16 and 6.2.18 as he is a contractor on these projects.

Councillor Martens declared a significant non pecuniary conflict of interest in Item 6.2.2 as she is one of Council's representatives on the Joint Regional Planning Panel.

Councillor Weatherley declared a significant non pecuniary conflict of interest in Item 6.2.2 as he is one of Council's representatives on the Joint Regional Planning Panel.

Item 3: Confirmation of Minutes

184/12 **MOTION: Weatherley/Thompson**

That the Minutes of the Ordinary Meeting held on 2 May 2012 (Minute Nos. 174/12 to 183/12) be taken as read and confirmed.

The motion was put and carried.

Item 4: Matters in Progress

MOOLARBEN COAL PROJECT – STAGE 2 ASSESSMENT –
MIN. 76/12 C/M 7/712

185/12 **MOTION: Shelley/Weatherley**

That Min. 76/12 C/M 7/3/12 be noted as completed.

The motion was put and carried

Item 5: Mayoral Minutes

There was no Mayoral Minute.

Item 6: General Business

3.2 6.1 NOTICES OF MOTION

6.1.1 WITHDRAWAL FROM LACHLAN VALLEY TRANSPORT COMMITTEE
A0100055, A0100035

MOTION: Thompson/Martens

That Council withdraw from the Lachlan Valley Transport Committee.

The motion was put and lost.

3.3 6.2 REPORTS TO COUNCIL

6.2.1 DA0263-2012 PROPOSED COMMUNITY TITLE SUBDIVISION RYLSTONE
AERODROME

A0100055, P1463461

186/12 **MOTION: Thompson/Martens**

That:

1. the report by Environmental Town Planner on DA 0263-2012 Proposed Community Title Subdivision, 177 Cox's Creek Road, Rylstone Aerodrome be received;

2. it be acknowledge that the decision of Council made on the 2nd May 2012 needs to be amended to reflect that the contributions are in accordance with the Council policy for contribution for subdivisions;
3. Development Application number 0263/2012 for the staged community title subdivision of Lot 7 DP 817671, Lot 155 DP 755426, Lot 157 DP 755426 and Lot 164 DP 42885 be granted development consent subject to the following conditions;

APPROVED PLANS

1. Development is to be carried out generally in accordance with plans drawn by R J Crooks and Associates Ref: H097MU Sheet 1 of 2 and 2 of 2 and the Statement of Environmental Effects titled – Proposed Staged Community Title Subdivision Rylstone Aerodrome and the development application received by Council on 22 February 2012 except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

GENERAL

2. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to Council 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 100-year ARI. All storm water detention details including analysis shall be included with the drainage report.
3. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of “Soils and Construction – Managing Urban Stormwater”. Points to be considered include, but are not limited to:
 - Saving available topsoil for reuse in the revegetation phase of the subdivision;
 - Using erosion control measures to prevent on-site damage;
 - Rehabilitating disturbed areas quickly;
 - Maintenance of erosion and sediment control structures;
4. A schedule of operations is to be submitted to ensure all appropriate works are undertaken at the correct stage.

5. The construction of an all-weather vehicle access to the development, in accordance with the following minimum guidelines:
 - a gate or stock grid (if applicable) set back a minimum distance of fifteen (15) metres from edge of the traffic lane of the public road;
 - a minimum 4.0 metre wide compacted gravel driveway, extending from the edge of pavement on the public road to the entrance gate or stock grid;
 - a minimum 150mm thick, 4.0 metre wide concrete dish drain or 375mm diameter reinforced concrete pipe culvert with headwalls, located outside the clear zone, having the table drain directed through it.
 - the access shall be located such that adequate sight distances are achieved, as specified in the Austroads publication 'Intersections at Grade'.
6. All fencing is to be carried out generally in accordance with the approved plans. All fencing is to be provided at full cost to the developer.
7. All disturbed areas are to be stabilised through the saving of topsoil during disturbance and its later respreading and establishment of vegetative cover. Such work is to be carried out prior to occupation of the dwelling.
8. 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 storm water occur on adjoining land as a result of this development.
9. 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.
10. The applicant 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.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

These conditions have been imposed to ensure that the proposed subdivision complies with the requirements of the Environmental Planning and Assessment Act, 1979, Council policy and the relevant standards.

11. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
12. Under the Environmental Planning & Assessment Act,

1979, a Subdivision Certificate is required for each respective stage before the linen plan of subdivision can be registered with the Land Titles Office.

13. All works and infrastructure related to the relevant stage is to be completed prior to the release of the subdivision certificate for that stage including the payment of any relevant fees, contributions and bonds.

13. Prior to the issue of a Subdivision Certificate:

- 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;
 - i) as to the security to be given to Council that the works will be completed or the contribution paid, and
 - ii) as to when the work will be completed or the contribution paid.

14. If the *Subdivision Certificate* is not issued, for any reason whatsoever, within twelve (12) months of 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.

15. A Community Title plan and all associated documents shall be submitted to Council for approval prior to the release of the subdivision certificate. The Community Title Plan is to be consistent with the provisions of this consent and is to address the following items,

- The ongoing maintenance of effluent disposal systems and associated transpiration areas,
- Building colour and external lighting,
- Maintenance of the site as an asset protection zone for bushfire prevention purposes,
- The storage of fuels and other hydrocarbons,
- The collection and disposal of general refuse,
- The composition and maintenance of the vegetative screens,
- The maintenance of stormwater drainage structures.
- On-site provision of water including the storage of 5,000L per combined use site for fire fighting purposes.

16. Any residential accommodation erected on lots 2 – 26 inclusive is to be ancillary and subordinate to the use of the land for aerodrome related purposes.

17. Three metre wide easements, including associated Section 88 instruments, are to be created in favour of Council over any existing or newly constructed inter-allotment drainage, water, or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
18. 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.
19. The applicant is to ensure that access to the adjoining Rylstone Race Course is not unduly affected by the approved subdivision.
20. In accordance with the provisions of section 94(1)(b) of the *Environmental Planning and Assessment Act 1979* and the Mid-Western Regional Council Section 94 Contribution Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of:

Transport Management	Rate Lots	Total
Traffic Management	\$594 Per Lot 2 -26 inclusive	\$14,850
Open Space		
Local Open Space	\$0 N/A	\$0
District Open Space	\$2295 Per Lot 2 -26 inclusive	\$57,735
Community Facilities		
Library Buildings	\$221 Per Lot 2 -26 inclusive	\$5,525
Library Resources	\$265 Per Lot 2 -26 inclusive	\$6,625
Administration		
Plan Administration	\$517 Per Lot 2 -26 inclusive	\$12,925
TOTAL PAYABLE	\$3892 25	\$97,660

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Holden	✓	
Cr Kennedy	✓	
Cr Lang		✓
Cr Martens	✓	
Cr Shelley		✓
Cr Thompson	✓	

Cr Walker		✓
Cr Weatherley	✓	
Cr Webb	✓	

6.2.2 COUNCIL SUBMISSION DEVELOPMENT APPLICATION 0217/2012 –
PROPOSED TEMPORARY WORKERS ACCOMMODATION FACILITY – 2
BLACK LEAD LANE GULGONG

A0100055, P1048569

Councillors Martens and Weatherley declared significant non pecuniary conflicts of interest in that they are Council's representatives on the Joint Regional Planning Panel, left the meeting at 6.11pm and did not participate in discussions of vote in relation to this matter.

187/12

MOTION: Holden/Shelley

That:

1. the report by Group Manager Development and Community Services on the Council Submission to the Central West Joint Regional Planning Panel on Development Application 0217/2012 being the Proposed Temporary Workers Accommodation at 2 Black Lead Lane Gulgong be received;
2. Council endorse the attached submission to this report to be made to the Joint Regional Planning Panel on the Proposed Temporary Workers Accommodation at 2 Black Lead Lane Gulgong and include the petition presented to Council earlier in the day and add additional matters discussed with Councillors informally ; and
3. That Council register to make a verbal presentation to the Central West Joint Regional Planning Panel and authorise the Mayor and General Manager to appear for Council in this regard.

The motion was put and carried.

Councillors Martens and Weatherley returned to the meeting at 6.12pm.

6.2.3 DA0304/2012 - PROPOSED CARPORT 5 DUNPHY CRESCENT MUDGEES

A0100055, P2059161

188/12

MOTION: Walker/Thompson

That:

1. The report by Environmental Town Planner on the DA0304/2012 - Proposed Carport 5 Dunphy Crescent Mudgees be received;
2. That Development Application number 0304/2012 for the erection of a carport at Lot 1 DP 1147971 5 Dunphy Crescent be granted development consent subject to the following conditions;
 1. All building work must comply with the requirements of the Building Code of Australia 2012, Volume Two, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.

2. All mandatory inspections required by the Environmental Planning and Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stages of construction.
3. Construction work noise that is audible at other premises is to be restricted to the following times.
Monday to Friday -- 7.00am to 6.00pm
Saturday -- 8.00am to 1.00pm

No construction work is permitted on Sundays and Public Holidays.

4. The site must be provided with a waste enclosure (minimum 1800mm x 1800mm x 1200mm high) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on site. The enclosure is to be emptied periodically to reduce the potential for rubbish to be blown from the site. Council encourages the separation and recycling of suitable materials.
5. Prior to the use of the carport, an Occupation Certificate must be obtained from the Principal Certifying Authority appointed for the erection of the building.
6. A sign must be erected in a prominent position on any work site on which the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited, and
 - 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.
7. All building or site works or other written undertaking or obligation indicated in the submitted plans and supporting documentation or otherwise required under the terms of this consent being carried out or implemented prior to the occupation of the premises.
8. Roof water from the carport must be conveyed to the street by PVC pipe and discharged into the street gutter.

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nays
Cr Holden		✓
Cr Kennedy	✓	
Cr Lang		✓
Cr Martens		✓
Cr Shelley	✓	
Cr Thompson	✓	
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb	✓	

6.2.4 MUDGEE SHOWGROUND MANAGEMENT COMMITTEE

A0100055, A0100052, P0210911, A0100012

189/12

MOTION: Webb/Thompson

That:

1. **The report by Group Manager Operation on the Mudgee Showground Management Committee be received;**
2. **That the minutes for the Mudgee Showground Management Committee ordinary monthly meeting held on 7 February 2012 be noted.**

The motion was put and carried.

6.2.5 MONTHLY STATEMENT OF MID-WESTERN REGIONAL COUNCIL BANK
BALANCES AND INVESTMENTS AS AT 30 APRIL 2012

A0100055, A0140304

190/12

MOTION: Walker/Thompson

That:

1. **the investment report as at 30 April 2012 by the Acting Group Manager of Finance and Administration be received;**
2. **the certification by the Responsible Accounting Officer be noted.**

The motion was put and carried.

6.2.6 CATEGORISATION FOR RATING PURPOSES OF LAND USED OR HELD FOR
ANY MINING PURPOSE

A0100055, A0340047, A0340007

191/12

MOTION: Holden/Weatherley

That:

1. **the report by Manager Revenue & Property on the categorisation for rating purposes of land used or held for any mining purpose be received;**
2. **Council endorse the principle and analysis processes, as**

outlined in this report, to re-categorise property assessments owned or leased by a coal mining company, into the rating category of Mining, sub-category of Mining Coal from the 2012/2013 financial year;

3. Council endorse the principle and analysis processes, as outlined in this report, to re-categorise property assessments owned or leased by a mining company, other than a coal mining company, as Mining from the 2012/2013 financial year.

The motion was put and carried.

6.2.7 DIRECTIONAL SIGNAGE

A0100055, R0790215

192/12

MOTION: Holden/Shelley

That:

1. the report by General Manager on Directional Signage be received;
2. Council proceed with the following directional signage in the 2012/13 budget for the following:
 - Putta Bucca Wetlands - directional signage on Castlereagh Highway
 - Fern Tree Gully – replace existing signs with larger signs
 - Munghorn Gap – directional signage on Ulan Road
 - Golburn River NP – directional signage on approach roads
 - Wollomi NP – directional signage on approach roads
3. the cost of \$3,500 for these signs be funded from the Tourism Directional Signs budget.

The motion was put and carried.

6.2.8 FINANCIAL ASSISTANCE - TIER 2 APPLICATIONS

A0100055, A0140201

193/12

MOTION: Holden/Lang

That:

1. the report by Financial Accountant on the Financial Assistance – Tier 2 Applications be received;
2. Council provide financial assistance to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy – Tier 2, subject to those requirements being met, with the funding from the general financial assistance vote:

Frontline Community Services	\$1,000
Gulgong Memorial Hall Committee	\$ 370
Rylstone Kandos Business & Tourism (Historic Walks Brochures)	\$ 414.06

3. The following amounts be distributed from Councillor discretionary votes:

<i>Frontline Community Services</i>	<i>Cr Thompson</i>	<i>\$100</i>
	<i>Cr Holden</i>	<i>\$100</i>
	<i>Cr Kennedy</i>	<i>\$100</i>
	<i>Cr Weatherley</i>	<i>\$100</i>
	<i>Cr Lang</i>	<i>\$200</i>
<i>Rylstone Street Feast</i>	<i>Cr Walker</i>	<i>\$1,068.38</i>
<i>Rylstone Tourism Broucher</i>	<i>Cr Martens</i>	<i>\$250</i>
<i>Kandos Tourism Broucher</i>	<i>Cr Martens</i>	<i>\$250</i>
<i>Kandos Rylstone Boxing</i>	<i>Cr Lang</i>	<i>\$250</i>
	<i>Cr Holden</i>	<i>\$100</i>

AMENDMENT: Webb/Thompson

That:

1. the report by Financial Accountant on the Financial Assistance – Tier 2 Applications be received;
2. Council provide financial assistance to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy – Tier 2, subject to those requirements being met, with the funding from the general financial assistance vote:

Frontline Community Services	\$1,000
Mid-Western Working Horse Association	\$ 402
Gulgong Memorial Hall Committee	\$ 370
Rylstone Kandos Business & Tourism (Historic Walks Brochures)	\$ 414.06

3. The following amounts be distributed from Councillor discretionary votes:

<i>Frontline Community Services</i>	<i>Cr Thompson</i>	<i>\$100</i>
	<i>Cr Holden</i>	<i>\$100</i>
	<i>Cr Kennedy</i>	<i>\$100</i>
	<i>Cr Weatherley</i>	<i>\$100</i>
	<i>Cr Lang</i>	<i>\$200</i>
<i>Rylstone Street Feast</i>	<i>Cr Walker</i>	<i>\$1,068.38</i>
<i>Rylstone Tourism Broucher</i>	<i>Cr Martens</i>	<i>\$250</i>
<i>Kandos Tourism Broucher</i>	<i>Cr Martens</i>	<i>\$250</i>
<i>Kandos Rylstone Boxing</i>	<i>Cr Lang</i>	<i>\$250</i>
	<i>Cr Holden</i>	<i>\$100</i>

The amendment was put and lost. The motion was put and carried.

6.2.9 GOLD EXPLORATION - HARGRAVES

A0100055

194/12

MOTION: Thompson/Holden

That:

1. the report by General Manager on the Gold Exploration –

Hargraves be received;

2. **Council advise the Department of Primary Industries that it raised no objection to the use of the Council managed site at Hargraves, described as Lot 205 DP 720374 and identified as R98052 (known as the Hargraves Waste Transfer Station), to be approved for one hole only gold exploration drilling.**

The motion was put and carried.

6.2.10 KANDOS SPORTS GROUNDS GRANDSTAND

A0100055,

195/12

MOTION: Shelley/Martens

That the report by General Manager on the Kandos Sportsground Grandstand be received.

The motion was put and carried.

196/12

MOTION: Shelley/Holden

That:

1. **Council seek public comment and suggestions for the renaming of the Kandos Sports Ground to Waratah Park.**
2. **All submissions to be considered before any Council decision is reached.**

The motion was put and carried.

6.2.11 QUARTERLY BUDGET REVIEW - MARCH 2012

A0100055, A0149935

197/12

MOTION: Walker/Martens

That:

1. **the report by Group Manager Finance & Administration on the March 2012 Quarterly Budget Review be received;**
2. **the 2011/12 Management Plan be amended in accordance with the variations as listed on pages 12 to 20 of the March 2012 Quarterly Budget Review; and**
3. **the opinion by the Responsible Accounting Officer regarding the satisfactory financial position of Council, based upon the revised estimates of income and expenditure, be noted.**

The motion was put and carried.

6.2.12 MID-WESTERN REGIONAL YOUTH COUNCIL

A0100055, A0060048

198/12

MOTION: Walker/Weatherley

That:

1. **the report by Manager Community Development on the Mid-Western Regional Youth Council be received;**
2. **Council note the minutes of the Mid-Western Regional Youth Council meeting held on 13 March 2012.**

The motion was put and carried.

6.2.13 MRTI QUARTERLY REPORT MARCH 2011

A0100055, F07700771

199/12

MOTION: Webb/Shelley

That the report by the General Manager on the MRTI Quarterly Report March 2011 be received.

The motion was put and carried.

6.2.14 MUDGEE SEWAGE TREATMENT PLANT CONSTRUCTION PROGRESS
REPORT

A0100055, F0740001

200/12

MOTION: Weatherley/Walker

That the report by Business Manager Services on the Mudgee Sewage Treatment Plant Construction Progress Report be received.

The motion was put and carried.

6.2.15 MUDGEE SEWERAGE AUGMENTATION – TENDER RECOMMENDATION FOR
POWER SUPPLIES CONTRACT

A0100055, F0740001

201/12

MOTION: Shelley/Weatherley

That:

1. **the report by Business Manager Services on the Mudgee Sewerage Augmentation – Tender Recommendation for Power Supplies Contract be received;**
2. **Subject to a satisfactory financial assessment and concurrence of the NSW Office of Water, Council accepts the tender of Large Industries P/L for the Mudgee Sewage Treatment Plant - Pad Mount Substation and Putta Bucca Sewage Pumping Station Substation Works for the sum of \$387,359.50 (including GST);**
3. **The General Manager is authorised to approve variations of up to 10% of the contract price (\$38,735.95 including GST).**

The motion was put and carried.

6.2.16 MUDGEES TOWN HALL PROGRESS REPORT – APRIL

A0100055, P0159964

Councillor Walker declared a pecuniary conflict of interest in that he is a contractor on this project, left the meeting at 6.28 pm and did not participate in discussions or vote in relation to this matter.

202/12 **MOTION: Martens/Weatherley**

That the report by Manager, Community Development on the Mudgee Town Hall Progress Report – April be received.

The motion was put and carried.

Councillor Walker returned to the meeting at 6.29 pm.

6.2.17 FLOOD STUDY FOR KANDOS AND RYLSTONE

A0100055, F0710003, A0411101

203/12 **MOTION: Shelley/Walker**

That:

- 1. the report by Manager Environment on the Flood Study for Kandos and Rylstone be received;**
- 2. that the draft Flood Study Report for Kandos and Rylstone be placed on public exhibition for a period of twenty-eight days.**

The motion was put and carried.

6.2.18 TARGET COUNTRY PROGRESS REPORT - APRIL 2012

A0100055, P0199811

Councillor Walker declared a pecuniary conflict of interest in that he is a contractor on this project, left the meeting at 6.31 pm and did not participate in discussions or vote in relation to this matter.

204/12 **MOTION: Shelley/Holden**

That the report by the Group Manager - Operations on the Target Country Progress Report – April be received.

The motion was put and carried.

Councillor Walker returned to the meeting at 6.32 pm.

6.2.19 ROAD NAMING – CORRECTION TO SECTION OF COOYAL STREET

A0100055

205/12 **MOTION: Holden/Lang**

That:

- 1. the report by Manager of Revenue & Property on the correction of name for a small section of Cooyal Street be received;**
- 2. Council formally approve the renaming of a small section of Cooyal Street, White Street.**

The motion was put and carried.

6.2.20 NAMING OF NEW ROAD OFF GEORGE CAMPBELL DRIVE –
E H (TIM) LONERAGAN DRIVE

A0100055, R0790041

206/12

MOTION: Walker/Holden**That:**

1. **the report by the Manager Revenue & Property on the naming of Tim Loneragan Drive be received;**
2. **Council formally approve the naming of E H (Tim) Loneragan Drive for the new road that runs north off George Campbell Drive.**

The motion was put and carried.

6.2.21 TENDER ASSESSMENT - 2012/01 BANKING SERVICES

A0100055, A0411201

207/12

MOTION: Walker/Holden**That:**

1. **Council accepts National Australia Bank for tender 2012/01 for the provision of banking services and that Council enter into a contract with National Australia Bank in accordance with clause 178 of the Local Government (General) Regulation 2005.**
2. **Council authorises the General Manager to finalise and execute the contract on behalf of Council with National Australia Bank for Banking Services 2012/01.**
3. **The unsuccessful tenderers be notified that their tenders were unsuccessful.**

The motion was put and carried.

6.2.22 ULAN ROAD STRATEGY

A0100055, R9214003, R9208006

208/12

MOTION: Weatherley/Shelley**That:**

1. **the report by General Manager on the Ulan Road Strategy be received;**
2. **Council endorse the further submission to the Department of Planning and Infrastructure on the Ulan Road Strategy, which in effect reduces the capital funding in the first five years to \$22,014,000 and that that capital funding be the responsibility of the mines.**
3. **Council seek that the Department of Planning and Infrastructure make a final determination on the Ulan Road Strategy in particular the funding of the essential capital and maintenance programme required.**

4. **Council request the Department of Planning to ensure that, if there is any further mining development to the north of Mudgee that has the potential to impact on the Ulan Road, to take into consideration these impacts of additional traffic for further contributions towards the maintenance and capital upgrade of Ulan Road.**

The motion was put and carried.

6.2.23 LOCAL GOVERNMENT ASSOCIATION – ONE ASSOCIATION

A0100055, A0040005

209/12

MOTION: Shelley/Walker

That:

1. **the report by Manager Governance on the proposal to establish one Association to replace the existing Local Government and Shires Associations be received;**
2. **the Mayor, Deputy Mayor and Councillor Weatherley be appointed as Council's voting delegates for this vote and their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters; and**
3. **In accordance with Council policy the voting delegates be required to vote in favour of the amalgamation of the Local Government Association and Shires Association into one Association.**

The motion was put and carried.

Item 7: Urgent Business without Notice

7.1.1 KINGSGATE BOWDEN'S COMMUNITY CONSULTATIVE COMMITTEE

A0100055, A0420055

210/12

MOTION: Holden/Walker

That this matter be dealt with as urgent business without notice.

The Mayor having ruled the matter to be of great urgency, the motion was put and carried.

MOTION: Thompson/

That:

1. the report by General Manager on the Kingsgate Bowden's Community Consultative Committee be received;
2. Council appoint Councillor Esme Martens and Group Manager of Development and Community Services, Catherine Van Laeren to the Bowden's Community Consultative Committee.

The motion lapsed for want of a seconder.

211/12 **MOTION: Shelley/Lang**

That:

1. **the report by General Manager on the Kingsgate Bowden's Community Consultative Committee be received;**
2. **Council appoint Councillor Russell Holden and Group Manager of Development and Community Services, Catherine Van Laeren to the Bowden's Community Consultative Committee.**

The motion was put and carried.

7.1.2 HOUSING CRISIS

A0100055,

212/12 **MOTION: Holden/Martens**

That this matter be dealt with as urgent business without notice.

The Mayor having ruled the matter to be of great urgency, the motion was put and carried.

213/12 **MOTION: Lang/Holden**

That Council, as a matter of urgency, discuss what appears to be a major housing crisis in the Mid-Western Regional Council area created by the mining boom.

The motion was put and carried.

7.1.3 EXHIBITION OF 2012/13 MANAGEMENT PLAN

A0100055,

214/12

MOTION: Shelley/Martens

That this matter be dealt with as urgent business without notice.

The Mayor having ruled the matter to be of great urgency, the motion was put and carried.

MOTION: Webb/Holden

That the public exhibition period for the 2012/13 Budget and Operation Plan be extended by a period of 2 weeks.

The motion was put and lost.

Item 8: Confidential Session

There were no matters dealt with in Confidential Session.

Closure

There being no further business the meeting concluded at 7.00 pm.

Item 4: Matters in Progress

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Rylstone/ Kandos Sewerage Augmentation	S.85/10 Assets Mtg 1/12/10	That: 2. Council commence negotiations with the Department of Environment, Climate Change and Water to defer construction of a new Treatment Plant at Kandos until funds become available under the Country Town Water and Sewerage Scheme; 3. staff review options to stage the proposed works in this region to improve the affordability of the augmentation required to meet effluent discharge quality requirements.	The recent State Government budget did not make for any further provision for funding of regional water and sewer schemes. We will continue to pursue this matter with our local MP's This is happening and will be reported back to Council when complete. The design is 90% complete
Riverside Memorial Walk	Res. 55/11 Ord. Mtg 16/3/2011	That: 3. Council includes in the development of the Lawson Park West Reserve in Short Street Mudgee a memorial and heritage pathway that has plaques installed in the walkway to remember past community people who have contributed positively to the growth and social infrastructure of this community. The concept of the memorial and heritage pathway be part of the public consultation process in the 2011/12 draft Management Plan; 4. Council consults with the Gulgong and Rylstone townships on suitable sites in those towns for similar memorial and heritage walkways to celebrate the contributions of people to those communities.	When the new Lawson Park is complete we will undertake a public consultation process to call for people to be recognised and have the plaques approved by Council and installed

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Temporary Signage	Res. 50/11 Ord. Mtg 16/3/2011	That Council undertake a review the signage policy as part of the formulation of the comprehensive DCP.	To be undertaken upon completion of the Comprehensive Local Environmental Plan and the DCP
Minimum rural lot size	Min No. 32/10 Ord Mtg 17/3/10	That Council gives an undertaking that the minimum rural lot size will be reviewed after completion of the comprehensive LEP and associate documents.	New project that will be commenced when the Comprehensive LEP and DCP is completed.
Land Use Strategy – Council land off Madeira Road	Min No.74/10 Ord Mtg 21/4/10	That Council does not include this land in the Land Use Strategy but include in the gateway process at a later date after further public consultation	Noted, no action scheduled until after the completion of the Comprehensive LEP and DCP.
Land Use Strategy – 520 AHD in Mudgee	Min No. 75/10 Ord Mtg 21/4/10	That the Draft Land Use Strategy be amended to permit an investigation of land above the 520 AHD with a report to be submitted to Council at a later time.	Noted, no action scheduled until after the completion of the Comprehensive LEP and DCP.
Mudgee Motor Cross Track	Res. COR52/10 Corp Serv Mtg 5/5/10	That ... 1. Council receive a report on all Crown or community land available with a reasonable radius of Mudgee township (7km) suitable for the permanent location of the Mudgee motor cross track; 2. in the event suitable land is identified, Council assist the Mudgee Motor Cross Club to obtain a long term lease or any other suitable commercial arrangement to allow the establishment of a motor cross track;	Agreement has been reached with the club on a site at Buckaroo. Awaiting the zone change in LEP to finalise agreement.

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Cobbora Mine	Min No. 76/10 Ord Mtg 21/4/10	That: 1. Council rely on the expert assessment of the Department of Environment & Climate Change Water as we have done in the past to assess the hydrological impacts for the proposed Cobbora Mine once the Environmental assessment has been completed. 2. Council approach both Warrumbungle and Wellington Councils about joining forces regarding the provision of information and cost sharing to pursue this issue.	Awaiting the release of the Environmental Assessment so that the Department can assess the base data.
Cobbora Mine Development	Res. 19/11 Ord. Mtg 16/2/2011	That Council arrange a meeting with our neighbouring council areas who would be involved in the Cobbora Mine development.	When EA lodged a meeting will be organised
Planning Proposal – Temporary Workers Accommodation	Res. 487/11 Ord. Mtg 7/12/2011	That: 2. Council prepare a Planning Proposal under section 55 of the Environmental Planning and Assessment Act the purpose of which is to insert a local clause in Mid-Western Regional Interim Local Environmental Plan 2008 and Draft Mid-Western Regional Local Environmental Plan 2011 for Temporary Workers Accommodation.	DCP currently on public exhibition
Tourist Regional Signage	Res 545/11 Ord Mtg 21/12/2011	That: 3. Council request the RTA to erect more effective direction signage at major intersections to the region.	Have written to the RMS twice. We are awaiting a response.
Boundary Change – Burrendong Dam	Res. 49/12 Ordinary Mtg 15/2/2012	That: 2. Council write to Wellington Council seeking its consent to this boundary change.	Meeting Held with Wellington Council on 26th March. Further discussion to be held over next few months.

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Quarry Road – Kandos	Res. 64/12 Ordinary Mtg 15/2/2012	That consideration of this matter be deferred until discussions with Cement Australia have been completed.	Meeting held with Cement Australia. No determination as yet.
Mudgee CBD Street Tree Report	Res. 78/12 Ordinary Mtg 7/3/2012	That: 2. the report be placed on public exhibition for 28 days;	Consultation complete. Submission to Council in June
100 Saleyards Lane, Mudgee	Res. 97/12 Ordinary Mtg 7/3/2012	That: 2. Council seek a report from staff on the cost of undertaking all the land capability work and other works required to allow this property known as the saleyard site and SES building to be ready for a development application to be lodged; and 3.	Land study capability work being organised.
Hardship Provision	Res. 136/12 Ordinary Mtg 4/4/12	That Council immediately review it's Hardship Provision – Rates and Charges Policy and also review the application form required to be completed by the ratepayer seeking hardship assistance.	Report included in this business paper
Directional Signage	Res. 150/12 Ord. Mtg 18/4/2012	That a report be presented outlining the “natural assets” of the region for which directional signage be erected	Report to last meeting RECOMMEND COMPLETION
Return of Royalties	Res. 151/12 Ord. Mtg. 18/4/2012	That Council continue to fight for the return of royalties for the region.	Council representatives continue to raise this at a State Government level at every possible occasion
Regional Tourism Signage	Res. 155/12 Ord. Mtg. 18/4/2012	That Council consider as a budget initiative the erection of tourism signage outside of the region.	Report in this business paper
DA0263/2012 Proposed Community Title Subdivision Rylstone Aerodrome	Res. 176/12	That Council investigate the construction of a right hand turn lane on the Bylong Valley Way at its intersection with Cox's Creek Road	Report in this business paper

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Kandos Sports Grounds Grandstand	Res. 196/12	That: 1. Council seek public comment and suggestions for the renaming of the Kandos Sports Ground to Waratah Park. 2. All submissions to be considered before any Council decision is reached.	The public consultation process has commenced
Flood Study for Kandos and Rylstone	Res. 203/12	That: 1. The draft Flood Study Report for Kandos and Rylstone be placed on public exhibition for a period of twenty-eight days.	Public exhibition process has commenced

Item 5: Mayoral Minute

Nil.

Item 6: General Business

6.1 Notices of Motion

6.1.1 Lachlan Regional Transport Committee's submission to the Parliamentary inquiry on Inter-regional transport

LISTED BY COUNCILLOR RUSSELL HOLDER TO 6 JUNE 2012 COUNCIL MEETING

Lachlan Regional Transport Committee

A0100055, A0100035

MOTION

That Council note the Lachlan Regional Transport Committee's submission to the Parliamentary inquiry on Inter-regional transport.

BACKGROUND

The executive of the LRTC were requested by its members at its February meeting to prepare a submission on Public Transport issues within regional area for submission to the Parliamentary inquiry on Inter-regional transport, this submission is the result of that request.

28 May 2012

Attachments: 1. LRTC Submission to the New South Wales Parliamentary Inquiry into how inter-regional public transport can better serve the needs of regional New South Wales

Lachlan Regional Transport Committee (LRTC) Submission to the New South Wales Parliamentary Inquiry into how inter-regional public transport can better serve the needs of regional New South Wales

The Lachlan Regional Transport Committee was established in 1983. It draws its membership from the outskirts of Sydney through the Central West of New South Wales to Dubbo, Parkes and Cootamundra. Members include fifteen local government councils and the Port of Port Kembla. From its inception, the Committee has many times raised the concerns of local people about the need for sustainable inter-regional public transport. We have commented on many issues, including the importance of an efficient train service, with coach connections, oriented to local transport needs. We have also recently made submissions on broader transport issues, including freight, to Infrastructure Australia, the New South Wales Parliamentary inquiry into rail infrastructure costs, the IPART inquiry into grain line access charges and the New South Wales Transport Master Plan. Five member councils are currently working with the State Government for the reinstatement of freight, with potential for limited passenger services, on the Blayney to Demondrille inter-regional cross-country line.

LRTC views CountryLink as providing generally good services between rural New South Wales and Sydney. However, these services have not kept pace with developments in road transport and some are not optimal for inter- and intra-regional travel. In some instances, train schedules have deteriorated as trains have been slowed. New South Wales contrasts noticeably with Victoria and Queensland where regional train services have been accelerated and very significantly improved. There have been ongoing debates about the suitability of timetables for regional needs, most notably with respect to the Dubbo XPT service and the absence of sufficient train services between the Central West and Lithgow/Sydney to meet demand. These issues, and the future prospects for CountryLink, have not been resolved. We thank the Inquiry for offering an opportunity to contribute to the process of resolution of these issues and finding a way forward which will bring inter-regional public transport provision up to the standards offered in the other states.

With respect to CountryLink, LRTC would like to

1. affirm the value of efficient train services
2. encourage the thorough investigation of means of accelerating train services and increasing the utilization of equipment
3. suggest greater local involvement in the planning and management of inter-regional services.
4. recommend improvement of services between regional cities and their hinterlands

1 The value of trains

Trains remain essential to inter-regional public transportation. The State Government's recent Transport Master Plan Discussion Paper suggests that CountryLink train services are uncompetitive with road coach timetables. This may be true in places with respect to some journey times, but the issue is easily overstated. Moreover, trains provide a higher standard of service and amenity than coaches and they offer far greater potential for acceleration of timetables and consequent service improvements, as has occurred in other States.

This issue: 'coaches or trains?' is not a simple matter of either choosing between alternatives or competition between modes. As the Master Plan Discussion Paper notes, many regional areas have ageing populations with consequently greater need for access to services. We agree with that

observation, and would like to add that train services provide a necessary level of accessibility which coaches do not. This is due to the needs of many people for easy access to vehicles, their seating and services like food and toilets. Relatively short distances in coaches may be manageable for many people but longer distances often are not.

Improvement in the infrastructure would benefit freight as well as passenger operations. If slow speeds are a problem, and there is obviously room for improvement in timetables, serious consideration should be given to raising track speeds and capacity. Such developments have been very successful in other States. When scheduling is examined, consideration could also be given to making greater use of CountryLink trains for local services, such as commuter services between the large regional cities and towns in their hinterlands, and for services to growth areas like Mudgee.

2 Acceleration of services

LRTC believes that all options for accelerating services should be examined. As has occurred in other states, this may involve either infrastructure improvements (basically easing track curvature) or new equipment (possibly including tilt trains) which would also offer a higher standard of amenity and services, like internet access. By providing more time at regional destinations, acceleration of services could also offer opportunities for extended use of trains for local purposes, such as shuttles serving the hinterlands of the larger regional cities. Perhaps more importantly, there may be opportunities for timetables which enable day return trips to the coastal cities from inland towns, as well as from the coastal cities inland. There may also be possibilities for greater regional utilization of the interstate overnight XPT services, which currently stop at many regional stations in the small hours of the morning.

More modern equipment, in conjunction with faster services, could attract more business travellers and tourists. We are aware of the proposal for a Very Fast Train service between Brisbane, Sydney, Canberra and Melbourne. Such a development would benefit only part of inland New South Wales, and there may be a reasonable argument that moderately fast trains serving inland New South Wales, in the manner of CountryLink but faster, would be more satisfactory and equitable for inland people.

3 Local involvement

LRTC suggests that greater local involvement with, and 'ownership' of, CountryLink services especially trains, may lead to greater use of trains for a wider range of journey types, thereby contributing to the sustainability of inter-regional public transport. While not directly applicable to New South Wales, the UK 'Community Rail' movement, and similar arrangements in European countries especially Germany, is notable for its success in growing the use of rural train services. It has done this by

1. ensuring that local input into service planning is obtained and respected
2. helping to attune services to local needs enabling more efficient use of infrastructure
3. obtaining the support of local people in drawing public attention to train services and making facilities more attractive

In the UK, much of the work involved has been done by volunteers, coordinated by local committees and involving local government, all supported by central government funding. Consideration should be given to developing the currently limited processes of consultation into the establishment, with State Government funding, of ongoing committees to facilitate coordination and support for local services.

4 Improvement of services between regional cities and their hinterlands

While CountryLink coaches do operate some cross-country routes, such as those north from Cootamundra, there appears to have been very little attempt systematically to connect all the large regional cities with their surrounding communities. The regional cities like Bathurst, Orange and Dubbo have large 'catchments' for important services, especially health care.

The Mudgee area provides an example. A road trip to Dubbo, the nearest large city, takes about one and a quarter hours. To reach Dubbo by CountryLink involves a journey of at least seven hours, with a change from coach to train at Lithgow. The journey from Mudgee to Tamworth by road takes two and a half hours, but by CountryLink it takes 24 hours and requires an overnight stay in Sydney.

We urge that CountryLink train and coach timetables be examined with a view to meeting the demand for travel to and from the larger cities, independently of travel needs between the country and Sydney.

We would be pleased to participate in further discussion on these and any other inter-regional public transport issues.

6.2 Reports

6.2.1 DA 0307/2012 – Dual Occupancy and Subdivision – 33 Lions Drive Mudgee

REPORT BY SENIOR TOWN PLANNER TO 6 JUNE 2012 COUNCIL MEETING
DA0307/2012 Dual Occupancy and Subdivision Lot 8 DP 1165150 33 Lions Drive MUDGEE
2850
A0100055, P2107462

RECOMMENDATION

That:

- A. The report by the Senior Town Planner on Development Application 0307/2012 for a dual occupancy and subdivision at 33 Lions Drive Mudgee be received;
- B. That Development Application number 0307/2012 for the erection of a dual occupancy and subdivision on Lot 8 DP 1165150 33 Lions Drive Mudgee be granted development consent subject to the following conditions;

APPROVED DEVELOPMENT

1. This consent relates to the erection of a dual occupancy and subsequent Torrens title subdivision, as illustrated on the plans, specifications and supporting documentation received by Council stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.
2. The development is to be carried out generally in accordance with the stamped approved plans Sheet 2A/3, 3A/3 and 1/1, dated March 2012.

Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

AMENDMENT

- 2A. The car parking stand shall be extended to the west to allow sufficient manoeuvring area for all vehicles to enter and leave in a forward direction.

GENERAL

3. 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: A suitably qualified person would be required to be present during earthworks to identify whether any artefacts were uncovered).
4. 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.
5. All building work must comply with the requirements of the Building Code of Australia 2010, Volume One, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.
6. Prior to the occupation of a new building, an Occupation Certificate must be obtained from the Principal Certifying Authority appointed for the erection of the building.
7. A 1.8 metre high screen fence is to be provided to all side and rear boundaries prior to occupation of the development. The fence shall be erected at natural ground level. All fencing is to be provided at full cost to the developer.
8. Outdoor drying facilities and letterboxes are to be provided for each unit prior to occupation.
9. Switchboards for gas, electricity, etc., must not be attached to the front or street facing elevations of the buildings.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. 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	\$3,805
Sewerage Headworks	\$1,738
Total Payable	\$5,543
 - (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.
11. A detailed engineering design supported by plans, and an "Autocad compatible" Plan, (in dwg format including pen-map), material samples, test reports and specifications is 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*.

CONDITIONS RELATING TO THE BUILDING WORK

12. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of AS 3500 (National Plumbing & Drainage Code) and the NSW Code of Practice - Plumbing & Drainage.
13. The selected plumber/drainage must provide Council with a drainage diagram detailing the location of the drainage system and the relevant connections.
14. All plumbing and drainage inspections must be carried out by Council prior to the covering of any trenches or wall/ceiling linings.
15. All building work must comply with the requirements of the National Construction Code 2011, Volume Two, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.
16. All mandatory inspections required by the Environmental Planning and Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stages of construction.
17. Construction work noise that is audible at other premises is to be restricted to the following times.
 - Monday to Friday -- 7.00am to 6.00pm
 - Saturday -- 8.00am to 1.00pm
 - No construction work is permitted on Sundays and Public Holidays.
18. The site must be provided with a waste enclosure (minimum 1800mm x 1800mm x 1200mm high) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on site. The enclosure is to be emptied periodically to reduce the potential for rubbish to be blown from the site.

The Council encourages the separation and recycling of suitable materials.
19. During construction temporary toilet facilities are to be provided at or in the vicinity of the nominated work site and for this purpose provide either a standard flushing toilet or an approved sewage management facility.
20. A sign must be erected in a prominent position on any work site on which the erection of a building is being carried out;
 - stating that unauthorised entry to the work site is prohibited, and
 - 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.
21. The strength of the concrete used for the reinforced concrete floor slab must be 25MPa (N25)
22. With the exception of work where there is in force an exemption under clause 187 or 188 of the Environmental Planning & Assessment Act 1979 all building work that involves residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force.

No work is to commence until a copy of a Home Owners Warranty or Owner/Builders Permit have been submitted to Council.

23. All stormwater is to discharge to the street water table by the use of non-flexible kerb adapters. Alternatively, stormwater can connect to the inter allotment drainage system if it is available.
24. Erosion and sediment control measures being implemented prior to the commencement of works and must be maintained during the period of construction to prevent sediment and other debris escaping from the site. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
25. Prior to the commencement of any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the Act) are to be complied with: Council is to given at least 2 days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.
26. Adequate yard drainage together with appropriately sized sumps must be provided for the collection and disposal of ground surface waters to prevent a nuisance from these waters being caused to the property and/or adjoining properties. The disposal of ground surface waters must discharge to the street gutter or interallotment drainage easement. The ground water drainage system must be separate to the roof water drainage system. Full details must be submitted with the Construction Certificate application.
27. A Registered Surveyors Certificate showing the boundaries of the site and the proposed buildings plotted there on being submitted to the Principal Certifying Authority prior to the commencement of construction.
28. The requirements of the submitted BASIX Certificate, number 421388S_02 issued on 22 March 2012 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 prior to the commencement of the alteration/s.

PRIOR TO OCCUPATION

29. Prior to the occupation of a new building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
30. Prior to the occupation of the building a written statement must be submitted to the Council confirming the installation/completion of those commitments.

ENGINEERING CONSTRUCTION

31. No Construction is to commence before a Construction Certificate is issued for the subdivision works. The works are to be constructed in accordance with the plans and specifications referred to in The Construction Certificate.

Note: The Construction Certificate may be issued by Council or an Accredited Certifier. Council's fee for this service is set out in Council's fees and Charges.

- 32. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of “Soils and Construction – Managing Urban Stormwater”. Points to be considered include, but are not limited to:
 - Saving available topsoil for reuse in the revegetation phase of the subdivision;
 - Using erosion control measures to prevent on-site damage;
 - Rehabilitating disturbed areas quickly;
 - Maintenance of erosion and sediment control structures;
- 33. 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.
- 34. The subdivision works are to be inspected by the Council (or an Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
 - Installation of sediment and erosion control measures
 - Practical Completion

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

- 35. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
- 36. 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: Council’s fee to issue a Subdivision Certificate is set out in Council’s fees and charges and for this development is \$280 at the date of determination.

- 37. In accordance with the provisions of section 94 of the *Environmental Planning and Assessment Act 1979* and the Mid-Western Regional Council Section 94 Developer Contributions Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of: **SUBJECT TO CPI INCREASE**

Mudgee Catchment 1-2	
<i>Section 94 Contributions</i>	
Transport Management	
Traffic Management	\$1077.28
Open Space	
Local Open Space	\$1691.17
District Open Space	\$2296.21
Community Facilities	
Library Buildings	\$221.35
Library Resources	\$265.64
Administration	
Plan Administration	\$516.49
Total Payable	\$6068.14

If the *Subdivision Certificate* is not issued, for any reason whatsoever, within twelve (12) months of 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.

38. Prior to the issue of a *Subdivision Certificate*:
- (a) all contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or
 - (b) an agreement be made between the developer and Council;
 - i) as to the security to be given to Council that the works will be completed or the contribution paid, and
 - ii) as to when the work will be completed or the contribution paid.

39. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided to each lot at a suitable location. These should be constructed in accordance with Aus-Spec #1 and the appropriate Council standard drawings including M524-Urban Access, M525-Rural Access, M526-Industrial Access, M594-Kerb & Gutter Layback, as outlined in Councils "Access to Properties Policy".

Which states:-

Inspections - Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Technical Services Department between 8.00am 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.

40. The applicant is to provide separate water and sewer reticulation services to each lot.
41. The developer is to extend and meet the full cost of water and sewerage reticulations to service the new lot 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.
42. 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 \$1,100.00 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE 1 x \$1,100.00 = \$1,100.00

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

43. The developer is to provide a sewer junction for each lot in the subdivision. This can be achieved by making a payment to Council of \$1,100.00 per new junction to cover the cost of Council installing a junction in an existing main.

TOTAL PAYABLE 1 x \$1,100.00 = \$1,100.00

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

44. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed inter-allotment drainage, water, or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
45. Following completion of the subdivision works, one full set of work-as-executed plans, in pdf and dwg format, which is “Autocad compatible” is to be submitted on disk 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.

Executive summary

Council has for its consideration an application for the construction of a second dwelling of a detached dual occupancy. The proposal also includes Torrens title subdivision at 33 Lions Drive, Mudgee.

The dwelling is three bedrooms, provides a living area with private open space of good solar orientation. The dwelling also provides a single garage and uncovered car space. The proposed development complies with all development standards of the Residential Development Control Plan, except for the average rear setback and the site coverage. These variations are considered minor and the overall development is worthy of support.

The application is being reported to Council due to the receipt of three submissions. Issues raised in the submissions have been discussed in the body of the report. It should be noted that some of the issues raised are either unsubstantiated or not a matter for consideration under the Environmental Planning and Assessment Act.

Detailed report

BACKGROUND

The first dwelling fronts Lions Drive and was approved by Complying Development Certificate 0047/2012 issued by a private certifier. This dwelling is presently under construction. The dwelling was approved with a front setback of 6.5 metres.

ASSESSMENT:

The application has been assessed in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979. The main issues are addressed below as follows.

1. REQUIREMENTS OF REGULATIONS AND POLICIES:

- (a) Provisions of any Environmental Planning Instrument and any draft EPI

Mid-Western Regional Interim Local Environmental Plan 2008

The land is zoned Medium Density Residential pursuant to the LEP. Detached dual occupancy is permissible with the consent of Council.

Clause 12(2) of the LEP requires Council to consider the objectives of the zone when determining a development application. The relevant objectives are included below.

- *To provide a variety of housing types.*
- *To protect and improve the amenity of residential neighbourhoods, particularly in terms of limiting the effects of noise, odour, overshadowing, overlooking and vehicular traffic.*
- *To permit development in residential neighbourhoods that is of a domestic scale and that preserves the character and visual amenity of those neighbourhoods.*
- *To facilitate the provision of a variety of housing types, forms and styles.*
- *To promote development (including subdivision) that minimises the impacts of salinity on infrastructure, buildings and the landscape.*

Comment:

The proposed dual occupancy will provide a variety of housing types. The proposal provides sufficient setbacks to adjoining neighbours and the amount of fill is considered acceptable and will not result in any unacceptable overlooking. Suitable conditions have been included within the recommendation regarding salinity building standards.

Draft Mid-Western Regional Interim Local Environmental Plan 2011

The Draft Mid-Western Local Environmental Plan 2011 (draft LEP) has recently been on public exhibition. In accordance with the provisions of S79C (1)(a)(ii) this draft instrument is to be considered in the assessment of any development application to which S79C applies. The proposed dual occupancy is permissible under the draft LEP.

(b) Provisions of any Development Control Plan or Council Policy

Residential Development Control Plan

Council's DCP for residential development provides a number of controls relating to setbacks, orientation, solar access, amenity, private open space and the streetscape (among others).

The development generally complies with the standards contained in the DCP but is non compliant with regard to the average rear setback and the site coverage. The variation to these standards is discussed in the table below.

The following table summarises these and, in the context of the current application, offers comment.

Clause	Standard	Development Controls / objectives	Proposed
3.1	Environmental Design	(a) & (b) The development must comply with the Building Code of Australia, Environmental Planning and Assessment Act and Regulation, particularly as it applies to BASIX. (c) & (d) Appropriate outdoor space is to be allocated for clothes drying and all hot water pipes are to be insulated.	Appropriate conditions have been included within the recommendation regarding compliance with BCA and EP and A Act. Ample area is available for clothes drying.
3.2	Streetscape	The look and feel of a residential street has an impact on residential amenity and serves to establish and reinforce a sense of place. It is important to preserve the characteristic of the urban areas within the LGA through good design.	The characteristic of the urban area has been considered in the preparation of the application. There are no dual occupancy developments directly adjoining the subject site, however there are developments located within the immediate locality. The

Clause	Standard	Development Controls / objectives	Proposed												
3.2.1	Design and Appearance	<p>(a) In established areas, houses are designed and placed to complement or improve the existing neighbourhood character. Where the character of the area is undergoing change, the development will seek to reinforce and progress the positive elements of the locality.</p> <p>(c) Houses shall provide an attractive landscaped face to the street and / or adjoining reserve or open space.</p> <p>(d) On corner lots, houses are designed to take advantage of the dual street frontage and to enhance the streetscape of both streets.</p>	<p>second dwelling</p> <p>The dual occupancy has been designed to minimise cut and fill of the site.</p> <p>The proposal involves the erection of a dwelling at the rear of the site.</p>												
3.2.3	Corner Lots	<p>(a) The corner lot should make a positive visual contribution to both street frontages, achieve appealing streetscapes and maintain residential amenity whilst reinforcing the importance of the location on the street block.</p> <p>(b) Houses on corner locations will need to address both streets to create a suitable streetscape. This can be achieved by a variety of means including:</p> <ul style="list-style-type: none"> • Good building design and layout that acknowledges both street addresses. • Elevations to both street frontages shall have a consistent and similar character. • Enhanced design of corner lots through the incorporation of specific elements such as turret roofs, corner windows, return verandahs, balconies, overhangs, porches, fencing and landscape treatment. • Garages situated away from corner positions on secondary frontages. • Fencing appropriate to surrounding streetscape addressing both streets. • Suitable acoustic and visual privacy measures. 	The subject site is not a corner lot.												
3.3	Setbacks	<ul style="list-style-type: none"> • Front building is 7.5 metres. Council will consider a 6m setback in the older parts • Corner allotments to side streets setback is 3m. • The minimum setback required from the side and/or rear boundaries of the nearest wall (including balconies) of the building are as follows: <p>Single storey development – 0.9 metres. Note: These provisions also apply to dwellings (that immediately fronts a street) of a dual occupancy development.</p> <p>Setbacks for Dual Occupancy; Single Storey:</p> <table border="1" data-bbox="612 1346 1000 1451"> <thead> <tr> <th>Area</th> <th>Average</th> <th>Minimum</th> </tr> </thead> <tbody> <tr> <td>Front</td> <td>7.5</td> <td>7.5</td> </tr> <tr> <td>Rear</td> <td>5</td> <td>4</td> </tr> <tr> <td>Side</td> <td>4</td> <td>2</td> </tr> </tbody> </table>	Area	Average	Minimum	Front	7.5	7.5	Rear	5	4	Side	4	2	<p>The proposal is located behind the existing dwelling on site. Therefore, the front setbacks are not applicable.</p> <p>The proposed development provides the following setbacks: western side setback of 4 metres, eastern setbacks of 2 metres, 5.4 metres and 6 metres resulting in an average of 4.7metres; both side setbacks comply.</p> <p>The rear setback is 4000mm and 5485mm, which complies with the minimum, however presents a shortfall of 257.2mm to the average of 5000mm.</p>
Area	Average	Minimum													
Front	7.5	7.5													
Rear	5	4													
Side	4	2													
3.4	Building Scale Height and Bulk	<p>(a) Development, particularly when viewed from the street should be compatible with the scale of buildings in the immediate locality, consistent with the objectives of the zone and should not be visually obtrusive as a consequence of their height.</p> <p>(b) In determining appropriate building heights Council shall have regard for the scale of future development for which provision is made in the locality.</p> <p>(c) A maximum of two storeys in height is permitted in all residential and rural residential zones (excluding the heritage conservation areas). The maximum height of the building is 8.5m at any point and shall be measured from the natural ground level at to the ridge cap.</p> <p>(d) Each development or building will be assessed on its merits in terms of its visual impact on the streetscape and impact on the amenity, privacy, views and solar access of the surrounding properties.</p> <p>(e) A development should not reduce the sunlight received by the north-facing windows of living areas and private open space areas of neighbouring properties to less than 3 hours between 9am and 3pm at the winter solstice.</p>	<p>The proposed development is of an appropriate scale for the locality.</p> <p>Sunlight will not be reduced to adjoining properties.</p>												

Clause	Standard	Development Controls / objectives	Proposed
		(f) Shadow diagrams are required for two storey development or development of a similar scales and should include the following: <ul style="list-style-type: none"> • Shadow diagrams for 9am, 12 noon and 3pm. • Contain details of windows and elevations of adjoining buildings 	
3.5	Heritage	(a) Dwellings, dual occupancy or multi dwelling housing developments on sites listed as heritage Items or within the Gulgong Conservation Area will require a heritage impact statement prepared by a suitably qualified person. (b) Development should adaptively reuse existing buildings of heritage significance with minimal impact on the identified heritage significance of the building not just the façade. (c) Infill development should respect and protect the heritage significance of adjoining buildings and the historical character of the towns. (d) Development should be sympathetic to the conservation of the curtilage of Heritage Items. (e) Any landscaping should protect views to heritage items and enhance the setting of buildings of heritage significance. (f) The use of materials, colours and proportion (including roof pitch) should be adopted as a mechanism to encourage the preservation of the heritage character of a building or conservation area.	The subject site is not listed as an item of environmental heritage, and is not located within a conservation area.
3.6	Garage Design	(a) Carports and garages shall be designed to be: <ul style="list-style-type: none"> • Visually subservient; and • Integrated into the overall dwelling design, and • Constructed of similar materials and finishes to the dwelling. (b) Generally, garages are to be setback behind main building façade to reduce visual dominance and provide for stack parking. The area of the garage doors shall not comprise more than 45% of the front elevation. (c) Open carports located within the front building setback of existing single dwellings may be considered in circumstances where; <ul style="list-style-type: none"> (i) the carport has been designed to blend with the existing dwelling and surrounding development, and (ii) flat roof carports will generally not be permitted within the front building setback unless that applicant can demonstrate that the design is consistent with or compliments the adjoining dwelling and, (iii) the development will not have a negative impact on neighbouring dwellings, and (iv) where the development adjoins a heritage item, the visual impact of the heritage item should be considered, and (v) carports will not be permitted within the front building line of a heritage item. (d) In the case of dual occupancy development, a double garage shared between two dwellings shall only be considered where the second dwelling does not front the street. (e) Driveway gradients should be a maximum grade of 1:5.	The proposed garage is located at the rear of the site and is offset, so is not directly visible down the driveway.
3.7	Access and car parking	(a) The minimum car parking requirement for a residential dwelling including a dual occupancy (per unit) are; 1 space for up to two bedrooms and 2 spaces for three or more bedrooms. (b) At least one covered car park of minimum dimensions 3 metres by 5.5 metres with a minimum opening of 2.7 metres shall be provided for each dwelling. (c) Where a parking space is provided within a side or rear building setback, or is exposed to adjoining properties, suitable landscaping is to be provided along such boundary to soften the visual impact of the parking. (d) All geometric standards applicable to site access and car parking layout are to be in accordance with Council's Development Control Plan - Car Parking. (c) Parking within setbacks to roads is not permitted. The objective of this standard is to ensure the visual appearance and streetscape of roads is not compromised. (b) Where the access driveway to a dual occupancy exceeds 10 metres in length, car parking must be designed so vehicles can enter and exit in a forward direction.	The proposed development provides a single garage and the plans were amended to provide a car parking stand outside the areas of manoeuvring to facilitate cars entering and leaving in a forward direction.

Clause	Standard	Development Controls / objectives	Proposed
		(e) In the case of a dual occupancy, where only one dwelling has frontage to a public road, a common driveway shall be provided.	
3.8	Landscaping and external works	<p>(a) Retention of landscaped areas and significant vegetation should be considered as a component of the site planning process.</p> <p>(b) A minimum of 45% of the site should be landscaped, exclusive of building or driveway areas.</p> <p>(c) Applications for multi unit and dual occupancy development should be accompanied by a survey plan indicating the precise location of existing trees, their condition, species and crown size, and nominating which trees are to be removed.</p> <p>(d) Proposed building envelopes, roads, carriageways and drainage and service trenches should have a minimum setback of 4 metres from trees and groups of trees which have been assessed as being on Councils significant tree register. During site works and construction, protective barriers will be required around trees to be retained.</p> <p>Other external works: Fencing, Clothes Drying Facilities, Waste Disposal, Mail Boxes, Drainage</p>	<p>The site is generally cleared. A suitable condition is included within the recommendation requiring a landscape plan.</p> <p>The other external matters have been adequately addressed.</p>
3.9	Erosion and sediment control	<p>(a) Where the potential for soil erosion is identified, the applicant must demonstrate the measures which will be employed to control erosion and sedimentation.</p> <p>(b) Silt fencing should be provided on all building sites to contain sediment. Alternative measures of silt containment may be used in consultation with Council.</p> <p>(c) Where allotments contain drainage lines the proposed development is to be designed to minimise soil disturbance during and after construction by the use of lightweight building construction techniques and pier and beam construction, wherever feasible.</p> <p>(d) Soil and water management measures should be designed for a 5 year ARI event.</p> <p>(e) Rehabilitation and stabilisation of the disturbed areas is required for all types of development.</p> <p>(f) Development proposals where the area of disturbance is less than 2,500 m² require an Erosion and Sediment Control Plan that indicates measures to minimise erosion and sedimentation.</p> <p>(g) For all medium density development and in the case of single dwellings where the area of disturbance is 2,500 m² or greater, the development application should be accompanied by a Soil and Water Management Plan prepared by a suitably qualified person. It should contain appropriate Best Management Practices that recognise site constraints and support ESD principles.</p>	Suitable conditions have been included within the recommendation regarding erosion and sediment run-off control measures during the construction period. Turf and vegetation is intended to retain sediments and run-off post construction.
3.10	Construction waste management	Construction waste management measures should be incorporated into the overall site management, and a waste receptacle is to be located on site.	A bin will be located on site during construction, and all associated waste is to be recovered.
4.1	Design	<p>(b) Verandahs, steps in the roof line or other architectural features should be incorporated in the design to provide visual relief and to minimise the bulk and scale of development.</p> <p>(e) The design of the proposal must:</p> <ul style="list-style-type: none"> • Optimise solar access and lot orientation and provide the principle area of private open space with northerly aspect and direct access from the main living areas (refer section 4.2.3); and • Compliment the appearance of the streetscape - the scale, spacing, setbacks and landscaping of buildings; and • Positively enhance the streetscape. 	<p>The design incorporates stepping in the roof line to provide visual relief.</p> <p>The design maximises solar access. The living area is located with a northern aspect, the private open space extends directly from this living area.</p>
4.2	Site coverage and private open space	<p>(a) Each dwelling shall have principal private open space with a minimum area of 80 square metres and a minimum dimension of 5 metres. The principle area must be directly accessed from the living areas and be at least 35m² and have a northerly aspect. For the purposes of this clause, living area means any room or rooms within the dwelling which are generally available for day-to-day use by residents and visitors and include such rooms as lounge, dining and rumpus rooms.</p> <p>(b) Patios, decks, balconies at or near ground level may only be counted as principal private open space area when they are not</p>	<p>The proposal complies within the provision of private open space. The private open space is directly accessible from the living areas.</p> <p>The applicant has stated a site coverage of 34% on the plans. The site coverage includes the rear patio areas, these areas are</p>

Clause	Standard	Development Controls / objectives	Proposed
		enclosed by the roof of the building (not including the eaves projection). (c) Corner allotments, allotment with two frontages or allotments that would allow a dual occupancy to each have a frontage shall have a maximum site coverage of 40% (This does not include battle axe type developments where the frontage for the dwelling is only a driveway). (d) All other dual occupancy development shall have a maximum site coverage of 30%.	not under the main roof line, so it should not be included in the calculations. The site coverage has been recalculated and has been determined at 30.9%
4.3	Privacy and Amenity	All dual occupancy developments are required to provide a 1.8m high fence on the boundary of the development site and between private open space areas of individual units. All fencing is to be provided at full cost to the developer.	A suitable condition is included within the recommendation. Further the condition details the requirement for the fence to be erected at natural ground level.
4.4	Acoustic Privacy	(a) Site layout should separate active recreational areas, parking areas, vehicle access ways and service equipment areas from bedroom areas of dwellings. (b) Development adjacent to high levels of uncontrollable external noise (for example, from road or rail transport corridors) shall incorporate a building design and external wall treatments to minimise the entry of that noise.	Bedroom ones windows adjoin the driveway access, however there is a nominated garden bed that will provide an appropriate buffer.

Notification Development Control Plan

The application was notified to adjoining and adjacent neighbours in accordance with Council's Notification Development Control Plan. Three submissions were received. The following table summaries issues raised in the submissions and provides a staff comment. The three submissions have been attached.

Issues raised in submissions	Staff comment
Reference is made to 7.2 of the DCP.	7.2 relates to subdivision, the application is for dual occupancy and Clause 7.2 relates to subdivision of vacant land.
Front setback of 6.5 fails to comply with the required 7.5.	The front setback was approved under the complying development application.
The proposal is an overdevelopment of the site.	The applicant has stated a site coverage of 34% on the plans. The site coverage includes the rear patio areas, these areas are not under the main roof line, so it should not be included in the calculations. The site coverage has been recalculated and has been determined at 30.9%
The proposal fails to provide two car parking spaces for the second dwelling.	The application has been amended to provide two car parking spaces.
No turning area has been provided for the rear dwelling	The applicant amended the plans and has provided a turning area.
Stormwater drainage from the proposed driveway.	A suitable condition will be included within the recommendation requiring no stormwater to be directed to adjoining properties; the proposal will drain to the street.
Impact on privacy for adjoining property.	Both side setbacks comply with minimum, providing appropriate buffers to adjoining properties. Further, appropriate amounts of cut and fill are proposed to minimise any over looking for the rear dwelling.
Impact on property value	The matter is not a consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979.

2. IMPACT OF DEVELOPMENT

The subject site is located within a newly created subdivision on Lions drive in the vicinity of Inverness Ave also known as Fairways Estate, and adjacent to Yallambee Estate and an existing residential subdivision approved in 1996.

The locality, beyond the immediate neighbouring properties is characterised by a mixed housing types of single dwellings and dual occupancy. The proposal is therefore compatible with the locality. Given the side setbacks and location of surrounding dwellings, sunlight access to the proposed dwellings and surrounding dwellings is not considered to be a concern.

3. SUITABILITY OF SITE FOR DEVELOPMENT

The site is not subject to natural hazards, heritage conservation or environmental conservation. The site is not currently identified as prime agricultural land or for mineral and extractive resources. For these reasons the site is considered to be conducive to development.

The lot was subdivided for the purposes of dwellings and as a result the infrastructure and works are conducive to the development.

4. SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS

(a) Public Submissions

As discussed above three submissions were received.

(b) Submissions from public authorities

N/A

5. THE PUBLIC INTEREST

The proposal adds to the existing dwelling stock.

6. CONSULTATIONS

Internal consultations with Council's Health & Building Surveyor and Development Engineer occurred. No objections were raised subject to standard conditions included within the recommendation.

CONCLUSION

The application has been assessed in accordance with Mid-Western Regional Interim Local Environmental Plan (LEP) 2008 and Council's Development Control Plan (DCP) for Residential Development. After the applicant made an amended to the proposal the application is consistent with all standards of the DCP, except for a minor variation of the average rear setback and site coverage. The variations are considered acceptable and will not have any detrimental impact on adjoining properties. It should be highlighted that the provision of private open space within this rear setback complies with the standard.

Three submissions were received during the neighbour notification period have been discussed in the body of this report. Notwithstanding the receipt of the submissions and consideration of issues raised the application is recommended for approval.

OPTIONS

1. The application be determined by way of consent in accordance with the recommendation or as amended; or
2. The application be determined by way of refusal; or
3. The application be referred back to the applicant to address such matters as determined by Council.

Financial implications

Not Applicable.

Strategic or policy implications

Nil. The approval of a variation to the rear setback average in this instance would not provide impetus for Council to approve variations for other developments of this nature

GARY BRUCE
MANAGER – STATUTORY PLANNING



CATHERINE VAN LAEREN
GROUP MANAGER DEVELOPMENT AND
COMMUNITY SERVICES

POLITICAL DECLARATION

Has there been a declaration of political donation in accordance with the Election Funding & Disclosures Act 1981

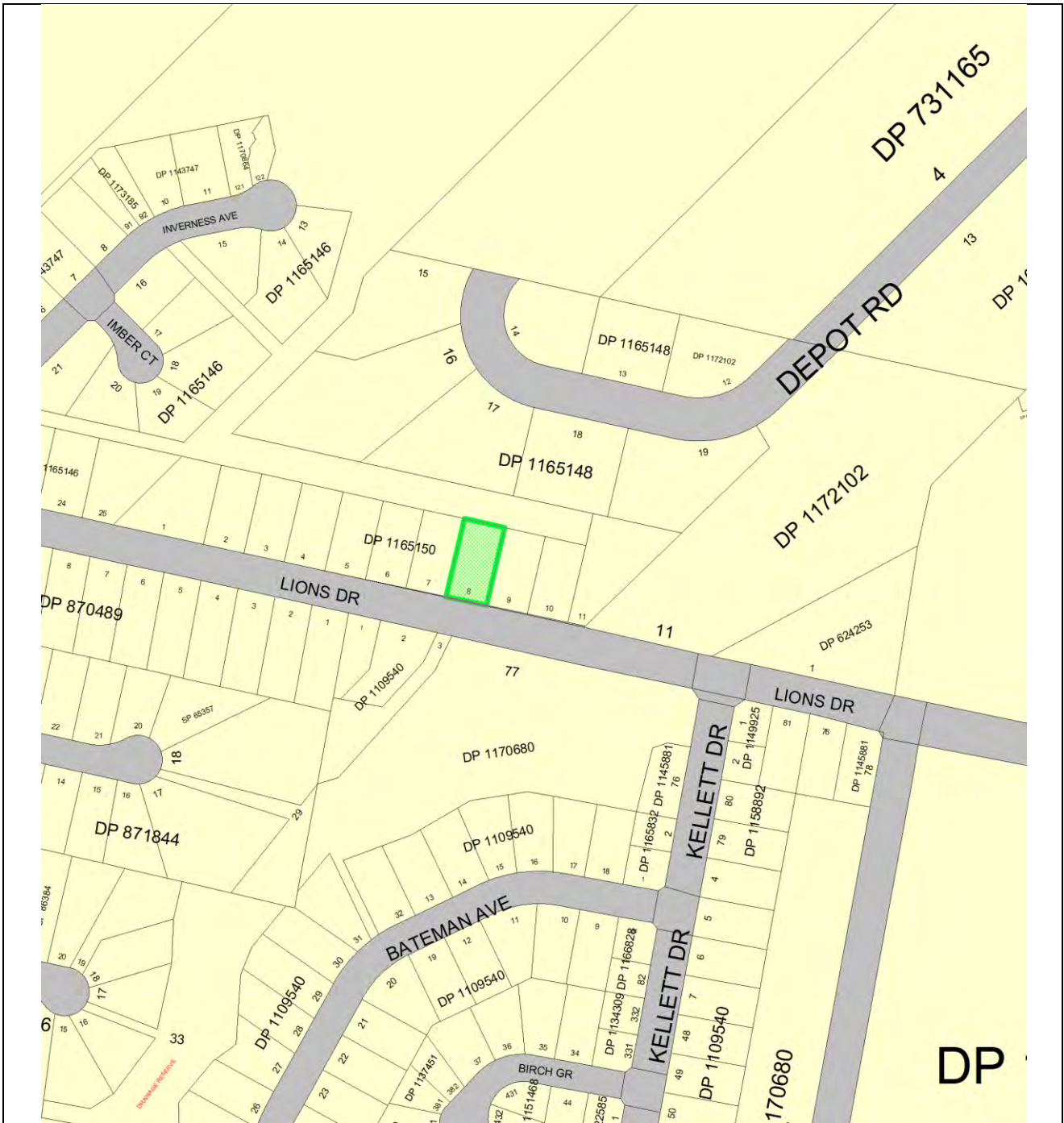
No

- Attachments:*
1. Locality Plan
 2. Site Analysis, Site Plan, Floor Plan and Elevations
 3. Submissions

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

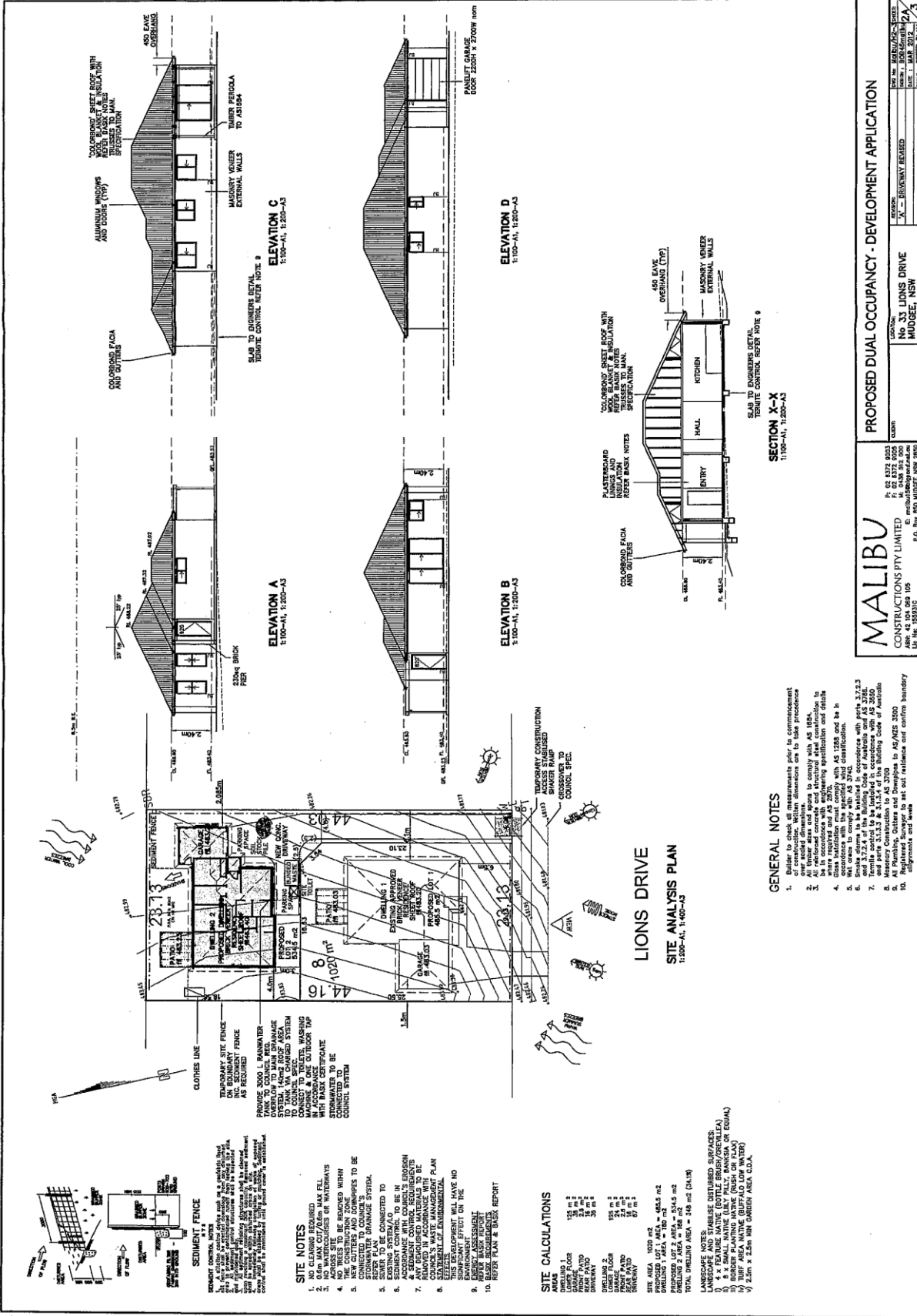


Map Scale: 1:2,952



Development Application: DA0307/2012
Property Address: 33 Lions Drive, Mudgee
Legal Description: Lot 8 DP 1165150





MALIBU
CONSTRUCTIONS PTY LIMITED
ARCH: 42 104 096 105
P.O. Box 850 MURFEE NSW 2800
E: malibubuilding.com.au
P: 02 8373 0033
F: 02 8373 0025

PROPOSED DUAL OCCUPANCY - DEVELOPMENT APPLICATION

CLIENT: LIONS DRIVE INDUSTRY NSW

DATE: 15 MAR 2012

NO. OF SHEETS: 2

SHEET: 2A

BY: [Signature]

CHECKED: [Signature]

BASIX COMMENTS

- All showers in the development to have a minimum 3 star rating (7.5 lit = 6.0 lit).
- All showers and bathroom basin taps in the development to have a minimum 3 star rating.
- All toilets in the development to have a minimum 3 star rating.
- Install a rainwater tanks with a minimum capacity of 3,000 litres. Rain runoff to be collected from at least:
 - 140m² of roof area.
- Rainwater tanks to be connected to:
 - at least one (1) outdoor tap;
 - all toilets in the development;
 - one cold water tap of the clothes washer;
 - one cold water tap of the clothes dryer;
 - one cold water tap of the clothes mangle;
 - 11.68 to external brick veneer walls (or total R2.2 including construction);
 - 11.85 (up) to ceilings;
 - 55mm foil backed blanket to roof.
- Roof colour to be Medium - SA 0.475 - 0.70
- The hot water system to be GAS INSTANTANEOUS with a minimum rating of 4.5 stars.
- Hot water system to be GAS INSTANTANEOUS with a minimum rating of 3.0 stars for cooling and 2.5 stars for heating, to be installed in the following rooms:
 - at least one (1) living area
 - at least one (1) bedroom
 - at least one (1) bathroom, not located and with manual on/off switching, to be installed in:
 - the kitchen;
 - the living room;
- Fluorescent or light-emitting diode is to be the primary type of artificial lighting in the following rooms:
 - None
- Incorporate a well ventilated refrigerator space that allows air circulation around the rear and sides of the refrigerator.
- A. Area outdoor clothes line to be installed.
- Window glazing and shading requirements as per BASIX certificate no. 4213665_02 glazing schedule.

FLOOR PLAN - DWELLING 2
1:100-A1, 1:200-A3

GENERAL NOTES

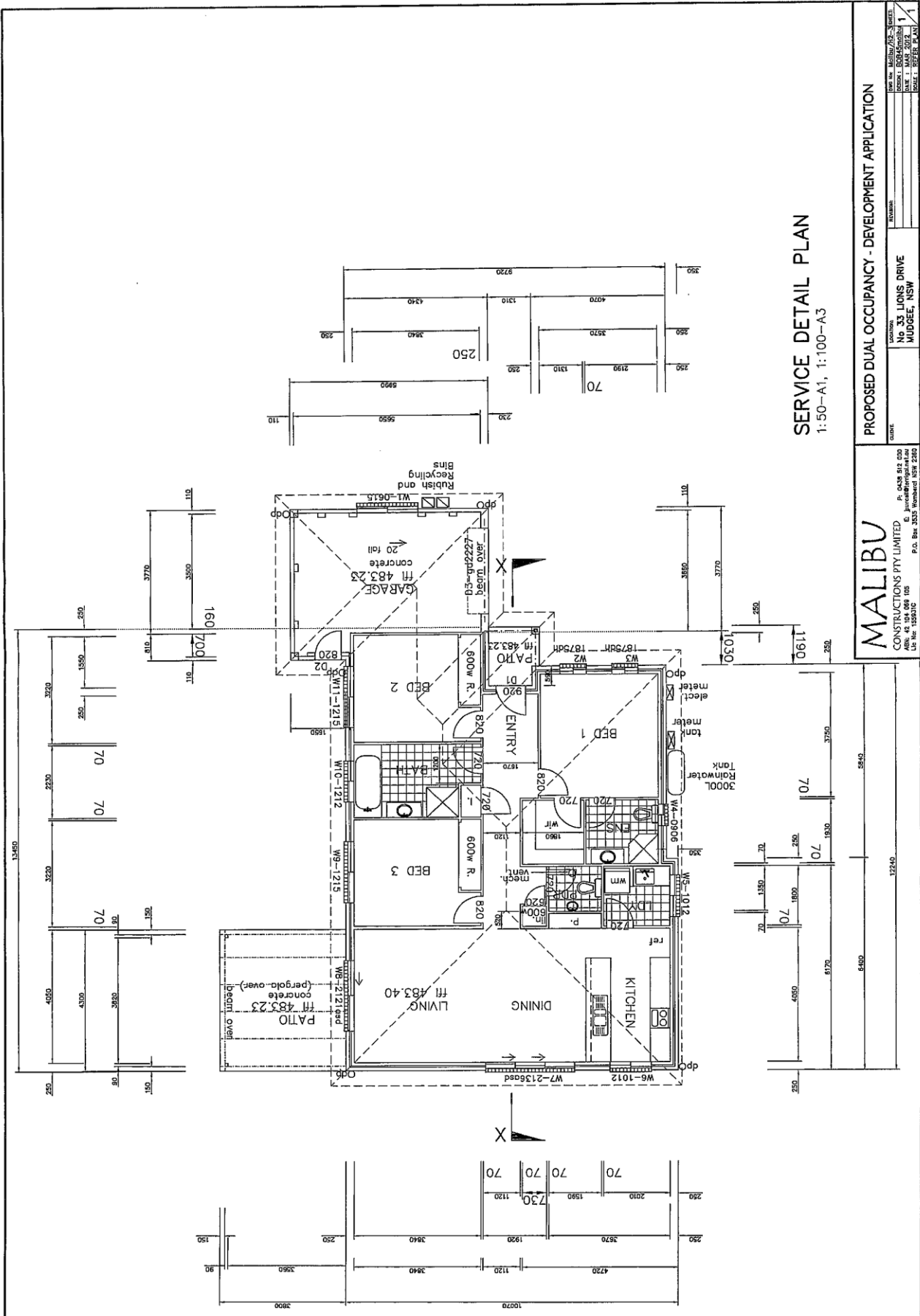
- Builder to check all measurements prior to commencement of construction. All measurements to be in accordance with AS 1864.
- All reinforced concrete and structural steel construction to be in accordance with AS 3600.
- Structural steelwork to be in accordance with AS 1397.
- Clear installation must comply with AS 1289 and be in accordance with AS 3746.
- Walls, doors and windows to be in accordance with the provisions of part 3.6.2 of the Building Code of Australia 1986 Vol.2.
- Roofing to be in accordance with the provisions of part 3.4.1 of the Building Code of Australia 1986 Vol.2.
- Smoke alarms to be installed in accordance with part 3.7.2.5 of the Building Code of Australia 1986 Vol.2.
- Termite control to be installed in accordance with AS 3660 and part 3.10.3.3 of the Building Code of Australia.
- All Plumbing, Guttering and Downpipes to AS/NZS 3500 and part 3.10.3.3 of the Building Code of Australia.
- Registered Surveyor to set out residence and confirm boundary alignment and areas.

FLOOR PLAN - DWELLING 1
1:100-A1, 1:200-A3

PROPOSED DUAL OCCUPANCY - DEVELOPMENT APPLICATION

MALIBU CONSTRUCTIONS PTY LIMITED
P.O. Box 8322 8003
Mudgee NSW 2850
E: malibu@malibu-pty.com.au
Lic No: 155231C
FAO Box 830 Mudgee NSW 2850

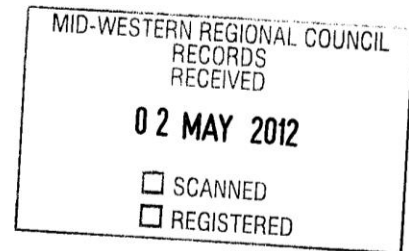
DATE: 11 MAR 2012
DRAWN BY: JVA
CHECKED BY: JVA
SCALE: REFER PLAN 3



*Geraldine Evans
31 Lion Drive
Mudgee NSW 2850.*

28th April 2012

*The General Manager
Mid-Western Regional Council
PO Box 156
Mudgee NSW 2850.*



Dear Sir,

As owner of 31 Lions Drive, I wish to formally object to the proposed dual occupancy and subdivision at 33 Lions Drive.

I recently moved into my new home at 31 Lions Drive and have just started to enjoy and become familiar with my new surrounds-particularly the lovely views I have to the East from my pergola area.

However, when I received your letter regarding Development Application for a Dual Occupancy I was very concerned that the view I currently have will be instantly blocked! Also the privacy of my backyard would be invaded from another resident right on the fence boundary.

The main reason I purchased this particular block was for the outlook so I strongly object to a dual subdivision taking place next door to me.

WHY allow an ugly dual occupancy to be built in area where there are currently only single houses developed?

My other concern regarding this development is the effect it will have on the future resale value of my home which could inhibit a decrease in value due to the visual aspects of the neighboring residence.

Please take my concerns into consideration when reviewing this proposal.

Yours faithfully

Geraldine Evans

Veroc Pty Ltd

PO Box 257

MUDGEE NSW 2850

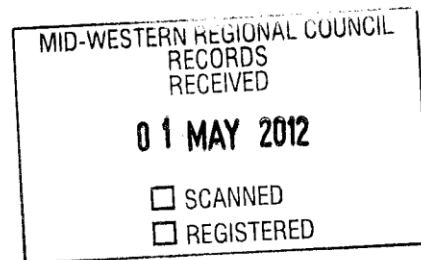
27 April 2012

The General Manager

Mid-Western Regional Council

PO Box 156

MUDGEE NSW 2850



To The General Manager

I wish to formally object to Development Application DA0307/2012 – Proposed Dual Occupancy and Subdivision @ 33 Lions Drive MUDGEE.

You may be aware that I submitted a DA for a dual occ on the block next door to this one being 35 Lions Drive. It was withdrawn following feedback from your planning department as being an overdevelopment of the site. That being the case, the proposal at 33 Lions Drive would be an overdevelopment as well. The site coverage of this proposal is greater than mine and in fact, the maximum permissible site coverage is 30% under Clause 4.2 Mid-Western Regional Council's Residential Development DCP July 2009. Site coverage is excessive at 34.1%.

Another issue that was raised with my design was that garage of my front unit did not comply with the 7.5m setback required council's DCP. It appears that the front house of this development (which is already under construction) has a setback of 6.5m. I am unsure how this would have been approval under delegation?

Another concern is the driveway to the back unit. As the driveway length exceeds 10m, a turning area must be provided for the back unit to allow vehicles to enter and leave in a forward direction. I am unable to see this turning area on the design.

I would have concerns for my block regarding the water catchment from this extended driveway as the land falls considerable to the south east directing most water from this block to my block.

I am very concerned about the privacy of my lot with the lay of the land. The back unit proposed will sit much higher than the back yard of my block impacting on the privacy and amenity of the future residents of 35 Lions Drive. I also have concerns regarding overshadowing.

I would appreciate these concerns being addressed when determining the outcome of this DA.

Sincerely

A handwritten signature in black ink, appearing to read 'Matthew Cover', written in a cursive style.

Matthew Cover

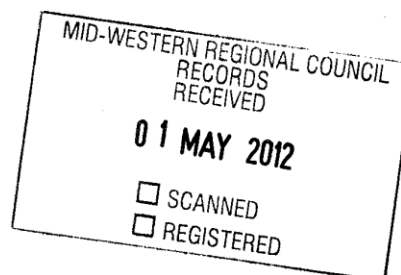
DIRECTOR

Veroc Pty Ltd

Robert J & Wendy A Craze
PO Box 1615
BATHURST NSW 2795

27 April 2012

The General Manager
Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850



Dear Sir

RE: DEVELOPMENT APPLICATION DA0307/2012 – PROPOSED DUAL OCCUPANCY AND
SUBDIVISION @ 33 LIONS DRIVE MUDGEE NSW LOT 8 DP 1165150.

As the owners of 32 and 34 Lions Drive, we wish to make known our formal objection to the proposed dual occupancy and subdivision at 33 Lions Drive.

Our objection is based on our following beliefs:-

The proposed subdivision does not satisfy MWRC DCP 7.2 (d) on “Subdivision” which states that all lots must have street frontage. Lot No 2 of the proposed subdivision has no street frontage.

The proposed development has negative impacts on the streetscape. MWRC “Residential Development” DCP clause 4.1 states that the design of the proposal must compliment the appearance of the streetscape, referring to, among other things, the setback of buildings. MWRC Regional Interim LEP 2008, states that the minimum setback required between the front (road) boundary to the nearest wall of the building is 7.5 metres. The setback on this proposed development is 6.5 metres. This DCP on “Setbacks” further stated that this could be varied only if Council was satisfied that the variation was justified, had no impact on neighbouring properties and the visual impact on the streetscape. We believe that this variation cannot be justified, as it does impact the lovely home built beside it, and it does have a visual impact on the streetscape. We also believe that such a variation is inappropriate, and does not take into account the existing and future status of the road that fronts the proposed development. (DCP 3.3 “Setbacks”). Lions Drive is rapidly becoming the by-pass route through Mudgee, to Gulgong, and all points north and west, thus avoiding passing through the CBD. Any future roadwork made necessary by further increased traffic would have detrimental effects on the occupants and house so close to the street.

The proposed development constitutes an overdevelopment of the site. MWRC Residential Development DCP 2009 clause 4.2 states that the maximum site coverage for dual occupancy is to be 30%. Total dwelling area on this site is 34.1%. Mudgee has an abundance of residential land, and we do not believe that it is necessary to cram buildings together in a new residential area of single occupancy blocks. Housing blocks of 534.5 sq metres and 485.5 sq metres may be appropriate for a large city, but not for a rural town. We believe this type of development has a detrimental effect on the amenity of the neighbourhood and consequently affects the value of our homes and buildings, and our quality of life.

The MWRC “Access and Car Parking” DCP 3.7 (b) states that where the access driveway to a dual occupancy exceeds 10 metres in length, car parking must be designed so that vehicles can

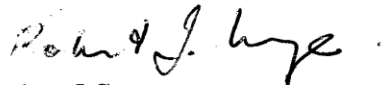
2.

enter and exit in a forward direction. Vehicular Access Design (b) also states that driveways are not to be continuous straight lines, and are to be off set by landscaped sections.

We cannot see any area on the proposed second residential block where vehicles are able to turn around, and as well, we doubt whether there are 2 parking spaces as required for homes of three or more bedrooms. The driveway of block No 2 is certainly straight, and by our calculations is approximately 31 metres long, and does not appear to have any space available for landscaping to break this long straight stretch of concrete. This alone contravenes objective © of Council's Access and Parking Plan, and has an adverse affect on the amenity of the development, streetscape and neighbourhood. We also believe this driveway, right on the boundary and close to the adjoining block, will have an adverse noise and invasion of privacy affect on any residence to be built on that block.

Finally, we believe that "concerns" regarding overdevelopment and minimum setbacks were expressed by Council about another dual occupancy development application in the same area. We ask, "Is this development application vastly different from the one that was previously submitted?" If not, we maintain that a precedent has been set, and we hope that Council will see fit to reject this Development Application on the same grounds.

Yours faithfully



Robert J Craze



Wendy A Craze

6.2.2 DA 0290/2012 - Attached Dual Occupancy – Lot 24 DP 1163433 7 Tebbutt Court, Mudgee

REPORT BY SENIOR TOWN PLANNER TO 6 JUNE 2012 COUNCIL MEETING

Report DUAL OCC. 7 TEBBUT COURT

A0100055, P2112661

RECOMMENDATION

That:

- A. The report by the Senior Town Planner on Development Application 0290/2012 for a dual occupancy at 7 Tebbutt Court Mudgee be received;
- B. Development Application No. 0290/2012 for the erection of a dual occupancy on Lot 24 DP 1163433, 7 Tebbutt Court Mudgee be refused for the following reasons;
 - 1. The proposed development does not comply with Clause 3.3 of the Residential DCP (Setbacks) as the average side setback standards are not attained.
 - 2. The proposed development does not comply with Clause 4.2 (d) of the Residential DCP (Site Coverage) as the maximum site coverage is exceeded.
 - 3. The proposed development does not comply with Clauses 4.3 & 5.7 of the Residential DCP (Privacy and Amenity) as there is the potential for overlooking from proposed unit 2 to existing residential development immediately north of the subject site.
 - 4. The proposed development does not comply with Clauses 4.2 (e) & 5.6 (h) of the Residential DCP (Solar Access) due to the limited solar access afforded the private open space of proposed unit 1.
 - 5. The proposed development does not comply with Clause 3.8 (b) of the Residential DCP (Landscaping) as the minimum landscaping requirement is not achieved.
 - 6. The applicant has not demonstrated that the proposed development can adequately dispose of stormwater.
 - 7. The proposed development, involving excessive variations to the Residential DCP, is not in the public interest.
 - 8. The development site is unsuitable for the proposed development due to the battle axe nature of the allotment and the magnification of impacts (privacy and amenity) on adjoining land owners.

Executive summary

The applicant proposes to construct an attached dual occupancy upon lot 24 DP 1163433, 7 Tebbutt Court Mudgee. The proposed units (124m² and 138m² excluding pergola) each contain three bedrooms, a single garage, bathroom and ensuite. The applicant seeks a variation to

Council's Residential DCP with regard to non-compliant side setbacks, site coverage, privacy and amenity, and solar access for the proposed development.

The subject lot complies with the LEP requirements regarding minimum lot size for the construction of an attached dual occupancy within the Medium Density Residential zone. However, it is considered that the proposed variations are extreme and the site unsuitable for this form of development; an assessment confirmed by the inability of the applicant to comply with DCP requirements regarding setbacks, site coverage, privacy and amenity, and solar access.

The applicant was advised of the unsuitability of the site during a pre-DA meeting and this was confirmed after lodgement, at which time the applicant was informed that Council's Planning Department was unable to support the application in its current form. The applicant was offered the option of withdrawing the application or modifying the application to a scale of development more suited to site conditions, such as a single dwelling, or two smaller units. In response, the applicant has requested that the current application be considered by Council.

Council has in the past varied DCP standards, but the scope of the unresolved issues of non-compliance with Council's DCP for residential development (side setbacks, site coverage, the potential for overlooking from proposed unit 2, and limited solar access to the private open space of proposed unit 1) have resulted in Council's Planning Department recommending that a departure should not be granted in this instance, and the application refused.

Assessment

The application has been assessed in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979. The main issues are as follows.

1. REQUIREMENTS OF REGULATIONS AND POLICIES:

(a) Provisions of any Environmental Planning Instrument and any draft EPI

Mid-Western Regional Interim LEP 2008

The subject lot is 771m² and zoned Medium Density Residential pursuant to Mid-Western Regional Interim Local Environmental Plan 2008. Detached dual occupancy development is permitted, with Council consent, on suitable Medium Density Residential lots in excess of 600m².

Comment

The proposed development is permissible with consent, and generally in accordance with Medium Density Residential zone objectives. The subject lot, however, is not considered to be a suitable site for the proposed development, which is inconsistent with Council's residential development control plan.

The Draft LEP 2011

Council must also consider the provisions of the Draft Mid-Western Regional LEP 2011 when determining the current application. Under the draft LEP, the subject lot is proposed to be zoned R1- General Residential.

Comment: Zone objectives under the Draft LEP 2011 are simplified, but essentially unchanged from those of the current LEP. Detached dual occupancy development is permitted, with Council consent, within the R1 zone under the Draft LEP 2011

(b) Provisions of any Development Control Plan or Council Policy

Residential DCP

Council's DCP for residential development provides a number of controls relating to setbacks, orientation, solar access, private open space and the streetscape (among others).

With regard to the current proposal, the main areas of non-compliance with Council's DCP for Residential Development are;

3.3 Setbacks

- The applicant proposes side setbacks of 2070mm and 3900mm whereas the DCP states side setbacks are to be a minimum of 2000mm and an average of 4000mm.

Comment: The proposed side setbacks do not provide adequate separation to existing development, particularly in consideration of the fact that the subject lot is hatchet shaped, with no direct street frontage.

4.2 (d) Site Coverage

- The applicant proposes site coverage of 34%, whereas the DCP limits site coverage to 30%.

Comment: The excessive site coverage does not provide for a better outcome and is an even greater percentage of the total site (ca. 42%) if the proposed pergolas and the lot 'handle' (the driveway being, in effect, a 'dead' space) are taken into account.

4.3 & 5.7 Privacy and Amenity

- There exists the potential for overlooking from proposed unit 2 to existing residential development immediately north of the subject site.

Comment: The applicant proposes frosted glazing for the north-facing bedroom and living/dining room of proposed unit 2. This response is not considered to be a viable solution to the essential problem facing the applicant; which is the inadequacy of the subject lot to support the proposed development.

The applicant has not adequately indicated what the extent of cut and fill will be and has only indicated that there will be retaining walls. The location of the lot and the cut and fill required is likely to have amenity and privacy impacts on adjoining properties.

4.2 (e) & 5.6 (h) Solar Access

- The proposed development affords limited solar access to the private open space of proposed unit 1.

Comment: The applicant claims that 75% of the private open space for proposed unit 1 will receive full sunlight for 3 hours between 9am and 3pm on 21 June, despite site plans indicating that the private open space of unit 1 faces due east and is partially obscured from full northern exposure by proposed unit 2.

3.8 (b) Landscaping

The proposed development includes minimal landscaping opportunities due to excessive site coverage and sealed surfaces.

The following table summarises all residential DCP standards in the context of the current application and offers comment on issues of compliance/non-compliance.

Standard	Control	Compliance/Comment
Environmental Design	- BASIX	Compliant
	- Clothes line screened	Compliant
	- Solar orientation	Non-Compliant , limited solar exposure to proposed unit 1
Streetscape	- Attractive landscaped face - Designed and placed to create an attractive streetscape	N/A. Hatchet lot
Setbacks (Dual Occupancies, single storey, not facing the street)	- Side: Min 2m/ Av. 4m - Rear: Min 4m/ Av. 5m	Non-Compliant. Compliant (Non-Compliant if the proposed pergolas are included)
Building Scale, Height and Bulk	- Compatible scale - Max two storeys - Sunlight access to neighbours	Non-Compliant. The scale of development is considered excessive for this particular site.
Garage Design	- Visually subservient - Integrated - Setback behind main building façade	Compliant Compliant Compliant.
Access and Car Parking	- Minimum car parking space pre dwelling: 2 - One covered car parking space per dwelling of min dimensions 3m x 5.5m - Driveway >10m vehicle must enter and egress in a forward manner	Compliant. However, the limited frontage offers no opportunity for visitor street parking and manoeuvring upon the site will present difficulties.
Landscaping and external works	- Min of 45% landscaped	Non-Compliant. Opportunities for landscaping are limited by excessive site coverage and hard stand surfaces.
Design	- Visual relief - Mirror reverse/duplication	Compliant
Site coverage and Private Open Space	- Min private open space: 80m ² - Principle private open space must be: 35m ² , 5mx5m, directly accessible from the living areas and have a northerly aspect - Max site coverage 30%	Compliant. (Non-Compliant if the proposed pergolas are included) Non-Compliant with regard to Northerly aspect for proposed unit 1. Non-Compliant. 34% (42% if the proposed pergolas and lot 'handle' are included)
Privacy and Amenity	- Windows/balconies of dwellings <12m of	Non-Compliant potential overlooking from proposed unit 2 to the existing dwelling

Standard	Control	Compliance/Comment
	adjacent windows offset - 1.8m high fence between private open spaces	immediately North. Compliant.
Lot Design	- lot orientation to optimise access, existing pattern and solar orientation - frontages generally to street - lot rectangular shape	Non-Compliant Lot configuration is not considered suitable for the proposed development.
Utility Services	- provisions made for electricity, sewer and water services, drainage and telecommunications	Compliant.

Council's DCP continues with the following;

A variation to the standard prescribed in this Plan in respect of front, side or rear setbacks may be permitted where there is significant merit in terms of better design outcomes in doing so.

Comment

As demonstrated by the previous table, 'significant merit in terms of better design outcomes' has not been achieved, and the proposed variations are unjustified in that they have been dictated by site conditions, i.e. unsuitability of the subject lot for the proposed development.

2. IMPACT OF DEVELOPMENT

Context and Setting

The attached dual occupancy is proposed for a 771m², hatchet-shaped lot, located at the north eastern extremity of Tebbutt Court, Mudgee. The site is devoid of significant vegetation and is relatively flat, although cut and fill will be necessary.

Site design and internal design

As stated previously, the lot is considered to be unsuitable for the proposed development in its current form and gives rise to a number of inconsistencies with Council's plans and policies. The limited frontage offers no opportunity for visitor street parking.

Cumulative Impacts

Approval for non-compliant development, unsuited to its proposed location, undermines the legitimacy of Council's plans and policies, thereby establishing an unfortunate precedent for residential development in general and dual occupancy development in particular.

3. SUITABILITY OF SITE FOR DEVELOPMENT

Does the proposal fit in the locality

The locality is under development. The opportunity exists; therefore, to achieve better design outcomes that would set a benchmark for future development.

Are the site attributes conducive to development

As discussed previously, the subject lot is considered unsuitable for the proposal in its current form. An acceptable outcome may be possible, should the applicant choose a scale of development more suited to site conditions. Suitable development may include a single dwelling, or two smaller units.

The applicant has also not adequately demonstrated that the proposed development would be able to dispose of stormwater to the street or an interallotment drainage system. The applicant has suggested that the stormwater will be disposed of to an approved interallotment drainage system but Council cannot find any record of such an easement being in existence.

4. SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS

Public Submissions

The proposal was advertised for a period of 14 days. No submissions were received.

5. THE PUBLIC INTEREST

The wider interests of the community are served by well-designed, site-suitable development in accordance with Council's plans and policies.

6. CONSULTATIONS

Health & Building

Standard conditions are included as attachment 4, should the application, despite excessive non-compliance with Council's DCP and against the recommendation of Council's planning department, be approved.

Financial implications

None.

Strategic or policy implications

Council's Planning Department is reviewing the Residential DCP, in consultation with mayor and councillors, in an attempt to provide clear and concise development standards to the public and developers, thereby raising the design quality of residential development.

Conclusion

The application, in its current form, is recommended for refusal as being non-compliant with Council's DCP for residential development and unsuited to the subject lot.

Council has in the past varied DCP standards, but the scope of the unresolved issues of non-compliance (side setbacks, site coverage, the potential for overlooking from proposed unit 2, and limited solar access to the private open space of proposed unit 1) have resulted in Council's Planning Department recommending that a departure should not be granted.

It should be noted that other opportunities for development of the subject lot remain open to the applicant. Suitable development may include a single dwelling or two smaller units.

Options

1. The application be refused as per the Recommendation contained within this report.
2. The applicant be advised to amend the application so as to achieve compliance with Council's residential DCP.
3. The application be approved subject to suitable conditions of consent.

POLITICAL DECLARATION

Has there been a declaration of political donation in accordance with the Election Funding & Disclosures Act 1981

Yes. No donations.

GRAEME KING
SENIOR TOWN PLANNER



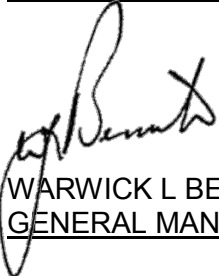
CATHERINE VAN LAEREN
GROUP MANAGER DEVELOPMENT AND
COMMUNITY SERVICES

24 May 2012

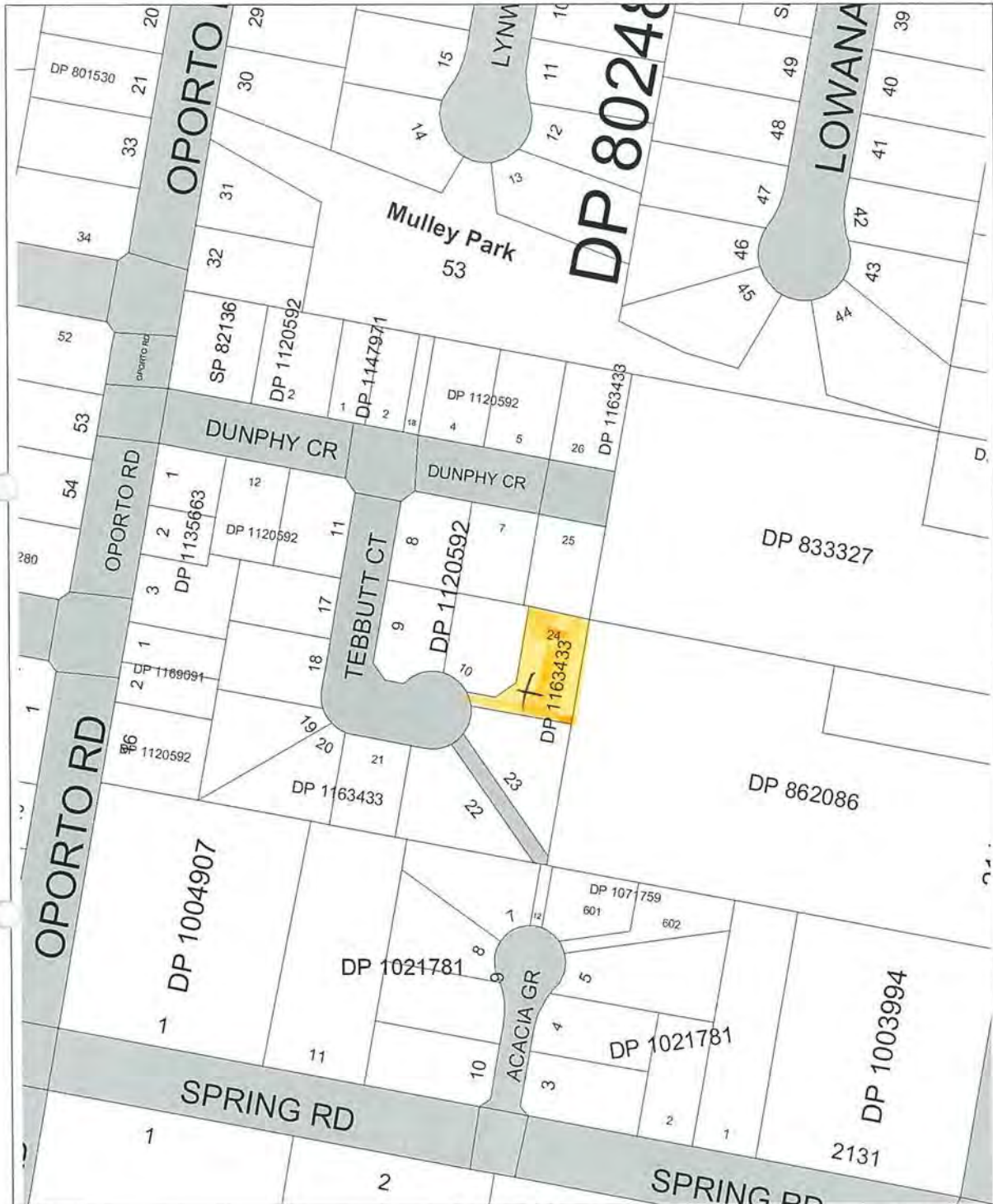
Attachments:

1. Locality Plan
2. Site Plan
3. Elevations
4. Conditions of consent

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER



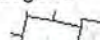

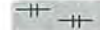

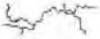




Map Scale: 1:1,717

Disclaimer

This map has been created for the purpose of showing basic locality information over Mid-Western Regional Council. Property boundary line network data is supplied by Department of Lands.

This map is a representation of the information currently held by Mid-Western Regional Council. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions.

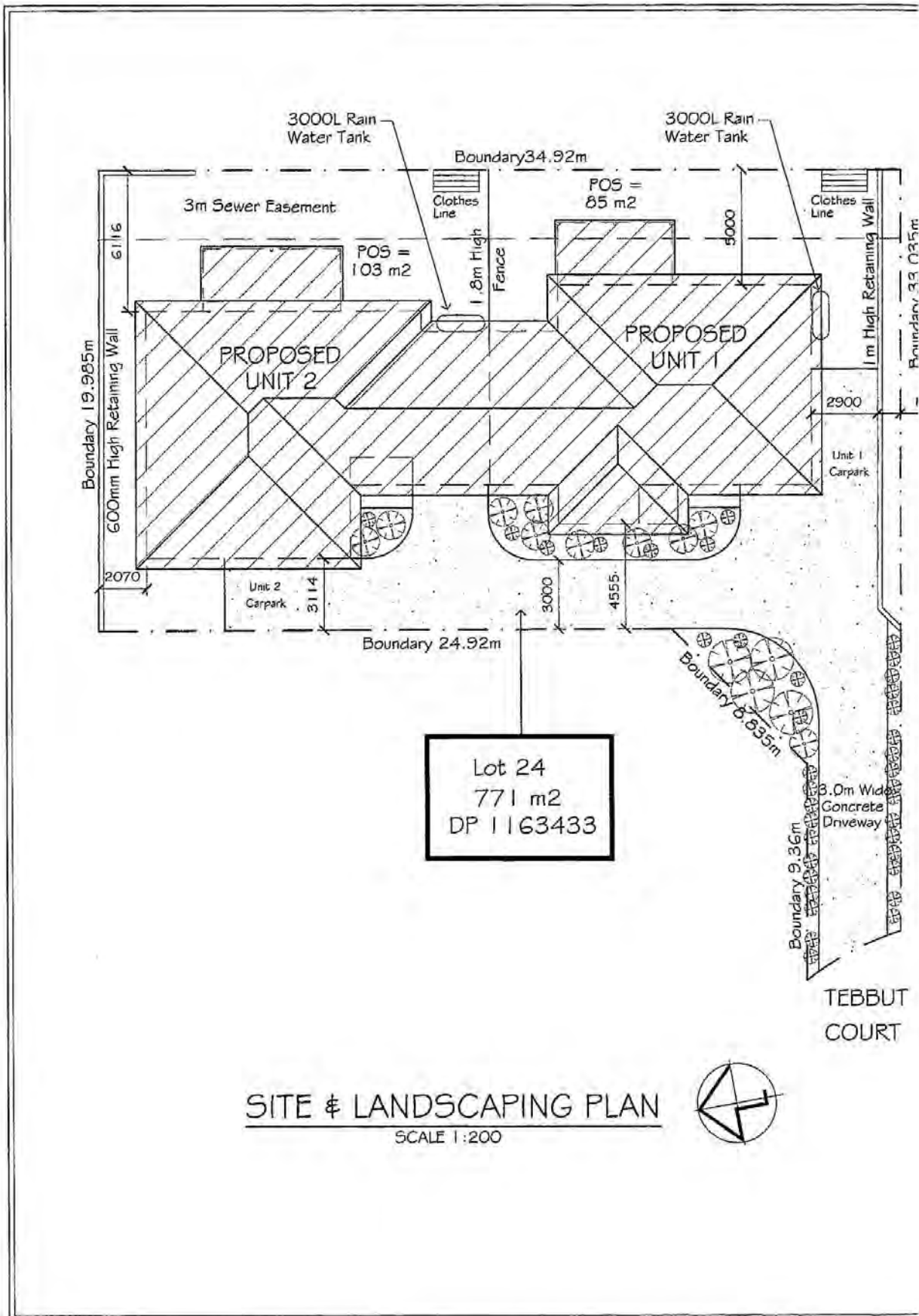
Legend

-  Parcel
-  Crown Land
-  Railway
-  Parish
-  Localities
-  LGA Boundary
-  Road
-  State Forest
-  Waterway

NORTH



Printed on Wednesday, 21 March 2012



NORTH ELEVATION
SCALE 1:100

Aluminium Sliding Windows

WEST ELEVATION
SCALE 1:100

Colourbond Custom Opt Roof Sheeting As selected

Colourbond Quad Gutter and Downpipes

Aluminium Sliding Windows

260mm High Retaining Wall

Boundary

2660

F.C.L.

F.F.L.

SOUTH ELEVATION
SCALE 1:100

Colourbond Custom Opt Roof Sheeting As selected

Brick Veneer As selected

20° Pitch

Colourbond Custom Opt Roof Sheeting As selected

450 Edge

0932

F.C.L.

F.F.L.

EAST ELEVATION
SCALE 1:100

Aluminium Sliding Door

Brick Veneer As selected

Natural Ground Line

UNITS 1 & 2 ELEVATIONS
SCALE 1:100

20° Pitch

2400

F.C.L.

F.F.L.

1.000

Boundary

1 m High Retaining Wall

Natural Ground Line

Garage Door As selected

Brick Veneer As selected

260mm Step in F.F.L.

Table:

NO.	DATE	BY	DESCRIPTION
3	MAY 2012	GD	REVISED TO MEET COUNCIL'S OP
A	MAR 2012	GD	DESIGNED FOR APPROVAL

Giselle Denley
DRAWING SERVICES
P 02 4372 0248 F 02 4372 4827
M 0417 468 326 AN 37 101 754 370
E giselle.denley@igisden.com
53 Hill Shady Drive MUDGEE NSW 2850

Client: JASON BOXSELL
Title: PROPOSED DUAL OCCUPANCY
Lot: LOT 24 TEBBUT COURT MUDGEE

SCALE	DATE	DWG NO.	REV.
1:100	MAY 2012	3260-A03	B
DATE	SCALE	NO.	REV.
MAY 2012	1:100	3260-A03	B

DA 02900/2012 – DRAFT CONDITIONS OF CONSENT.

- A. The development is to demonstrate that it is benefitted by an Interallotment stormwater drainage easement. Details are to be submitted to Council of the registered easement prior to this consent being operative.

This is a Deferred commencement consent in accordance with Section 80(3) of the Environmental Planning and Assessment Act 1979 and this consent is not to operate until the condition has been satisfied. The applicant has twelve (12) months to satisfy this condition.

APPROVED DEVELOPMENT

1. This consent relates to the erection of an attached dual occupancy, as illustrated on the plans, specifications and supporting documentation received by Council stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.
2. The development is to be carried out generally in accordance with the stamped approved plans Sheets 3260- A01 to A04, dated March 2012 and prepared by Giselle Denley.

Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

GENERAL

3. Skytubes, or similar devices, are to be installed as indicated on stamped plan 3260-A02, the purpose being to conserve energy and provide amenity to bathrooms with no other means of access to natural light.
4. 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.
5. All building work must comply with the requirements of the Building Code of Australia 2010, Volume One, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.
6. Prior to the occupation of a new building, an Occupation Certificate must be obtained from the Principal Certifying Authority appointed for the erection of the building.

7. A 1.8 metre high screen fence is to be provided to all side and rear boundaries prior to occupation of the development. The fence shall be erected at natural ground level. All fencing is to be provided at full cost to the developer.
8. Outdoor drying facilities and letterboxes are to be provided for each unit prior to occupation.
9. Switchboards for gas, electricity, etc., must not be attached to the front or street facing elevations of the buildings.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. 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	\$2,543
Sewerage Headworks	\$3,474
Total Payable	\$6,017
 - (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.
11. A detailed engineering design supported by plans, and an “Autocad compatible” Plan, (in dwg format including pen-map), material samples, test reports and specifications is 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*.

CONDITIONS RELATING TO THE BUILDING WORK

12. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of AS 3500 (National Plumbing & Drainage Code) and the NSW Code of Practice - Plumbing & Drainage.
13. The selected plumber/drainer must provide Council with a drainage diagram detailing the location of the drainage system and the relevant connections.
14. All plumbing and drainage inspections must be carried out by Council prior to the covering of any trenches or wall/ceiling linings.
15. All building work must comply with the requirements of the National Construction Code 2011, Volume Two, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.
16. All mandatory inspections required by the Environmental Planning and Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stages of construction.
17. Construction work noise that is audible at other premises is to be restricted to the following times.
 - Monday to Friday -- 7.00am to 6.00pm

- **Saturday** -- 8.00am to 1.00pm
 - **No construction work is permitted on Sundays and Public Holidays.**
18. **The site must be provided with a waste enclosure (minimum 1800mm x 1800mm x 1200mm high) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on site. The enclosure is to be emptied periodically to reduce the potential for rubbish to be blown from the site. The Council encourages the separation and recycling of suitable materials.**
19. **During construction temporary toilet facilities are to be provided at or in the vicinity of the nominated work site and for this purpose provide either a standard flushing toilet or an approved sewage management facility.**
20. **A sign must be erected in a prominent position on any work site on which the erection of a building is being carried out;**
- **stating that unauthorised entry to the work site is prohibited, and**
 - **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.**
21. **The strength of the concrete used for the reinforced concrete floor slab must be 25MPa (N25)**
22. **With the exception of work where there is in force an exemption under clause 187 or 188 of the Environmental Planning & Assessment Act 1979 all building work that involves residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force.**
- No work is to commence until a copy of a Home Owners Warranty or Owner/Builders Permit have been submitted to Council.**
23. **All stormwater is to discharge to the street water table by the use of non-flexible kerb adapters. Alternatively, stormwater can connect to the inter allotment drainage system if it is available.**
24. **Erosion and sediment control measures being implemented prior to the commencement of works and must be maintained during the period of construction to prevent sediment and other debris escaping from the site. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.**
25. **Prior to the commencement of any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the Act) are to be complied with: Council is to given at least 2 days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.**
26. **Adequate yard drainage together with appropriately sized sumps must be provided for the collection and disposal of ground surface waters to prevent a nuisance from these waters being caused to the property and/or adjoining properties. The disposal of ground surface waters must discharge to the street gutter or interallotment drainage easement. The ground water drainage system must be separate to the roof water drainage system. Full details must be submitted with the Construction Certificate application.**

27. A Registered Surveyors Certificate showing the boundaries of the site and the proposed buildings plotted there on being submitted to the Principal Certifying Authority prior to the commencement of construction.
28. The requirements of the submitted BASIX Certificates, number 419063S and 419060S issued on 13 March 2012 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 prior to the commencement of the alteration/s.

PRIOR TO OCCUPATION

29. Prior to the occupation of a new building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
30. Prior to the occupation of the building a written statement must be submitted to the Council confirming the installation/completion of those commitments.

ENGINEERING CONSTRUCTION

31. No Construction is to commence before a Construction Certificate is issued. The works are to be constructed in accordance with the plans and specifications referred to in The Construction Certificate.

Note: The Construction Certificate may be issued by Council or an Accredited Certifier. Council's fee for this service is set out in Council's fees and Charges.

32. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:
 - Saving available topsoil for reuse in the revegetation phase of the subdivision;
 - Using erosion control measures to prevent on-site damage;
 - Rehabilitating disturbed areas quickly;
 - Maintenance of erosion and sediment control structures;
33. 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.
34. All works are to be inspected by the Council (or an Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
 - Installation of sediment and erosion control measures
 - Practical Completion
35. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided to each dwelling at a suitable location. These should be constructed in accordance with Aus-Spec #1 and the appropriate Council standard drawings including M524-Urban Access, M525-Rural Access, M526-Industrial Access, M594-Kerb & Gutter Layback, as outlined in Councils "Access to Properties Policy".

Which states:

Inspections - Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Technical Services Department between 8.00am 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.

- 36. The applicant is to provide separate water and sewer reticulation services to each unit
- 37. The developer is to extend and meet the full cost of water and sewerage reticulations to service the new dwelling 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.
- 38. The developer is to provide a water service and meter for each unit. This can be achieved by making a payment to Council of \$1,100.00 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE 1 x \$1,100.00 = \$1,100.00

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

- 39. The developer is to provide a sewer junction for each lot in the subdivision. This can be achieved by making a payment to Council of \$1,100.00 per new junction to cover the cost of Council installing a junction in an existing main.

TOTAL PAYABLE 1 x \$1,100.00 = \$1,100.00

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

- 40. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed inter-allotment drainage, water, or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
- 41. Following completion of the subdivision works, one full set of work-as-executed plans, in pdf and dwg format, which is "Autocad compatible" is to be submitted on disk 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.

6.2.3 Planning Proposal TWA

REPORT BY MANAGER STRATEGIC PLANNING TO 6 JUNE COUNCIL MEETING

Planning Proposal TWA
A0100055, A0420084

RECOMMENDATION

That:

1. **the report by Manager Strategic Planning on the Planning Proposal - Temporary Workers Accommodation be received;**
2. **that the criteria for the location on temporary workers accommodation in the Draft Plan be amended to refer to a distance of 5km from a mine lease; and**
3. **that Council prepare a submission to the Department of Planning and Infrastructure requesting that the Local Environmental Plan be made.**

Executive summary

Council has prepared and exhibited a Planning Proposal (PP) to define and establish provisions for Temporary Workers Accommodation (TWA) within the region. The purpose of this report is to confirm the intention of the PP and forward the plan to the Department of Planning and Infrastructure (DOPI) to be made.

Detailed report

On 7 December 2011, Council resolved to prepare a PP to specifically define and establish provisions for the development of temporary workers accommodation under the Interim Local Environmental Plan 2008 (Interim LEP) and the Draft Local Environmental Plan 2012 (Draft LEP 2012). The PP was conceived both out of the identified need for clarity in terms of the definition for this type of development and the need to provide a greater degree of certainty for the community in terms of the location of such potentially significant development. Further, in the absence of any clear state policy dealing with temporary workers accommodation, coupled with the increased growth of the resource industry and a spike in the level of enquiry for guidelines in terms of definition and permissibility, Council adopted a strategic, proactive approach to the issue rather than sitting back and reacting in a more ad hoc manner.

Work had already commenced on a Development Control Plan (DCP) which would provide guidelines for the development of Temporary Workers Accommodation and this highlighted the need for a more structured and transparent statutory framework. As a result Council submitted the PP to the DOPI and received notification from the Gateway on 9 February 2012 to the effect that the PP may proceed.

The LEP Panel had made changes to the definition as submitted by Council and an amended determination was sort. This was received (attachment 1) via email on 5 April 2012 and the PP was subsequently exhibited for a period of 28 days from Monday 16 April 2012.

The conditions of the Gateway Determination included the requirement to consult with NSW Rural Fire Service, Mine Subsidence Board and NSW Department of Primary Industries – Minerals and Petroleum prior to undertaking any community consultation. None of these agencies registered any concerns with the PP (copies of responses attachments 2-4).

The revised Gateway Determination required an amended draft clause as follows:

"1. Temporary workers' accommodation

(1) The objectives of this clause are as follows:

- (a) To enable development for temporary workers' accommodation if there is a demonstrated need to accommodate employees due to the nature of the work or location of the land,*
- (b) To ensure that temporary workers' accommodations is appropriately located,*
- (c) To ensure that the erection of temporary workers' accommodation is not likely to have a detrimental impact on the future use of the land or conflict with an existing land use,*
- (d) To minimise the impact of temporary workers' accommodation on local roads or infrastructure.*

(2) Development consent must not be granted to development for the purposes of temporary workers' accommodation for works unless the Consent authority is satisfied of the following:

- (a) the development is to be located within 5 kilometres of the site on which the work is being carried out,*
- (b) there is a demonstrated necessity to provide temporary workers' accommodation due either to the nature of the industry that the workers are employed in or because of the remote or isolated location of the work site,*
- (c) the development will not prejudice the subsequent carrying out of development on the land in accordance with this Plan or any other applicable environmental planning instrument,*
- (d) water and sewerage infrastructure will be provided to adequately meet the requirements of the development,*
- (e) when the development is no longer in use, the land will, as far as practicable, be restored to the condition in which it was before the commencement of the development.*

(3) In this clause:

temporary workers' accommodation means any habitable buildings and associated amenities erected on a temporary basis for the purpose of providing a place of temporary accommodation for persons employed for the purpose of carrying out works associated with a large-scale infrastructure project, including development for the purposes of an extractive industry, mining, renewable energy or electricity transmission or distribution works."

Agency Consultation

The PP was forwarded to the following agencies as a requirement of the Gateway Determination:

Central West CMA
Hunter-Central Rivers CMA
Essential Energy
Office of Environment and Heritage
NSW Department of Primary Industries – Agriculture
NSW Department of Primary Industries – Minerals and Petroleum
Fire and Rescue NSW

Council received no submissions by way of objection from any of the above mentioned agencies. A copy of the response from the NSW Department of Primary Industries is attached (attachment 5).

Community Consultation- Public Exhibition

The PP was exhibited for a period of 28 days in accordance with the conditions of the Gateway Determination. During this period Council received two submissions.

The first was a submission on behalf of The MAC Service Group prepared by Urbis Pty Ltd (attachment 6) objecting to the PP on a number of grounds. The primary concerns are outlined below. A comment, by way of response has been made in respect to each of the concerns raised. A full copy of the submission is attached.

In respect to the drafting of the amending clause, the submission puts that;

- A) subclause 1(a) should be revised in relation to the phrasing of "location of the land" – *it is generally agreed that the phrase might be replaced by "location of the work site"*.
- B) Subclause 1(d) the submission questions why the impact would be different to normal residential accommodation. *The issue really relates to the common point source of the traffic and common destination. By its nature gleaned from similar development in both NSW and Queensland, development for the purpose of TWA will typically accommodate a significant percentage of workers from a single source thus concentrating traffic on a particular route to and from a work site. From other residential accommodation there will be more dispersal of the occupants eg work, school, shopping, in numerous directions. The neighbouring dwelling unit or house will likely have a different pattern of travel to and from and the adjacent dwelling likely to be different again. Similarly tourist accommodation generates occupants who will, in the morning disperse in countless directions.*
- C) Subclause 2(e) talks about restoration of the land "as far as practicable" and a planning instrument should not have such ambiguous or equivocal phrases – *rather than being ambiguous, this terms or phrase provided clarification for the developer and the community in terms of the expectation for the land once the development is no longer in use. The application should be required to demonstrate how this will be achieved up front. A similar phrase clause 5.13(3)(e) of the Standard Instrument (SI) relating to Eco-tourist facilities "the site will be maintained(or regenerated where necessary).."*

Broadly, the submission questions the relationship between the PP and NSW planning policy, the techniques engaged to bring about the amending instrument and the perceived impacts that this type of development have.

Issue

Comment

NSW Planning Policy Interests and Concerns

- | Issue | Comment |
|--|--|
| 1. The PP is contrary to SI Template and NSW Planning Policy | The submission contends that the introduction of a definition does not reflect the nature and intent of the SI. On the contrary, the SI provides a dictionary of terms, the intent of which was to simplify and standardise LEPs. For the most part this has been successful, however, we have here an instance where planning outcomes would benefit from clarification through the provision of a specific definition. Across NSW, TWA applications have been considered as hotels, caravans parks, tourist and visitor accommodation and innominate uses depending on the particular zone in which the application seeks to establish. Short of contrary to the SI the PP seeks to refine and clarify which is itself the intent of the SI. |

Issue	Comment
2. PP represents poor use of an environmental planning instrument incorporating controls and criteria better suited to a DCP	Further, creating a definition in a clause may well be the first step in a later amendment to the SI which may provide a catalyst for a more consistent approach to TWA on a state wide level. The criteria used for TWA in the PP are consistent with the approach taken in respect to the SI clause 5.13 Eco-tourist facilities. While policy documents and a DCP can enhance controls and guidelines, the criteria included in the LEP go to the objectives that frame the parameters for development for the purpose of a TWA.
3. the PP will create a precedent for planning policy	As stated above under point (1) creating a definition in a clause may well be the first step in a later amendment to the SI which may provide a catalyst for a more consistent approach to TWA on a state wide level. It is agreed that as stated in the submission [relating to the numerous definitions] on page 8 " <i>Such a variation in approach to workers' accommodation facility would suggest that planning systems in NSW lack a clear understanding of defining and assessing such proposals</i> ". Short of creating a precedent, the ability to flesh out a definition in a local clause provides the Department of Planning and Infrastructure with a platform for a state wide approach. Further, Council would dispute that the definition does anything other than clarify what the development is and it would be up to other individual Council's to then identify the term in a local clause or land use table (should it become a dictionary term) as they see fit.

Planning technique and practice

4. The PP creates a sub-zone contrary to Direction 6.3 of the Environmental planning and assessment Act.	The issue of the creation of sub-zones has been a concern of many local Council's who have argued that " <i>prohibition of subzones has limited their ability to deal with local issues</i> " DOPI Policy Statement issued 15 May 2012. The policy statement goes on to state that it is proposed to changes the current direction on subzones and allow them to be introduced through a clause or clause/map combination. This is one such instance. The Primary Production zone applying to the Draft Mid-Western Principle LEP 2012 covers an area of over 7000ha. Identifying the most appropriate location for a TWA development through criteria which may result in the creation of a subzone, in this instance will not undermine the intent of the zone, nor will it add to the uncertainty within the community, rather, the contrary is true.
5. The PP creates a new land use definition outside the Dictionary contrary to the SI	The PP does not propose a change to the SI through the Dictionary. The PP is in response to a deemed lack of clarity within the SI as it relates to TWA development. Again this is highlighted earlier in this submission when it references the three examples of definitions used for the same category development.
6. Absence of a strategic planning process or empirical evidence. <ul style="list-style-type: none"> • Lack of strategic planning • Misrepresentation of evidence (KPMG report and the fact 	The PP has been prepared as a tool for dealing with a form of development that was simply not contemplated in the SI. Council is experiencing unprecedented rate of growth in the resources industry. In 2011 DOPI endorsed a Land Use Strategy which had been in Draft form since 2008. The Strategy, which heralded a 25 year horizon is on the brink of being undermined by a Local Services Assessment, funded by the DOPI, which (in Draft form at least) predicts growth well beyond the optimistic forecasts in the

Issue	Comment
<p>that The MAC proposal would not outnumber the resident population of Gulgong)</p> <ul style="list-style-type: none"> • Consequence of deficiencies in strategic planning and research (5km radius) 	<p>Strategy. This, coupled with the consistent enquiry as to the permissibility or otherwise of a form of development which those advocating it were having difficulty categorising and the realisation that as a community we were only going to be dealing with an increase in such enquiries, led to a conscious decision to address planning controls for TWAs. Council was nearing the finalisation of a Principle LEP and a DCP was seen as a valid tool for addressing some of these issues. One of the difficulties faced in the DCP was defining TWAs and addressing a suitable location for such development.</p> <p>With the DCP in place and applications in progress, the next hurdle was going to be the conflicting land use tables and inconsistencies between the Draft LEP 2012 and Interim LEP 2008 particularly relating to the definitions (as discussed earlier). Council undertook to investigate what had been the experience both in Queensland and more recently NSW and took the decision to prepare the PP. While the DOPI guide to planning proposals questions whether the PP is the result of a strategic study or report, the absence of such a document does not preclude a PP. In fact contrary to the submission, Council's approach to a) define and b) provide guidelines to clearly articulate where and under what circumstances TWAs would be considered in the context of the LEP is precisely a strategic approach to dealing with what is likely to be an ongoing form of development.</p> <p>In reference to the report commissioned by Isaac Regional Council and prepared by KPMG, a direct reference to the assertion in the PP was not required in order to deduct, from the empirical evidence collated in that report, that the pressure on essential services and facilities could not be viewed in any way other than negative. As the PP was/is not a direct response to a single application, rather, an effort by Council to fulfil a void in state policy on an issue that has arisen with unprecedented haste, it was never put that a single proposal would outstrip the population of a specific town (Gulgong). In determining the 5km radius Council looked at a number of issues not least of which was the impact of the development on local infrastructure and the manner in which these type of developments were conducted elsewhere. Council considered the villages close to existing mining activities. Wollar is wholly owned by the adjacent mine. Ulan is largely in a similar position. Bylong "village" has a very limited resident component. On balance, a TWA may not be an inappropriate outcome, however, a merit assessment under the terms of the Draft clause as proposed in the PP and the guide of the DCP will ascertain this.</p> <p>Negotiation as to the upgrade and maintenance of local roads is a significant issue for Council stemming from the resources boom. TWAs catering for Fly in/Fly out or Drive in/Drive out will be a point source for traffic. TWAs, by the admission of some operators are self sufficient, fully catered and provide a bed, all meals and in some instances recreation for occupants. Occupants come in at the beginning on a rotation, eat, sleep, work and then fly/drive home again. Locating these facilities within close proximity to the source of employment or work reduces both workers travelling time</p>

Issue	Comment
	and impact on local infrastructure namely roads.
Perceived impacts of Workers Accommodation facilities	
7. The PP will not alleviate the pressure on the housing market rather heighten housing demand creating severe housing market implications	The PP makes provision for TWAs therefore providing the opportunity for this type of accommodation option within the region which will relieve some pressure on the market. By clearly articulating both how the use is defined and where Council considers it acceptable to be located will enable this type of development to be considered with much more transparency that is currently the case.
8. The PP does not provide substantive evidence that workers accommodation facilities lead to negative social and economic impacts	Without debate, Council is not assuming that all TWA lead to negative social and economic impacts. The PP as highlighted earlier is a strategic approach to address a type of development that was not anticipated in the SI. Further, negative impacts may well be founded on perception, however, this concern be it real or unfounded, will impact on community attitude and individual quality of life. Further, the submission states that the MAC provides “occupational health and safety frameworks associated with adequate rest between shifts” and goes further the state that “It is unlikely that such facilities would be provided if mining employees were accommodated in rented private dwellings”. Council is not arguing to prohibit TWAs therefore this statement is irrelevant in the context of the PP. Similarly, the bold statement that “adequate rest and recovery [for workers between shifts] could [not] be attained [if TWAs are located] so close to a mine” lacks foundation.
9. The PP argues that indifference to integrate with the local community is sufficient grounds to create a prohibition	The PP highlights that TWAs are self sufficient (evident in our experience with current proposals) and in the case of Gulgong in particular can have to potential to undermine strategic planning for the urban expansion of the town if both inappropriately located (ie on land the has not been considered in any strategic documentation or exhibited as either suitable or capable of supporting significant urban development in any form including a 400 bed TWA) and placing pressure on the limited capacity of water and sewer infrastructure. Council has approached this issue having canvassed a range of options for locating TWAs. Outright prohibition has not been an option. Council recognises that this type of facility fulfils a need and if, taking the MAC as an example, can utilise local suppliers and employees Council welcomes that approach. The TWA can readily be serviced 25km from Gulgong or 40km from Mudgee.
10. Traffic impact and management should be dealt with in a DCP	Council agrees that the DCP should deal with traffic and transport and this is in fact the case. However, as discussed earlier, a TWA is a point source for traffic. Addressing the ongoing and increasing traffic issues associated with the mining activities. At present Fly in options are limited by the commercial operations to and from Mudgee. Given the anticipate size of the workforce, Drive in may be the most accessible mode of transport. Removing this proportion of commuter traffic from local roads already under significant stress is a sound tool in terms of both asset management and as a flow-on in terms of occupational health and

Issue	Comment
11. Infrastructure servicing requirements are not sufficient ground for a prohibition on land use	<p data-bbox="542 241 654 280">safety.</p> <p data-bbox="542 280 1457 705">Again, this issue has been discussed elsewhere. Council has undertaken a Land Use Strategy which includes a Structure Plan for Gulgong. This Strategy was developed with the community over an extended period of time. This Strategy is generally accepted having been publically exhibited twice prior to endorsement and a third time along with the Draft LEP 2012. The strategy provides a framework for urban growth. The strategy considers the constraints and capacity of the existing infrastructure. For the community, it is Council's preference that the utilisation of this infrastructure comes from traditional residential development. Families moving to the region, building homes and integrating into the community.</p> <p data-bbox="542 705 1457 846">The limitations of the infrastructure are known and should not be undermined by ill conceived development. The provisions in the PP ensure that a proponent is aware that water and sewer infrastructure will be a critical component to the development.</p>

A second submission as received from Moorlaben Coal (attachment 7). The issue raised by Moorlaben goes to the clarification of the "mine site" with the concern being that if it is the project office this could see the 5km radius including land within the mining lease. As a result any habitable area would be subjected to the Coal Mines Health and Safety Act 2002. The submission suggests that this should be clarified to refer to 5km from a Mining Lease as issue under the Mining Act 1992 which would remove liabilities for mining officials.

Council agrees with this amendment or point of clarification and will recommend that the DOPI include such a change in the final plan.

Financial implications

Not applicable.

Strategic or policy implications

The PP has been a conscious and proactive policy response by Council to an emerging issue within the community. It represents an acknowledgment by Council that there is a need to provide for TWAs within the region.

The introduction of both a definition to provide clarification for both Council, the community and developers, and a specific provision relating to the location and circumstances in which TWAs may be considered in the LEP will provide both certainty and transparency in the consideration and decision making surrounding this type of development into the future.

ELIZABETH DENSLEY
MANAGER STRATEGIC PLANNING

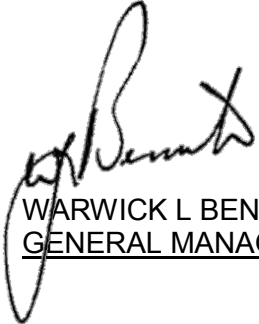


CATHERINE VAN LAEREN
GROUP MANAGER DEVELOPMENT AND
COMMUNITY SERVICES

Attachments: 1. Department of Planning and Infrastructure Revised Gateway Determination
2. NSW Rural Fire Service
3. NSW Trade & Investment – Resources and Energy

4. Mine Subsidence Board
5. NSW Department of Primary Industries – Minerals and Petroleum Submission
6. The MAC Submission (included at the end of the Business Paper)
7. Moolarben Submission

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

**Office of the Director-General**

Mr Warwick Bennett
General Manager
Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850

Contact: Wayne Garnsey
Phone: (02) 6841 2180
Fax: (02) 6884 8483
Email: Wayne.Garnsey@planning.nsw.gov.au

Our ref: PP_2012_MIDWR_001_00
Your ref:

Dear Mr Bennett,

Re: Planning Proposal to define and make provisions for 'temporary workers' accommodation'

I refer to planning proposal PP_2012_MIDWR_001_00 to define and make provisions for 'temporary workers accommodation'.

On 3 February 2012, the Minister's delegate determined that the planning proposal to amend the Mid-Western Regional LEP 2008 or the draft Mid-Western Regional LEP 2011 should proceed subject to conditions.

It is noted that the Gateway provided a clause and definition for 'workers accommodation' and in doing so required Council to replace the proposed clause and definition with one drafted by the Department and amend the planning proposal accordingly.

Further to advice received from Council staff, it is acknowledged that the clause and definition provided by the Gateway did not achieve Council's intent to distinguish development from regular dwellings provided, and to provide accommodation on a temporary basis. Therefore, having regard to Council's requirements, I have determined as delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway determination dated 3 February 2012 for PP_2012_MIDWR_001_00.

The Gateway determination is amended by providing Council with a new clause and definition as per Condition 1 in the attached Gateway determination. Council is to amend the planning proposal accordingly and provide the Department's Regional Office with a copy of the revised planning proposal prior to the commencement of public exhibition.

Further, Council is also to amend the planning proposal to address relevant S117 Directions in response to the conditions in the attached Gateway determination and highlighted in previous correspondence from the Gateway to Council.

The Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the original Gateway determination. Therefore, the planning proposal is due for completion by 8 February 2013. Council should aim to commence exhibition of the planning proposal upon completion of public authority consultation and amendments to the planning proposal as required by the Gateway. Council's request for the Department to draft and finalise the LEP should be made six weeks prior to the projected publication date.

If you have any questions in relation to this matter, please contact Mr Wayne Gamsey of the Regional Office of the Department on 02 6841 2180.

Yours sincerely



Sam Haddad
Director General

2/4/2012



Revised Gateway Determination

Planning Proposal (Department Ref: PP_2012_MIDWR_001_00): to define and make provisions for 'temporary workers accommodation' associated with mines and major infrastructure works

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to either the Mid-Western Regional Local Environmental Plan 2008 or the draft Mid-Western Regional Local Environmental Plan 2011 to define and make provisions for 'temporary workers accommodation' for mine and major infrastructure works should proceed subject to the following conditions:

1. Council is to amend the planning proposal to include the following clause and definition and provide the Department with the revised planning proposal prior to the commencement of community consultation:

"1 Temporary workers' accommodation

(1) The objectives of this clause are as follows:

- (a) to enable development for temporary workers' accommodation if there is a demonstrated need to accommodate employees due to the nature of the work or the location of the land,*
- (b) to ensure that temporary workers' accommodation is appropriately located,*
- (c) to ensure that the erection of temporary workers' accommodation is not likely to have a detrimental impact on the future use of the land or conflict with an existing land use,*
- (d) to minimise the impact of temporary workers' accommodation on local roads and infrastructure.*

(2) Development consent must not be granted to development for the purposes of temporary workers' accommodation for works unless the consent authority is satisfied of the following:

- (a) the development is to be located within 5 kilometres of the site on which the work is being carried out,*
- (b) there is a demonstrated necessity to provide temporary workers' accommodation due either to the nature of the industry that the workers are employed in or because of the remote or isolated location of the work site,*
- (c) the development will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument,*
- (d) water and sewerage infrastructure will be provided to adequately meet the requirements of the development,*
- (e) when the development is no longer in use, the land will, as far as practicable, be restored to the condition in which it was before the commencement of the development.*



- (3) *In this clause:*
temporary workers' accommodation means any habitable buildings and associated amenities erected on a temporary basis for the purpose of providing a place of temporary accommodation for persons employed for the purpose of carrying out works associated with a large-scale infrastructure project, including development for the purposes of an extractive industry, mining, renewable energy or electricity transmission or distribution networks."
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
- (a) the planning proposal must be made publicly available for **28 days**; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
- Central West Catchment Management Authority
 - Hunter – Central Rivers Catchment Management Authority
 - Essential Energy
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Agriculture
 - NSW Department of Primary Industries – Minerals and Petroleum
 - Fire and Rescue NSW
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, the NSW Department of Primary Industries – Minerals and Petroleum and the Mine Subsidence Board prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and S117 Direction 4.2 Mine Subsidence and Unstable Land.
5. Council is to amend the planning proposal to consider the requirements of S117 Direction 6.3 Site Specific Provisions and provide further justification as to why the proposed clause and definition is the most appropriate solution to achieve Council's intended outcome.



6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The LEP is due for completion by **8 February 2013**.

Dated *2nd* day of *April* 2012.

A handwritten signature in black ink that reads 'Sam Haddad'.

Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure



Planning & Infrastructure

- Essential Energy
- Office of Environment and Heritage
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Minerals and Petroleum
- Fire and Rescue NSW

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, the NSW Department of Primary Industries – Minerals and Petroleum and the Mine Subsidence Board prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and S117 Direction 4.2 Mine Subsidence and Unstable Land.
5. Council is to amend the planning proposal to consider the requirements of S117 Direction 6.3 Site Specific Provisions and provide further justification as to why the proposed clause and definition is the most appropriate solution to achieve Council's intended outcome.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 3rd day of February 2012.

A handwritten signature in black ink, appearing to read 'Tom Gellibrand'.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure



Planning & Infrastructure

- Essential Energy
- Office of Environment and Heritage
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Minerals and Petroleum
- Fire and Rescue NSW

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, the NSW Department of Primary Industries – Minerals and Petroleum and the Mine Subsidence Board prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and S117 Direction 4.2 Mine Subsidence and Unstable Land.
5. Council is to amend the planning proposal to consider the requirements of S117 Direction 6.3 Site Specific Provisions and provide further justification as to why the proposed clause and definition is the most appropriate solution to achieve Council's intended outcome.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 3rd day of February 2012.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure

Hi Liz

The NSW Rural Fire Service does not wish to comment on Planning Proposal - Temporary Workers Accommodation in the Mid-Western Region LGA.

We would only become involved when a Development Application is forwarded to us and any concerns would be covered under existing legislation.

Regards,
Supt Garry Barrett
District Manager Cudgegong
0427 790 891

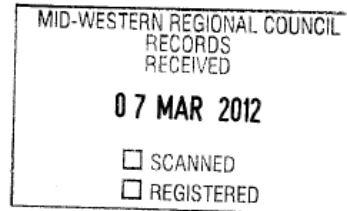
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Our Reference: OUT12/4653
Your Reference: ED:ED: A0420084



Liz Densley
Mid-Western Regional Council
PO Box 156
Mudgee NSW 2850

Dear Liz

RE: Consultation Planning Proposal – Temporary Workers Accommodation

Thank you for the opportunity to comment upon this proposal. This response is from the Resources & Energy division and Agriculture NSW (Primary Industries division) of NSW Trade & Investment. Neither of these agencies have any concerns with this matter.

Should you have any further queries regarding mineral resources please contact Gary Burton, Senior Geologist, Orange office, on 6360 5330 or email gary.burton@industry.nsw.gov.au. For agriculture queries please contact Mary Kovac, Resource Management officer, Dubbo office, on 6881 1250 or email mary.kovac@dpi.nsw.gov.au,

Yours faithfully

A handwritten signature in black ink that reads 'Gary Burton'. Below the signature, the word 'FOR' is written in a smaller, handwritten font.

Cressida Gilmore
Chief Geoscientist, Land Use
Minerals & Land Use Assessment
Geological Survey of NSW

5 March 2012

In reply please send to: Singleton District Office
Our reference: RP
Your reference: ED:ED: A0420084
Contact: Richard Pickles (02) 6572 4344

Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850

ATTENTION: LIZ DENSLEY

10 February 2012

Dear Liz

ENQUIRY NO. TENQ12-08134S1
CONSULTATION PLANNING PROPOSAL
TEMPORARY WORKERS ACCOMMODATION

The area is not within a proclaimed Mine Subsidence District and is not subject to any building restrictions imposed by the Mine Subsidence Board.

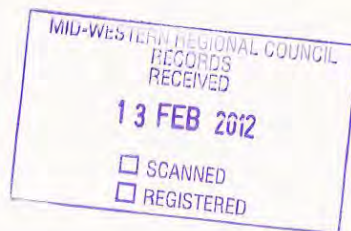
To ascertain any information in respect of future mining for the subject area, please contact the Department of Primary Industries – Minerals, on 1300 736 122 or the collieries involved. Consideration should be given positioning any infrastructure away from potential resources.

The provisions of the Mine Subsidence Compensation Act cover any improvement erected on this land.

Yours faithfully



Richard Pickles
Acting District Manager



(Amended) M 101 (Auto) May 2009



NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 488G Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 488G
Newcastle 2300
Telephone: (02) 4908 4395
Facsimile: (02) 4929 1032



Email
mail@minesub.nsw.gov.au

Web
www.minesub.nsw.gov.au

**24 Hour
Emergency Service**
Free Call 1800 248 083



Office of Environment & Heritage

Your reference
Our reference:
Contact:

ED:ED:A0420084
DOC 12/16149
Erica Baigent, 02 6883
5311

Warwick Bennett
General Manager
Mid-Western Regional Council
PO Box 156
Mudgee NSW 2850

Dear Mr Bennett,

Attention: Liz Densley – Manager, Strategic Planning

Thank you for your letter providing the Office of Environment and Heritage (OEH) and Environment Protection Authority (EPA) with the opportunity to comment on the proposed LEP amendment relating to temporary workers accommodation.

Please note that the OEH and EPA are now individual agencies and separate responses from each agency will be provided in the future.

The OEH and EPA have the following primary areas of interest relating to land use planning proposals and development controls:

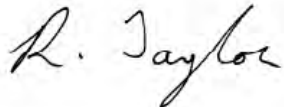
1. The impacts of development and settlement intensification on biodiversity, Aboriginal cultural heritage, air, water quantity and quality and noise related issues;
2. Adequate investigation of the environmental constraints of affected land;
3. Avoiding intensification of land use and settlement in environmentally sensitive areas (ESAs).
4. Ensuring that development within a floodplain is consistent with the NSW Government's Flood Prone Land Policy, the principles set out in the Floodplain Development Manual, and applicable urban and rural floodplain risk management plans.

We also understand that LEPs must comply with current statutory matters such as the Local Planning Directions under S117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

We have no specific comments to make on the insertion of the proposed Temporary Workers Accommodation provisions into the Mid-Western LEP. For your information, Attachment A provides our general advice regarding the issues we expect strategic planning proposals to address. Many of these issues will have already been addressed by Council in the LEP. We recommend that Council ensure that the proposed additional provisions do not conflict with this advice.

If additional information relating to the proposal indicates that areas within OEH or EPA responsibilities require further investigation, we may provide future input. Should you require further information, please contact Erica Baigent, Conservation Planning Officer on (02) 6883 5311.

Yours sincerely,

A handwritten signature in black ink that reads "R. Taylor". The signature is written in a cursive style with a large, looped 'R' and a clear 'Taylor'.

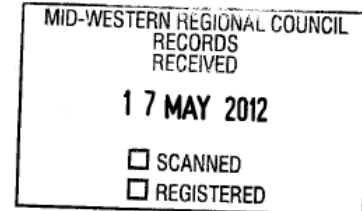
ROBERT TAYLOR
Manager, Environment and Conservation Programs
Environment Protection and Regulation Group



Department of Primary Industries

2005/04612
OUT12/9546

The General Manager
Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850







Attention: Liz Densley
Manager Strategic Planning

Dear Liz

Planning Proposal -Temporary Workers Accommodation

Thank you for your letter of 17 April 2012 seeking the advice of NSW Department of Primary Industries (DPI) on the proposed planning proposal regarding local provision of temporary workers accommodation into the Local Environmental Plan

DPI is part of the Department of Trade and Investment which drives the sustainable economic growth of NSW by working with industry and the community in the following key areas:

- Trade, business and investment 
- Primary industries, food and water 
- Mineral resources and energy 
- Tourism, major events, hospitality, racing and arts 

Agriculture NSW and the mineral resources unit within the Resources and Energy Division of Trade and Investment advise that there are no resource concerns in regard to the proposed development and no further consultation is required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mary Kovac'.

Mary Kovac
Resource Management Officer, (agricultural land use)
Resources Planning and Development Unit
Central and Far West
DUBBO
9 May 2012

ATTACHMENT 7



Locked Bag 2003, MUDGEES NSW 2850
4250 Ulan Road, ULAN NSW 2850
t: (02) 6376 1500 f: (02) 6376 1599
w: www.moolarbencoal.com.au

11 May 2012

Mr Warwick Bennett
General Manager
Mid-Western Regional Council
PO Box 156
Mudgee NSW 2850

Attention: Catherine Van Laeren

Dear Warwick

Re: PLANNING PROPOSAL - Temporary Workers Accommodation

Reference is made to the Planning Proposal for Temporary Workers Accommodation (TWA) as currently being advertised by Mid-Western Regional Council and discussions held between representatives of Moolarben Coal Operations and Mid-Western Regional Council on the 11 May 2012 relating to this matter.

As you are aware Moolarben Coal are currently giving significant consideration to the development of a TWA in order to support the construction of its Stage 2 operations.

As a result of Moolarben's investigation of the planning framework applicable to the potential establishment of a TWA and in accordance with our discussions of the 11 May 2012, Moolarben Coal specifically requests consideration be given to amending the restriction anticipated within condition 2(a) of the current Planning Proposal whereby:

2. *Development consent must not be granted to development for the purposes of temporary workers' accommodation for works unless the Consent authority is satisfied of the following:*
 - a) *the development is to be located within 5 kilometres of the site on which the work is being carried out,*

From our discussions, it is understood that MWRC view that for the purposes of '5 kilometres of the site' infers a restriction of 5km from a defined Project Office.

Moolarben Coal views that the restriction to 5km from a 'Project Office' typically would see that a proposed TWA would need to be placed upon a Mining Lease given the size of mining projects and the project footprints being considered. As a result this would see a habitable area located on an area subject to the *Coal Mines Health and Safety Act 2002* and therefore lead to unforeseen potential personnel liabilities to statutory officials retained by the respective mining operation.

Through the efforts of our people Moolarben Coal will be a world class coal mine.
ABN: 59 077 939 569



Locked Bag 2003, MUDGEES NSW 2850
4250 Ulan Road, ULAN NSW 2850
t: (02) 6376 1500 f: (02) 6376 1599
w: www.moolarbencoal.com.au

For the purposes of addressing this matter, Moolarben view that the radius of 5km from a Mining Lease as issued under the *Mining Act 1992* would ensure that any proposed TWA would be aligned with an approved project under the *Environmental Planning and Assessment Act 1979* and remove any personnel liabilities under the *Coal Mines Health and Safety Act 2002* for mining officials.

I hope this information is of assistance. Should you require any further information please do not hesitate to contact myself on 02 6376 1500 or Luke Bowden on 02 6376 1568.

Yours Faithfully,

A handwritten signature in black ink, appearing to read "Frank Fulham". The signature is stylized and written in a cursive-like font.

FRANK FULHAM
GENERAL MANAGER
MOOLARBEN COAL

6.2.4 Mudgee and Gulgong Access Committee

REPORT BY CUSTOMER SERVICE MANAGER TO 6 JUNE 2012 COUNCIL MEETING

Access Committee

A0100055, A0060008

RECOMMENDATION

That:

- 1. the report by Customer Service Manager on the Mudgee and Gulgong Access Committee be received;**
- 2. Council note the minutes of the Mudgee & Gulgong Access Committee meeting held on 6 March and 3 April 2012.**

Executive summary

The Mudgee & Gulgong Access Committee meets monthly to highlight and promote accessibility issues in the region. The next meeting is to be held on Tuesday 5 June 2012.

Detailed report

A number of matters arose at the meeting as well as discussions related to ongoing issues. These are included in the minutes.

The Access Committee were fortunate to be given a guided tour of the Glen Willow Sporting Complex by Brad Cam. The Committee expressed that they were impressed with the facility and grateful to Brad Cam for his time.

Additionally, the Committee have considered the Disability Action Plan, and have forwarded a draft document to the Rylstone and Kandos Access Committee for their input. A final document will then be drafted and put to Council for consideration.

Financial implications

Not applicable.

Strategic or policy implications

Not applicable.

KATE RIACH
CUSTOMER SERVICE MANAGER



CATHERINE VAN LAEREN
GROUP MANAGER, DEVELOPMENT AND
COMMUNITY SERVICES

Attachments: 1. Mudgee & Gulgong Access Committee Minutes 6 March and 3 April 2012.

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

**MINUTES OF THE ORDINARY MEETING OF THE MUDGEES AND GULGONG ACCESS
COMMITTEE HELD ON TUESDAY, 6 MARCH 2012,
COMMENCING 2.00PM IN THE COUNCIL COMMITTEE ROOM, MUDGEES.**

PRESENT: Access Committee members: Mary Lovett, Victoria Barrett, Les Leighton, Judy Hickey and Jenny Skinner

Council Staff: Kate Riach

1. APOLOGIES: Cr. Percy Thompson

2. CONFIRMATION OF PREVIOUS MINUTES

Minutes of the meeting held 07.02.12 were confirmed as distributed.

Moved: J.Skinner

Seconded: V.Barrett

3. MATTERS ARISING FROM MINUTES:

- 3.1 Recommendation to Traffic Committee regarding car parking space outside Library – still to be done when D.A. submitted.
- 3.2 Check time frame for Council toilet review – Kate reported that the review should be completed in 6 months
- 3.3 Forward letter to Traffic Committee with recommendation – done by Judy
- 3.4 Consider issues to go on Disability Action Plan for next meeting – discussed in General Business
- 3.5 Send letter to Housing Plus re Adams St. Hall – done by Judy. Mary reported that since the letter was sent, she has received a phone call from Roman at Housing Plus who advised that the wooden ramp had been removed, and a metal ramp installed.
- 3.6 Send letter to schools re unsafe use of skateboards and push bikes – done by Judy. Response from Mudgee Public School and Cudgegong Public School discussed in general business
- 3.7 Make enquiries regarding DA approval for Hargraves toilet block – Tim reported to Les Leighton that toilets were approved under old standard. It was agreed that the issues with the Hargraves toilet should be addressed as part of Council's toilet review
- 3.8 If appropriate, write letter to Julian Geddes re Hargraves toilet block – Not considered appropriate as toilets approved under old standard
- 3.9 Arrange tour of Glen Willow Sporting Complex – done by Kate. Tour took place on 16 February, and the Committee expressed their gratitude for the tour.

Send letter of thanks to Brad Cam for his tour of Glen Willow.

Moved - M. Lovett **Seconded** - unanimous

4. CORRESPONDENCE

- Inward :

4.1 Letter from Development Engineer Ahmed Albanna.

Send letter of appreciation to Ahmed Albanna thanking him for his quick response, and send copy of his letter to Theresa Falconer for her information.

Moved – M. Lovett – **Seconded** – V. Barrett

4.2 Email from Mudgee Public School Principal Mark Young

Send letter to Mudgee Police requesting that they make contact with local schools to arrange to speak to children on skateboard and scooter safety
Respond to Mark Young advising him that Police have been contacted

Moved – V. Barrett – **Seconded** M. Lovett

- Outward:

4.3 Letter to Traffic Committee regarding Church and Horatio St crossing

4.4 Letter to Housing Plus regarding Adams St Hall

4.5 Letter to Mudgee school principals regarding skateboard and scooter safety

5. DEVELOPMENT APPLICATIONS - Nil.

6. GENERAL BUSINESS

6.1 The Disability Action Plan is to be revised to include

Accessible counter installation at Council's Gulgong and Rylstone offices
Improved accessibility at Council owned caravan parks
Pathway installation to improve access to Lawson Park barbeque areas
Continuous pathway installation to improve CBD access

Moved – L. Leighton – **Seconded** J. Skinner

6.2 Letter to be written to the Editor of the Mudgee Guardian in response to an article published on 13 February 2012, where the term 'handicapped' was used.

Moved L. Leighton – **Seconded** - M. Lovett

6.3 Les Leighton told the Committee that the work recently done at Anzac Park Gulgong, which includes a footpath from the rotunda to the toilets, and a fence for children playing, is excellent.

Letter to be written to Brad Cam to compliment the work done at Anzac Park

Moved L. Leighton – **Seconded** – V. Barrett

Meeting closed at 2.55 pm

Next meeting to be held Tuesday, 3 April 2012 in the Council Committee Room.

Agreed Actions:

1.	Recommendation to Traffic Committee regarding disabled car parking space outside Library when D.A. submitted.	Kate Kate
2.	Send letter of thanks to Brad Cam for Glen Willow tour	Kate
3.	Send letter of thanks to Ahmed Albanna for quick response, and copy of his response to Theresa Falconer	Kate
4.	Send letter to Mudgee Police regarding skateboard and scooter safety	Kate
5.	Make amendments as agreed to the Disability Action Plan, and forward to Kandos and Rylstone Access Committee for their consideration	Kate
6.	Write letter to the Editor of the Mudgee Guardian regarding 'handicapped' terminology	Kate
7.	Send letter to Brad Cam complimenting work recently undertaken at Anzac Park	Kate

**MINUTES OF THE ORDINARY MEETING OF THE MUDGEES AND GULGONG ACCESS
COMMITTEE HELD ON TUESDAY, 3 APRIL 2012,
COMMENCING 2.00PM IN THE COUNCIL COMMITTEE ROOM, MUDGEES.**

PRESENT: **Access Committee members:** Mary Lovett, Victoria Barrett, Les Leighton, Judy Hickey, Percy Thompson, Roger Barnes

Council Staff: Kate Riach and Tim O'Reilly

5. APOLOGIES: Jenny Skinner

6. CONFIRMATION OF PREVIOUS MINUTES

Minutes of the meeting held 06.03.12 were confirmed as distributed.

Moved: V.Barrett

Seconded: Roger Barnes

7. MATTERS ARISING FROM MINUTES:

- 3.1 Recommendation to Traffic Committee regarding car parking space outside Library – still to be done when D.A. submitted.
- 3.2 Send letter of thanks to Brad Cam for Glen Willow tour
- 3.3 Send letter of thanks to Ahmed Albanna for quick response, and copy of his response to Theresa Falconer
- 3.4 Send letter to Mudgees Police regarding skateboard and scooter safety
- 3.5 Make amendments as agreed to the Disability Action Plan, and forward to Kandos and Rylstone Access Committee for their consideration
- 3.6 Write letter to the Editor of the Mudgees Guardian regarding 'handicapped' terminology
- 3.7 Send letter to Brad Cam complimenting work recently undertaken at Anzac Park

8. CORRESPONDENCE

- Inward :

Nil

- Outward:

Letter of thanks to Brad Cam re Glen Willow
Letter of thanks to Ahmed Albanna for quick response

Letter to Mudgee Police re: Scooter and skateboard safety
Letter to the Editor re: 'handicapped' terminology
Letter to Brad Cam re: Anzac Park works

5. DEVELOPMENT APPLICATIONS - Nil.

6. GENERAL BUSINESS

6.1 Roger Barnes discussed disabled car spaces, and that it is often difficult when a person with a disability exits the car on the side with no layback, as the wheelchair must be wheeled around the front of the vehicle to access the layback and footpath.

Action Item: Send letter to the Sally Mullinger and ask if laybacks can be installed at the rear of carparks to allow access to the footpath.

Moved: P.Thompson **Seconded:** R.Barnes

6.2 Percy Thompson discussed the corner of Medley and Mayne Streets in Gulgong, stating that there is no access to the footpaths because of a lack of laybacks.

Action Item: Send letter to Sally Mullinger asking if a laybacks can be installed on corner of Medley and Mayne Streets Gulgong

Moved: R.Barnes **Seconded:** P.Thompson

6.3 Les Leighton discussed accessibility at Gulgong Museum

Action Item: Send letter to Sally Mullinger requesting a disabled car space be installed adjacent to the entrance of the Museum, and that footpath repairs be undertaken to increase accessibility to the site.

Moved: P.Thompson **Seconded:** Les Leighton

6.4 The Council operated caravan park in Short Street was discussed, and it was agreed by the Committee that patrons disadvantaged by a lack of accessible facilities should be encouraged to write to the lease operator.

6.5 Mary Lovett spoke about the achievements and contribution of the recently passed Jane Bray to the disabled community, and her contribution to the Access Committee.

Action Item – Mary Lovett to approach the Mudgee Guardian to have Jane Bray recognised in an article in the paper

Moved: V.Barrett **Seconded:** J.Hickey

6.6 Les Leighton discussed the disabled car space in the car park on the corner of Perry and Short Streets. The car space is on the Short Street side of the car park, and means that those with a disability have to cross the car park to get to the Stables or Big W.

Action Item – Send letter to Sally Mullinger requesting that the disabled car space in the Perry/Short Street car park be relocated nearer to the Stables.

Moved: L. Leighton **Seconded:** R.Barnes

6.7 Les Leighton discussed the cellar door at Skimstone Wines. He said that gravel pathways make accessibility difficult.

Action Item – Send letter to John Nelson to query approval requirements of Skimstone Wines cellar door

Moved: L.Leighton **Seconded** : V.Barrett

6.8 Kate Riach advised that with the Planning Department are drafting one Development Control Plan for the region, and that in that document there will no longer be a need for accessibility controls, as they will be the DDA and Australian Standards. Once drafted, the new DCP will be on exhibition and available for comment by the Committee. Tim O'Reilly added that any accessibility requirements the Committee feel that are necessary for our region and are over and above the standards, should be submitted to Council when the DCP is on exhibition.

6.8 Les Leighton discussed the lane from Ulan Road to the Glen Willow Stadium. He would like to ensure that it is accessible for those in a wheelchair.

Action Item – Send letter to Brad Cam requesting that the footpaths and laybacks as a result of the new roundabout on Ulan Road, are accessible for those attending the Glen Willow stadium, and that signage be erected to indicate the accessible route

Moved: L.Leighton **Seconded:** M.Lovett

6.9 Les Leighton advised the Committee that he has agreed to be involved in the judging of the 2012 Clock Awards.

6.10 Les Leighton advised that he used the accessible toilet at Community Transport in the Carmel Croan Building. He advised that the hand rail is a two piece handrail and should be changed.

Action Item – Works request to be entered to have the handrail changed in the accessible toilet at Mudgee Community Transport.

Moved: L.Leighton **Seconded:** M.Lovett

6.11 Mary Lovett advised that she will be an apology for the 1 May 2012 meeting.

Meeting closed at 2.55 pm

Next meeting to be held Tuesday, 1 May 2012 in the Council Committee Room.

Agreed Actions:

1.	Recommendation to Traffic Committee regarding disabled car parking space outside Library when D.A. submitted.	Kate Kate
2.	Send letter to the Sally Mullinger and ask if laybacks can be installed at the rear of carparks to allow access to the footpath.	Kate
3.	Send letter to Sally Mullinger asking if a laybacks can be installed on corner of Medley and Mayne Streets Gulgong	Kate
4.	Send letter to Sally Mullinger requesting a disabled car space be installed adjacent to the entrance of the Museum, and that footpath repairs be undertaken to increase accessibility to the site.	Kate
5.	Mary Lovett to approach the Mudgee Guardian to have Jane Bray recognised in an article in the paper	Mary
6.	Send letter to Sally Mullinger requesting that the disabled car space in	Kate

	the Perry/Short Street car park be relocated nearer to the Stables.	
7.	Send letter to John Nelson to query approval requirements of Skimstone Wines cellar door	Kate
8.	Send letter to Brad Cam requesting that the footpaths and laybacks as a result of the new roundabout on Ulan Road, are accessible for those attending the Glen Willow stadium, and that signage be erected to indicate the accessible route	Kate
9.	Works request to be entered to have the handrail changed in the accessible toilet at Mudgee Community Transport – BL0278/2012	Kate

6.2.5 Mortimer Street Car Park Boundary Adjustment

REPORT BY MANAGER TECHNICAL SUPPORT TO 16 MAY 2012 COUNCIL MEETING

Boundary Adjustment for Mortimer St Car Park.docx

A0100055, R1005005

RECOMMENDATION

That:

1. **the report by Manager Technical Support on the Mortimer Street Car Park Boundary Adjustment be received;**
2. **Council approve the boundary adjustment that will result in the transfer of approximately 90m² of land from Lot 5 DP 817985 to Lot 1 DP 817985.**
3. **Council delegates to the Mayor and General Manager the authority to affix the Common Seal of the Council to all documents that are required to be signed to finalise the transfer of approximately 90m² of land from Lot 5 DP 817985 to Lot 1 DP 817985.**

Executive summary

The purpose of this report is to gain approval from Council for a small boundary adjustment to occur between Council owned land being the new Mortimer Street Car Park and the neighbouring property in return for allowing Council to modify the existing right of way (ROW) that is over Councils land to enable more effective use of Councils land.

Detailed report

The existing ROW over Councils Lot 5 DP 817985 that provides access to the rear of Lots 1-4 DP 817985 is not appropriately located to suite the layout of the new Mortimer St Car Park. In order to still allow access but at utilise the available land to the fullest, Council have negotiated the following with the owner of lots 1-4 DP 817985, being the terraces that front Mortimer St that adjoin Councils Mortimer Street Car Park;

- Council relocate and reduce in width from eight metres to six metres the existing right of way that services the rear of Lots 1-4 DP 817985 to suit Councils car park layout.
- Council complete a boundary adjustment to square off the boundary between lot 1 DP 817985 being privately owned and lot 5 DP 817985 being Council owned.
- The owner of lots 1-4 DP 817985 replace the existing gates on the rear of Lots 1-4 DP 817985 such that they are double swung gates that will allow cars to park in the rear of the lots and still shut the gates.
- The owner of lots 1-4 DP 817985 fence the boundary between Lot 5 DP 817985 to Lot 1 DP 817985.

The boundary adjustment will square off both lots and transfer approximately 90m² of land that is not required by Council to the adjoining owner. The adjustment also results in the private sewer boundary riser being appropriately located within the property it is associated with (ie Lot 1 DP817985) as it is currently incorrectly located within Councils Lot 5 DP 817985.

The boundary adjustment does not require a development application as it can be carried out as exempt development.

Financial implications

The cost of completing the adjustments to the boundary and ROW can be accommodated under the existing budget for the Mortimer St Car Park project. The value of the land and the cost to complete the adjustment is considered to be a reasonable exchange for the variation to the ROW and the fencing and gates resulting from the construction of the car park as well as the correction of boundary riser being an error from the past.

Strategic or policy implications

Not applicable.

ANDREW KEARINS
MANAGER TECHNICAL SUPPORT

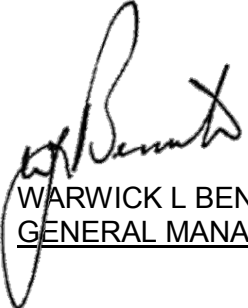


BRAD CAM
GROUP MANAGER OPERATIONS

25 May 2012

Attachments: 1. Plan of lots showing proposed boundary adjustment in green.

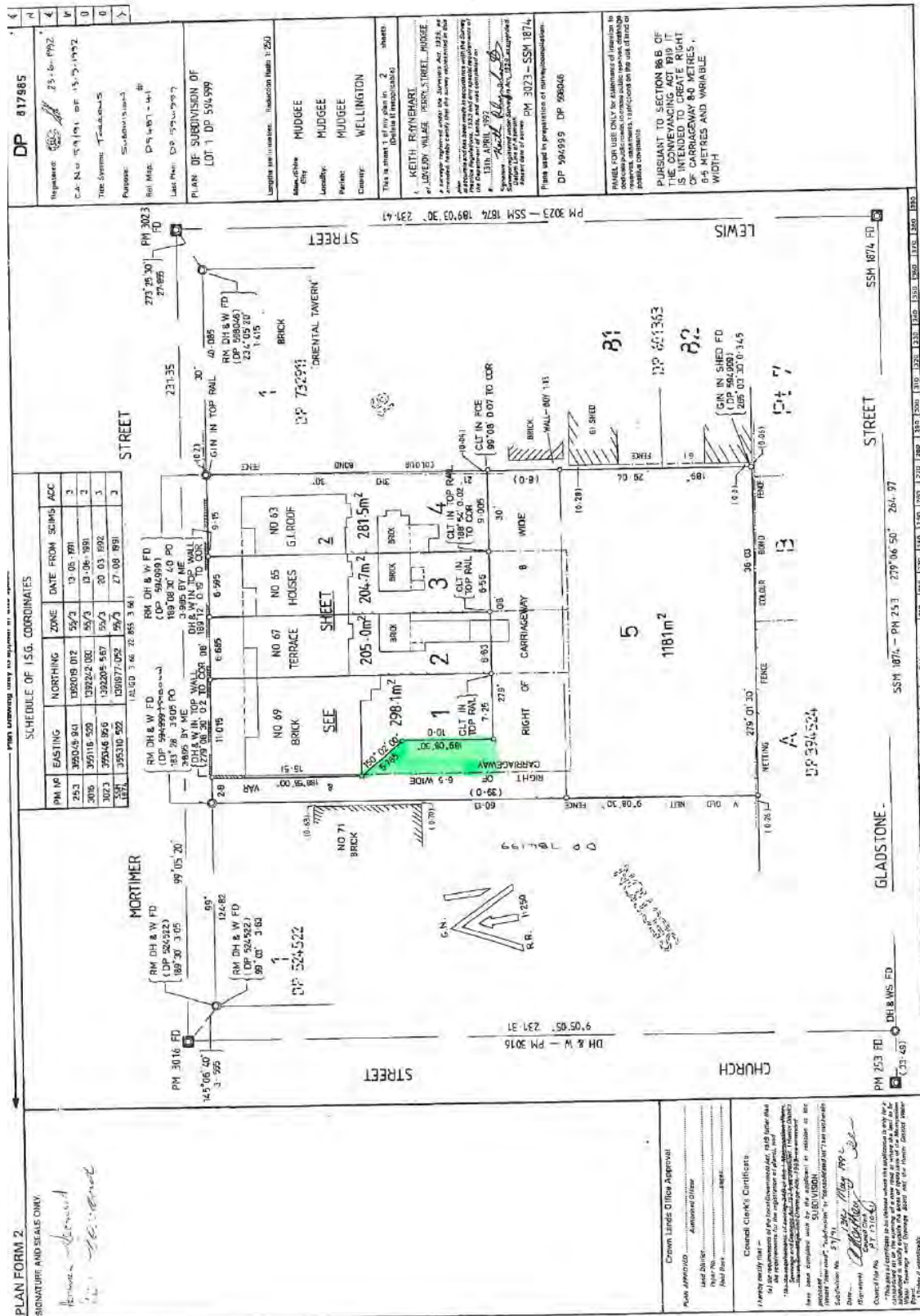
APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

ATTACHMENT 1

Plan of lots showing proposed boundary adjustment in green



6.2.6 Catchment A Drainage

REPORT BY MANAGER ENVIRONMENT TO 6 JUNE 2012 COUNCIL MEETING

Catchment A VPA at Bellevue
A0100055, F0560027

RECOMMENDATION

That:

1. the report by Manager Environment on the Catchment A Drainage program be received;
2. that Council resolve to enter into Voluntary Planning Agreements (VPAs) for the following developments located within Catchment A at Bellevue for the purposes of stormwater drainage at a rate of \$5 000 plus GST per lot and advertise the Draft VPAs in accordance with the requirements of the Environmental Planning and Assessment Act 1979

DA0592/2004	Richard St
DA0177/2012	Lot 58 Bellevue
DA0257/2012	Lot 31 Rifle Range Rd
DA0282/2012	20-28 Richards St
DA0009/2010	Norman Rd

Executive summary

On 16th December, 2011, Council resolved to undertake a program of works that would give an integrated catchment solution for the catchment known as Catchment A and to enter into a Section 94 contribution plan be developed for Catchment A on the basis of the drainage works.

To implement this program of drainage works, funding for part of these works was to be derived from contributions arising from voluntary planning agreements (VPA). Negotiations in relation to these VPAs have been concluded and Council now wishes to formalise these VPAs to allow works to progress.

Detailed report

Catchment A is the area bounded by Mortimer Street and Saleyards Lane to the north, Henry Bayly Drive to the east, and wooded hills form the southern and western boundaries. Saleyards Lane is the limit of influence on flooding from the Cudgegong River.

On 16th December, 2011, Council resolved to undertake a program of works that would give an integrated catchment solution for the catchment known as Catchment A and to enter into a Section 94 contribution plan be developed for Catchment A on the basis of the drainage works.

The works that will be undertaken are described in Table 1 together with updated costings.

Table 1 Catchment A drainage capital works

Rifle Range Road Culvert Upgrade	\$106,000
Richards Street Basin	\$295,000
Railway Line Basin	\$785,000
Fairy Dale Lane	\$130,000
	\$1,316,000

These works are being undertaken over a number of years, as shown in the program below.

Table 2 Catchment A drainage capital works program

Activity	2011/2012							2012/2013							2013/2014								
	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O
Finalise property matters / approvals: Railway to Gladstone																							
Construction of channel works: Railway to Gladstone																							
Property matters and other approvals: Basin works																							
Construction of Railway St basin																							
Construction of Richards St basin																							
Construction of Rifle Range Rd culvert																							

As indicated in the report of the 16th December, 2011, part of the funding for these works needs to be derived from contributions arising from VPAs between Council and developers. Negotiations have progressed on this matter and have been extended to include additional development proposals received by the same developer since the time of the previous report.

Agreement has been reached between all parties to enter into a VPA for the following lots at a value of \$5000 per lot: These figures are exclusive of GST.

DA	Location	Number of lots	Total contribution
DA0592/2004	Richard St	24	120,000
DA0177/2012	Lot 58 Bellevue	21	105,000
DA0257/2012	Lot 31 Rifle Range Rd	3	15,000
DA0282/2012	20-28 Richards St	6	30,000
DA0009/2010	Norman Rd	14	70,000
			\$340,000

Subject to finalising land purchases, the receipt of the above funds from the VPA combined with Council's upfront funding of this program of works will allow the construction of the two detention basins to proceed in accordance with the above capital works program. This will provide the protection from flood risk that arising from catchment development.

Council's upfront funding of these works will be recouped through a Section 94 contribution plan for Catchment A.

Financial implications

The VPAs for the above developments plus a Section 94 contribution plan for Catchment A will allow the integrated catchment solution for Catchment A to proceed as planned and for Council's upfront capital investment to be recouped.

Strategic or policy implications

Implementing the above works manages the flood risk that arising from development within Catchment A and thus manages Council's liability in this area.

Upon completion of the exhibition of the VPAs a further report will be presented to Council.

SHIREEN MURPHY
MANAGER ENVIRONMENT



CATHERINE VAN LAEREN
GROUP MANAGER DEVELOPMENT AND
COMMUNITY SERVICES

18 May 2012

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

6.2.7 Code of Conduct – Call for submissions on Consultation Draft

REPORT BY MANAGER GOVERNANCE TO COUNCIL MEETING

Code of Conduct CONSULTATION DRAFT

A0100055, A0110003, A0040004

RECOMMENDATION

That:

1. **the report by the Manager Governance on the call for submissions on the Consultation Draft of the Code of Conduct be received;**
2. **Council requests the Division of Local Government to recommence the review of the Code of Conduct to a more user friendly concise document that focuses on the vast majority of Councils who behave professionally and with dignity.**

Executive summary

The Division of Local Government has been reviewing the Model Code of Conduct for Councils.

Detailed report

The attached Circular has been received from the Division of Local Government (DLG). The Circular is canvassing submissions on consultation drafts of the Model Code of Conduct, proposed new procedures for the administration of the Model Code and proposed amendments to the Local Government Act and Local Government (General) Regulation.

The proposed changes appear focused mainly on how councils should deal with conduct complaints (although they do not go as far as taking them out of the hands of councils completely as was originally planned). The documents accompanying this Circular comprise:

- A paper on the consultation process (11 pages);
- A summary version of the Model Code (3 pages);
- The Draft revised Model Code (20 pages);
- Proposed procedures for the administration of the Model Code (31 pages);
- Proposed amendments to the Local Government Act (15 pages).

In all, this amounts to some 80 pages.

While it is realised that we are talking about a revision of the Model Code of Conduct, compare this to the Code of Conduct that NSW Parliamentarians have to comply with – which we understand is about 2 pages.

It is recognised that such documents must, of necessity, be aimed at the lowest common denominator, however by far the majority of NSW councils are, like Mid-Western, cohesive teams of individuals who are well behaved and are operating effectively for the benefit of their local communities. Compare this to the recent media articles lambasting the behaviour of our State and Federal parliamentary representatives.

Only the mean spirited would argue that the NSW government is being somewhat hypocritical in imposing a set of standards on local government councillors and staff that are higher than those that they themselves are prepared to countenance.

Experience dictates that people generally understand and relate better to concepts couched in simple terms. In this regard it is considered that a Model Code is more concise and user friendly would be more beneficial.

The recommendation in this report is suggesting that the Division start again with the review of the Model Code. This position is consistent with Councils previous position.

Financial implications

Not applicable at this time

Strategic or policy implications

Any changes to the Model Code will need to be reflected in Council's Code of Conduct.

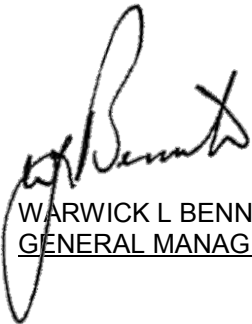


IAN ROBERTS
MANAGER GOVERNANCE

28 May 2012

Attachments: 1. Circular from Division of Local Government with draft Model Code (included at the end of the Business Paper)

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

6.2.8 Consultation Plan – Recreation Strategy

REPORT BY MANAGER STRATEGIC PLANNING TO 6 JUNE COUNCIL MEETING

Consultation Plan Rec Strategy

A0100055, A0420239

RECOMMENDATION

That:

- 1. the report by Manager Strategic Planning on the Consultation Plan for the Recreation Strategy be received;**
- 2. That the Consultation Plan for the Recreation Strategy be endorsed.**

Executive summary

The purpose of this report is to outline the Consultation Plan for the Recreation Strategy currently being undertaken by Council.

Detailed report

In 2003 Council endorsed a Recreation and Cultural Strategy for the former Mudgee LGA. The Strategy included a number of recommendations in terms of high priority actions for Council, many of which have now been enacted. These include:

- Upgrade of Playground equipment at Lawson Park
- Upgrades of playground equipment in Villages
- Heating of Gulgong Pool
- Upgrading of netball courts (Relocated to Glen Willow)
- Development of Glen Willow as a multi-purpose facility to enhance opportunities for soccer and touch football and ability to host regional competitions
- Extension of an open space corridor from Lawson Park to Walkers Oval

In 2009 a Draft Masterplan for Sporting Facilities was prepared for exhibition. The Draft at that time did not proceed to Council for adoption, however, did provide valuable justification and direction for the development of a number of facilities including Glen Willow. The plan also incorporated the recreation and sporting facilities in the former Rylstone Shire area which had not formed part of the 2003 Strategy. The key items identified included the development of Glen Willow as a sporting complex, implementation of the Masterplan for the Mudgee showground and relocating netball to Glen Willow. Although this Masterplan was not adopted by Council, it reinforced the outcomes of the earlier Recreation and Cultural Strategy (in terms of the Recreation component).

A review of these plans is now timely, not only to address the inclusion of the former Rylstone Shire into the strategy but also to provide strategic direction for the next 10 years. The review will enable an updated audit of the inventory of open space facilities; look at gaps in the needs including parks and playgrounds and make recommendations moving forward.

Input from the community is a critical component of the Recreation Strategy. As part of this process, a Consultation Plan has been prepared to provide framework for community engagement in the Strategy.

The community engagement will include a telephone survey of 400 households, stakeholder surveys of sporting and recreation groups and organisations and face to face interviews with target groups. The 2003 Strategy utilised stakeholder surveys with a reasonable response, however, the views of the wider community were not well sourced. In the 2007 Masterplan a community survey only resulted in 26 respondents. The Consultation Plan has been prepared to seek the maximum response given the time and resources available. Consultation will commence in June with the telephone and targeted stakeholder survey work being undertaken externally and the targeted interviews conducted by the Project Team. Additional survey work will be undertaken to target the adjoining and adjacent landowners in and around existing facilities. A copy of the Consultation Plan is attached.

Financial implications

Nil. A budget has been set aside for the completion of the Recreation Strategy.

Strategic or policy implications

The Recreation Strategy will provide direction in terms of the maintenance and capital investment in sporting and open space facilities over the next 10 years. Community involvement in the shaping of that vision is critical to achieving a viable and satisfactory outcome.

LIZ DENSLEY
MANAGER STRATEGIC PLANNING

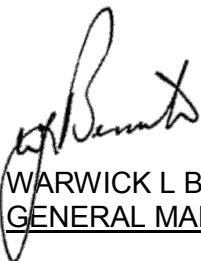


CATHERINE VAN LAEREN
GROUP MANAGER DEVELOPMENT &
COMMUNITY SERVICES

17th May 2012

Attachments: 1. Consultation Plan

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER



Have your say | 1300 765 002 | council@midwestern.nsw.gov.au

May 2012

Community Consultation Plan

Mid- Western Regional Council Recreation Strategy

Council will be undertaking a review of the open space and recreation requirements within the region. As part of this process, the Project Team will undertake a comprehensive community consultation process in order to ascertain the needs and desires of a wide range of users of both passive and active open space.

This plan identifies the consultation that will be undertaken and represents the most thorough consultative process ever undertaken for a recreation strategy.

Overview of Community Consultation Process

The following table provides an overview of Community Consultation process for the preparation of the Recreation Strategy.

Stage	Timing	Tools
Community Engagement	May/June/July 2012	<ul style="list-style-type: none"> • Direct Stakeholder Engagement • Telephone Survey • Website • Community News Feature
Analysis of Community Engagement and Draft Strategy	July/August 2012	<ul style="list-style-type: none"> • Preparation of Draft Strategy • Briefing (July) and Report to Council (August)
Exhibition of Recreation Strategy	August/September 2012	<ul style="list-style-type: none"> • Website • Community News Feature • Direct Contact with Stakeholders • Displays at Customer Service Centres.
Report Result of Exhibition to Council	October 2012	<ul style="list-style-type: none"> • Council report and briefing

Community Engagement

The aim of the Community Consultation is to gain input from a broad range of people within the community to enable the formulation of a Recreation Strategy that reflects the aspiration of the whole community rather than particular interest groups.

The Tools

Website

The website will be used throughout the process as a means of updating the Community on where the Strategy is up to as well as providing a vehicle for making comments.

Community News

The Community News provides the opportunity for detailed information to be disseminated to the community. Community News will be particularly useful on the inception of the project essentially giving households a "heads up" in terms of the engagement process.

Survey

A telephone survey will be conducted on behalf of Council aimed at engaging all sectors of the community and providing statistically significant data in terms of the usage, perceived adequacy of provision and identify needs. This is an effective way of engaging members of the community at random who may not otherwise have a vested interest in specific facilities. The telephone survey will sample 400 households.

Direct Stakeholder Engagement - Interest Group Surveys

There are a number of key stakeholders that will benefit from a direct approach. An online survey will be developed to target these stakeholders. The process will include an email link to the web based survey or a mail out where internet is not accessible. Telephone follow up will increase the response rate. A survey was undertaken as part of the 2003 Recreation Strategy and a similar survey will be repeated in this process. The Survey will be forwarded to:

All Sporting Organisations, Groups and Clubs

Schools and TAFE

Pre-Schools and Early Childhood Services

Targeted Engagement

There are a number of recreation users who will not be covered in the stakeholder groups. In particular these include the park and playground user groups identified to include Mothers Groups and Family Day Care mothers who are big users of playgrounds. While the telephone survey should capture the needs of playground users, a series of "morning tea" interviews is proposed to specifically target these users. These will be undertaken internally by the Project Team and seek to gain an

insight into the needs of these users and try and determine the levels of usage of local parks.

Other targeted engagement will include meeting with the Peak Sports Councils to glean a general overview of needs across a wide spectrum of organised users.

Finally, it is proposed to engage those people living adjoining and adjacent to the existing recreation facilities of Cahill Park and the West End Sporting Complex to address their expectation as to the future use of these facilities.

Analysis and Feedback

The information gathered in the initial consultation exercises will be used to inform the Draft Recreation Strategy. The organization conducting the survey work will provide a detailed analysis of the survey results from both the telephone and stakeholder surveys and provide that data to Council. This will form a significant element of the Draft Strategy.

A Draft Strategy will be reported back to Council seeking endorsement for public Exhibition. The Exhibition process will provide those involved in the initial consultation the opportunity to provide additional feedback.

Following a review of submissions necessary amendments will be made to the Draft Strategy prior to again seeking the final endorsement of the Council.

The final document will provide a framework for planning and delivery of recreation needs over the next 10 years.

6.2.9 Fixing of Annual Fees for Councillors and Mayor

REPORT BY MANAGER GOVERNANCE TO COUNCIL MEETING

Councillor Fees

A0100055, A0110001

RECOMMENDATION

That:

1. **the report by the Manager Governance on the fixing of fees for Councillors and the Mayor for the period July 2012 to June 2013 be received;**
2. **Council fix the fees for Councillors and the Mayor for the period July 2012 to June 2013 at \$10,220 for Councillors and \$22,310 for the Mayor;**
3. (a) **Council pay the Deputy Mayor a fee, to be deducted from the fee payable to the Mayor, for those periods of 7 days or more, where the Mayor is unable to carry out the duties of Mayor, such fee to be for the period that the Deputy Mayor acts in the role of the Mayor;**

(b) **the calculation of this fee to be determined at a pro rata of the Mayor's annual fee.**

Executive summary

This report addresses the need for Council to fix the annual fees paid to Councillors and the Mayor for the period July 2012 to June 2013.

Detailed report

The Local Government Act 1993 provides that Council must pay an annual fee to each Councillor and to the Mayor. The Mayoral fee must be paid in addition to the fee paid to the Mayor as a Councillor.

The Council may fix these fees and, if it decides to do so, the fees must be fixed in accordance with the determination of the Local Government Remuneration Tribunal. If Council does not fix a fee, it is required to pay the minimum fee determined by the Remuneration Tribunal.

The Act also provides that Council may pay the Deputy Mayor as fee determined by the Council for such time as the Deputy Mayor acts as in the office of the Mayor; such amount to be deducted from the Mayor's annual fee.

The Act provides that the Remuneration Tribunal must make a determination in relation to fees, not later than 1 May each year. The 2012 determination of the Remuneration Tribunal is attached.

As a consequence of that determination, this Council has been categorised as rural; the fees applicable for the period July 2012 to June 2013 being:

	Minimum	Maximum
Councillor	\$7,740	\$10,220

Mayor	\$8,220	\$22,310
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It is not mandatory for Council to fix the fees for Councillors and the Mayor. However, if Council does not fix these fees, the Act provides that the minimum fees will apply.

Council has generally resolved that the maximum fees shall apply.

In addition, given that the Council has previously determined to pay a fee to the Deputy Mayor, Council might also consider continuing this practice, bearing in mind the relevant provisions of the Act (Section 249(5)) which states

“(5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor’s annual fee.”

The recommendation above has been framed in such a way to continue the process of paying a fee for the Deputy Mayor.

Financial implications

The Remuneration Tribunal determination represents about a 2.5% increase in fees payable to Councillors and the Mayor. Assuming that Council agrees to pay the maximum fee, there are sufficient funds in the 2012/13 Members Expenses budget to cover this increase.

Strategic or policy implications

Not applicable.

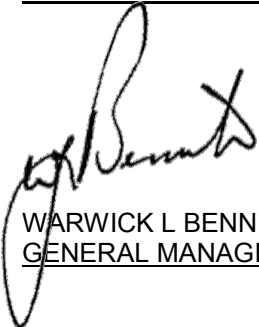


IAN ROBERTS
MANAGER GOVERNANCE

15 May 2012

Attachments: 1. 2012 Report of the Remuneration Tribunal

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER

cbd

REPORT

and

DETERMINATION

of

THE LOCAL GOVERNMENT REMUNERATION TRIBUNAL

under

SECTIONS 239 AND 241

of the

LOCAL GOVERNMENT ACT 1993

27 April 2012

MID-WESTERN REGIONAL COUNCIL RECORDS RECEIVED 16 MAY 2012 <input type="checkbox"/> SCANNED <input type="checkbox"/> REGISTERED

LOCAL GOVERNMENT REMUNERATION TRIBUNAL**2012 ANNUAL REVIEW****REPORT****INTRODUCTION**

Pursuant to Section 241 of the Local Government Act 1993 (the LG Act) the Local Government Remuneration Tribunal hereby determines in each category of Council, the maximum and minimum amount of fees to be paid to Mayors and Councillors of Councils, as well as Chairpersons and Members of County Councils.

On 14 November 2011 the Tribunal wrote to all Mayors advising of the commencement of the 2012 annual review. In respect of this review the Tribunal advised Councils that in addition to reviewing the minimum and maximum fee levels it would undertake a fundamental review of the categories. Section 239 of the LG Act requires the Tribunal to determine the categories of Councils and Mayoral offices at least once every 3 years.

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993 ("LG Act").

On 27 June 2011, the Parliament passed amendments to the LG Act to apply the same government public sector wages cap that binds the Industrial Relations Commission to the determination of ranges of fees for Councillors and Mayors. Similar amendments have been made to other legislation so that a similar cap applies to Members of Parliament, statutory officers and public sector executives.

For the LG Act the amendments provide for the addition of a new Section 242A.

" 242A Tribunal to give effect to declared government policy on remuneration for public sector staff

(1) In making a determination, the Remuneration Tribunal is to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under section 146C of the Industrial Relations Act 1996 when making or varying awards or orders relating to the conditions of employment of public sector employees.

- (2) The policies referred to in subsection (1) do not include any policy that provides for increases in remuneration based on employee-related savings.*

Section 146C of the Industrial Relations Act 1996 Act ("the IR Act") provides

"...146C Commission to give effect to certain aspects of government policy on public sector employment

- (1) The Commission must, when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees:*
- (a) that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission, and*
 - (b) that applies to the matter to which the award or order relates.*
- (2) Any such regulation may declare a policy by setting out the policy in the regulation or by adopting a policy set out in a relevant document referred to in the regulation."*

The current policy on wages pursuant to section 146C (1)(a) of the IR Act is articulated in the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011.

Clause 6 of the Regulation provides;

"...Other policies

- (3) The following policies are also declared, but are subject to compliance with the declared paramount policies:*
- (a) Public sector employees may be awarded increases in remuneration or other conditions of employment that do not increase employee-related costs by more than 2.5% per annum.*
 - (b) Increases in remuneration or other conditions of employment that increase employee-related costs by more than 2.5% per annum can be awarded, but only if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs. For this purpose:*
 - (i) whether relevant savings have been achieved is to be determined by agreement of the relevant parties or, in the absence of agreement, by the Commission, and*
 - (ii) increases may be awarded before the relevant savings have been achieved, but are not payable until they are achieved, and*

- (iii) *the full savings are not required to be awarded as increases in remuneration or other conditions of employment.*
- (c) *For the purposes of achieving employee-related cost savings, existing conditions of employment of the kind but in excess of the guaranteed minimum conditions of employment may only be reduced with the agreement of the relevant parties in the proceedings."*

On 31 October 2011 the Industrial Court of NSW determined that a challenge to the constitutional validity of the legislation amending the IR Act had failed.

Accordingly, subject to any successful challenge to the validity of the legislation amending the LG Act, and so far as the Tribunal is aware no such challenge has been lodged, the Tribunal when making a determination must now apply the same public sector wages cap that binds the Industrial Relations Commission.

Increases beyond 2.5 per cent per annum can be awarded by the Industrial Relations Commission but subject to the requirement that:

"...sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs."

However no increase beyond 2.5 per cent may be applied by the Tribunal to the minimum and maximum amounts of fees to be paid to Councillors and Mayors, because although section 242A (1) of the LG Act requires the Tribunal to apply the same policies as those of the Industrial Relations Commission, section 242A (2) of the LG Act expressly provides:

(2) The policies referred to in subsection (1) do not include any policy that provides for increases in remuneration based on employee-related savings.

This intent was confirmed by the Hon. Greg Pearce (Minister for Finance and Services, and Minister for the Illawarra) in the Minister's Second reading speech: Legislative Council, *Parliamentary Debates* (Hansard), 22 June 2011 at p. 3101 on the amendments to the Act where he stated;

"This bill will extend the Government's public sector wages policy to elected officials, State parliamentarians and local mayors and councillors, senior executives in the public service and statutory office holders. The Government's public sector wages policy is about delivering fair wage increases to hardworking public servants. It is also about ensuring that the State budget can be brought under control. This legislation means that we can get on with the business of delivering the infrastructure and services which this State needs and which its people deserve. Last week this Parliament passed the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. That legislation

requires the Industrial Relations Commission to give effect to the Government's wages policy when making decisions relating to public sector salaries. The reasons that bill was necessary are the very same reasons that it is now appropriate to extend the policy to other office holders who are paid from the public purse. If the policy is good enough for public servants it is certainly also good enough for senior executives and for elected officials. That is why, for the first time, the Government's wages policy will be formally extended to apply to elected officials and senior bureaucrats.

..Schedule 2 to the bill applies the same policy to elected officials at the local government level, to mayors and councillors. It provides that in future the Local Government Remuneration Tribunal will be required to give effect to the Government wages cap when setting the range of fees for mayors and councillors."

The intent of Parliament is clear. The 2.5 per cent cap on increases is to apply to the minimum and maximum fees that apply to Councillors and Mayors. The effect of the amendments to the LG Act is to remove the Tribunal's discretion to determine any increase in the minimum and maximum fees beyond 2.5 per cent.

2012 REVIEW OF CATEGORIES

Section 239 of the Act requires the Tribunal to determine categories for Councils and Mayoral offices for the purpose of determining fees, and Section 240 of the Act requires the Tribunal to determine categories according to the following matters:

"240 (1)

- the size of areas
- the physical terrain of areas
- the population of areas and the distribution of the population
- the nature and volume of business dealt with by each Council
- the nature and extent of the development of areas
- the diversity of communities served
- the regional, national and international significance of the Council
- such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective local government
- such other matters as may be prescribed by the regulations. "

Prior to undertaking its review of categories the Tribunal, as is its normal practice, invited submissions from Mayors. For the current review the Tribunal requested that any submissions made should address the following matters.

- Whether the existing categories should be reduced/expanded and if so on what

basis

- Whether the current categorisation is appropriate for your Council. If not, where do you consider it should be categorised and on what basis do you consider this re-categorisation should be granted.
- Significant changes in the role and responsibilities of Councillors and Mayors since 2009.
- Other matters you may wish the Tribunal to consider as part of this review.

The Tribunal also wrote to the Presidents of the Local Government and Shires Associations (LGSA) in similar terms, and subsequently met with the President of the Shires Association and Deputy President of the Local Government Association. The Tribunal wishes to place on record its appreciation to the President and Deputy President for meeting with the Tribunal.

SUBMISSIONS RECEIVED

In response to this review the Tribunal received 19 submissions from individual Councils and a submission from the LGSA. The key points from those submissions are summarised below.

Metropolitan Major

Penrith supports the current system of categorisation for Councils. The Council considers it appropriate to reclassify Penrith from Metropolitan Major to Major City in view of the Council's identified regional planning and service delivery role.

Metropolitan Centre

Individual submissions have been received from Bankstown, Fairfield, Gosford, Randwick and Sutherland Shire Councils. All Councils in this group have sought recategorisation to the category of Metropolitan Major.

Bankstown has suggested that the Tribunal establish a minimum population threshold of 180,000 for those Councils within the category of Metropolitan Major. The Tribunal could also consider consolidating the current categories of Metropolitan Centre, Metropolitan Major and Major City into two categories to achieve a simpler and more equitable grouping of similar Councils.

The submission from Fairfield has argued for recategorisation to Metropolitan Major on the

basis that its population exceeds that of Penrith which is categorised thus.

Gosford has sought recategorisation on the basis of its population increase, expanded budget and service delivery issues. The submission has also advised that Gosford has been identified (by the Department of Planning and Infrastructure) as one of six major regional cities around Sydney and the Central Coast is now recognised as a separate region by the Australian Bureau of Statistics (ABS).

Randwick City Council has sought recategorisation on the basis of its regional, state and national significance. The Council has indicated its support for the current categorisation system, but has suggested that the definition of Major Metropolitan be expanded to include a Council with a smaller population whose regional and national focus may be extensive.

The submission from Sutherland has again sought recategorisation to Metropolitan Major. The Council has argued that there is too great a disparity within the Metropolitan Centre Category between the larger Councils and the smaller Councils in the category. Sutherland suggests that the larger Councils in this category, including Sutherland, are as large as or larger than, and have responsibilities equal to or greater than, the Metropolitan Major Category and Major City Category Councils.

Metropolitan

Submissions have been received from Holroyd, Kogarah and Waverley Councils.

Holroyd Council seeks recategorisation to Metropolitan Centre. The submission states that Holroyd has both grown and changed dramatically in recent years and now finds itself to be a major industrial region. The submission argues that the Council is now a City of regional significance in the same way Councils such as Hurstville, North Sydney and Willoughby have grown into regionally dominant local government areas.

Kogarah seeks recategorisation to Metropolitan Centre. The Council's request is based on the growth and importance of Kogarah Town Centre and the impact this has had on the role and function of Councillors and Council.

Waverley has argued that the existing categorisation does not adequately reflect the strategic make up of the metropolitan area of Sydney or its future direction. The categorisation should take into account and be consistent with the strategic direction of Sydney as set out in the Metropolitan Plan for Sydney 2036. In accordance with the strategy Waverley would be categorised with Hurstville, Willoughby and Campbelltown for remuneration purposes.

The Tribunal has also received a submission from the LGSA which supports the recategorisation of Auburn City Council and Canada Bay City Council to the category of Metropolitan Centre. Both Auburn and Canada Bay were found to have experienced significant growth and, based on population, population growth, revenue and expenditure those Councils were found to be comparable to other Councils in the Metropolitan Centre Category.

Regional Rural

Submissions from Councils in this group were received from Albury, Hawkesbury, Shellharbour, Shoalhaven and Wagga Wagga.

The submission received from Albury has not sought a change to the current method of categorisation but instead requested that the Tribunal consider the provision of a separate allowance for Deputy Mayors in recognition of their additional ongoing responsibilities.

Hawkesbury Council has argued that the work of its elected representatives, and in particular the Mayor, is equivalent to that experienced in the adjoining Councils of Penrith, Blacktown and The Hills, which are classified in higher categories. Hawkesbury Council has requested that the Tribunal give consideration to placing Hawkesbury City Council in a higher category, or at the very least introduce a new category.

Shellharbour supports its current categorisation, however requests that the maximum for the range be increased to provide a realistic payment for those Councils considered at the top of the range.

Shoalhaven has argued that a case exists to differentiate the smaller Councils in category 3

from the larger Councils like Shoalhaven. Shoalhaven has also suggested an alternative category structure which would provide for a base level of remuneration together with additional incremental payments based upon the level of Council responsibility i.e. water/sewerage, population density etc.

Wagga Wagga supports the current categorisation model. The submission also notes the significant changes in the role and responsibilities of Councillors and Mayors since 2009 including:

- Increase in community expectations of Council
- Increase in governance requirements and legislative requirements
- Reduction in Councillor numbers
- Growth in population.

The Tribunal has also received a submission from the LGSA which supports the recategorisation of Cessnock, Coffs Harbour, Queanbeyan, Port Macquarie Hastings, Maitland, Port Stephens and Tamworth Regional to the category of Metropolitan. Those Councils were found to have experienced significant growth and based on population, population growth, revenue and expenditure were found to be comparable to other Councils in the Metropolitan Category.

Rural

Submissions from Councils in this group were received from Cabonne, Kiama, Kyogle and Muswellbrook.

Cabonne Council have supported the submission of the LGSA.

Kiama Council has argued that the current categorisation is inappropriate. The Council has additional pressures associated with being part of the Sydney Metropolitan Regional Planning area. In addition, the Council has a larger population, budget and area than a number of Councils categorised as metropolitan, but the Councillors and Mayors receive lower fees.

The submission from Kyogle has argued that the maximum fees payable to the rural category should be increased to the regional rural level. In support of this the Council has argued that there is essentially no difference in the role and responsibilities of Councillors/Mayors between these categories. They all handle varied functions, update their knowledge to understand long term strategic, financial and asset management planning issues as well as juggling Council

workload.

Muswellbrook has also sought recategorisation to the category of regional rural. Muswellbrook submits that, notwithstanding its geographic area and population, it is the centre for the delivery of substantial regional services throughout the Upper Hunter Region.

CATEGORIES - FINDINGS

The Tribunal last undertook a fundamental review of the categories of Councils in 2009. In undertaking that review, the Tribunal found that there was no strong case to significantly alter the current categories of Councillor and Mayoral offices or to move individual Councils between categories. While the groupings remained unchanged, the Tribunal decided to apply descriptive titles to the categories to more accurately reflect the nature of the differences between the various groups.

While the majority of submissions indicated support for the existing categorisation framework, a number of submissions requested that the Tribunal have regard to the classification of metropolitan centres within Sydney as outlined in the "Metropolitan Plan for Sydney 2036" (Department of Planning and Infrastructure Dec 2010). The plan categorises suburbs within the Sydney metropolitan area as being Global Sydney, Regional Cities, Major Centres, Specialised Centres, Town Centres, Villages, and Neighbourhoods.

While those descriptors of the various categories are useful for comparative purposes, they do not present a relevant alternative to the current method of categorisation by the Tribunal which categorisation is purely for remuneration purposes. In addition, the categorisation of centres as outlined in the Metropolitan Plan is not based on local government boundaries and does not extend beyond the metropolitan area.

The categories as developed by the Tribunal are for the sole purpose of setting remuneration. In determining those categories the Tribunal is required to have regard to the matters outlined in section 240 of the Act. Those matters do not include having regard to plans or assumptions as to the future development of council areas. Having regard to the s.240 matters, the Tribunal has grouped Councils in categories on the basis that they have a

large number of features in common. However, as each Council is different and has different challenges and opportunities, there will always be room for a difference of views as to the significance of differences between Councils in different categories while ever there is a requirement to categorise them.

In seeking recategorisation Councils often seek to draw a comparison between themselves and another Council in a category which provides a higher range of fees. These comparisons are usually based on one or two factors only, usually population or financial indicators. As outlined in the Act, the Tribunal is required to have regard to a range of factors when categorising Councils. In suggesting whether or not recategorisation is warranted Councils should ensure they have taken into account the range of matters outlined in the Act prior to submitting a case to the Tribunal.

Having regard to the submissions received, the findings of previous reviews, and issues raised by the LGSA and the Division of Local Government, the Tribunal finds that no change is warranted to the existing categorisation framework, or to the current categorisation of individual Councils. The characteristics of Councils categorised in each of the groups is outlined in detail in appendix A of the 2009 report and determination. The Tribunal has reviewed the characteristics of each of the categories and found that they continue to adequately reflect the differences between the various types of Councils, and the Tribunal has also reviewed the individual requests for recategorisation and found that no change in the categorisation of individual Councils is warranted.

The Tribunal's response to each of the requests for recategorisation is outlined in the following summary.

Major City

The Tribunal does not support Penrith's request to move from the category of Metropolitan Major to Major City. The Tribunal found, having regard to the definitions provided in the 2009 report and determination, the extent of regional services provided by Penrith is not

comparable to that provided by Councils in the category of Major City. In addition, the Tribunal notes that there would be no material gain for Councillors or Mayors in recategorisation to Major City as the fees are identical to those provided to Metropolitan Major. As outlined in the 2009 report and determination the descriptive titles were applied to avoid the perception of a ranking system and were designed to reflect the characteristics of Councils for the purposes of categorisation for remuneration purposes only.

Metropolitan Major

The Councils which sought recategorisation to Metropolitan Major did so on the basis of size of population, population growth and provision of regional services. A number of submissions also provided comparisons with Penrith as justification for their inclusion in this category.

Metropolitan Major (previously category 1A) was created in 2001 in recognition of Blacktown's significant population (264,799 in 2001). As outlined in the 2001 report and determination category 1A was to comprise category 1 Councils with a resident population of 250,000 (Blacktown) or more, or any other special feature of section 240 which the Tribunal considers distinguishes them from other Councils in category 1.

In 2002 the Tribunal determined that Penrith would also be categorised as category 1A. The recategorisation was based on Penrith's leading role in regional planning and providing services to greater western Sydney. The Tribunal also highlighted growth in the region and stated:

"it is anticipated that Penrith will continue to grow to about 200,000 in the next 10 years depending on the ebb and flow of urban development projects"

The Tribunal notes that Penrith's population is currently 186,221 (est. res. pop. 30 June 2010). The current population is well short of the Tribunal's estimate of 200,000 by 2012.

The Tribunal has considered many requests for recategorisation since the categories were first established in 1994 and has only moved Councils where there was considered to be significant reason for doing so. While the Tribunal's decision to re-categorise Penrith to category 1A was based on what were considered significant reasons at the time, the Tribunal made a number of assumptions about the long term development of the Council which have not been realised.

Fairfield, Bankstown, Gosford, Randwick and Sutherland Councils have provided submissions, but the Tribunal has found that their submissions did not demonstrate a significant case for recategorisation. While a number of these Councils have populations that exceed that of Penrith, it is clear that the Tribunal's earlier assumptions about projected growth in Penrith's population did not eventuate so that comparative population numbers are not relevant, and the relevant Councils do not provide or embody the same regional focus as does Penrith. In addition, while populations have increased overall, the ABS reveals that these Councils, like Penrith, have not experienced significant growth.

Metropolitan Centre

These Councils are defined typically as large multi-purpose organisations which serve as regional centres for the interests of a wider number of residents. They are characterised as having large populations, and support significant infrastructure, commercial/retail facilities and may host major recreational, health and education facilities.

Six Councils have sought recategorisation to Metropolitan Centre with an additional two Councils nominated for inclusion in this group by the LGSA. Reasons to seek recategorisation include population growth and provision of regional services. A number of submissions provided comparisons with Hurstville as justification for their inclusion in this category.

The Tribunal's 2001 determination recategorised Hurstville from category 2 (Metropolitan) to category 1 (Metropolitan Centre). The Tribunal's decision to recategorise Hurstville was based on expected population growth and its assessment that the Hurstville CBD is a regional growth centre for the St George region. The Tribunal also found that

“The three Category 1 Councils most directly comparable with Hurstville are Hornsby, Willoughby and North Sydney.”

With the exception of North Sydney which has a large CBD, Willoughby and North Sydney Councils are the smallest within the category of Metropolitan Centre in respect of population and scope of operations. Their inclusion was based at the time on the particular circumstances which set them aside from other Councils in category 2 (Metropolitan).

Each Council has its own particular characteristics and it is not one but an aggregation of those which determines categorisation. The Tribunal has reviewed those Councils which have sought or been nominated for recategorisation to Metropolitan Centre having regard to the definitions for each category and the characteristics of the Councils within each group. Based on the information received the Tribunal found that those Councils did not demonstrate either the scale or diversity of operations of Metropolitan Centres and therefore recategorisation is not warranted at this time.

Metropolitan

A number of Councils categorised as Regional Rural were nominated by the LGSA for inclusion within the category of Metropolitan. That recommendation was based mainly on population and financial indicators.

In 2009 the Tribunal introduced descriptive titles for each of the categories to better differentiate the groups based on their particular characteristics. The descriptive titles replaced the previous number system which had created a perception of ranking. Regional Rural Councils are distinct from Metropolitan Councils in that they contain a mix of urban and rural settlements and provide regional services, such as airports, to communities throughout their region.

The range of fees payable to Councils within the categories of Metropolitan and Regional Rural is currently identical. While there is some comparability between these groups in regard to size of population and financial operations, when having regard to a wider range

of factors, Councils in the category of Regional Rural retain enough distinct characteristics to warrant a separate category.

Regional Rural

The Tribunal reviewed the arguments provided by both Muswellbrook and Kiama for recategorisation to regional rural. While these Councils are at the top end of the rural category, they do not presently provide the extent of regional services which would warrant reclassification to Regional Rural.

The Tribunal has also considered the submission from Kyogle which has argued that there is essentially no difference in the role and responsibilities of the Mayor and Councillors of Kyogle and those of Mayors and Councillors in surrounding Councils which are in a higher category. A not dissimilar submission was made by Hawkesbury. The LG Act outlines the role and responsibilities of Councillors (Part 2, Division 2) and Mayors (Part 2, Division 3). While all Councillors and Mayors are expected to undertake duties to comply with the statutory role and responsibilities, the workload and the complexity of the work required from individual elected officials will differ from Council to Council.

The Tribunal is required by the LG Act to categorise Councils for the purpose of determining remuneration and does so having regard to the matters outlined in section 240(1) of the LG Act. The scale or diversity of operations within Councils impacts upon the role and responsibilities of Councillors. Councils within the Rural Regional category are expected to have additional responsibilities associated with the provision of regional services and these additional responsibilities are reflected in a higher fee.

Shoalhaven has suggested that a new category be introduced to cater for the larger Regional Rural Councils. This category would also include Tweed, Port Macquarie and Coffs Harbour. Based on the information provided, Shoalhaven has not demonstrated, aside from size of population, that it is significantly different from other large Councils in the Regional

Rural group. On that basis the Tribunal does not support the creation of a new category at this time.

CONCLUSION

The Tribunal continues to monitor local government initiatives and inform itself of the Government's direction for local government. In particular the Tribunal welcomes proposals to improve local government such as those identified as part of the Destination2036 initiative.

The Minister for Local Government, the Hon Don Page MP, recently announced an independent review to identify options to improve the strength and effectiveness of local government in NSW. A strong and viable local government sector that is able to meet the service delivery and infrastructure needs of local communities is critical to the future prosperity of NSW.

Local government has been working with the NSW Government as part of the Destination2036 initiative to identify solutions to the challenges faced by the sector. The review will build on the Destination2036 initiative and identify options for governance models, structural arrangements and boundary changes. It will take into account the different nature and needs of regional, rural and metropolitan communities.

The review is to be undertaken by a three member panel comprising the Chairperson, Professor Graham Sansom, and Members, Ms Jude Munro AO and Mr Glenn Inglis. The panel will commence on 14 May 2012 and is expected to report back to the Minister for Local Government by July 2013. Any changes recommended by the panel will then need to be considered by Government.

The review panel will consult widely with the local government sector, the broader community and other key stakeholders. The terms of reference for the panel will result in consideration of and recommendations on many of the actions identified in the draft Destination2036 action plan. Councils have expressed strong support for the Destination

2036 initiative and the draft action plan. The work plan sets out the first steps in a long-term reform agenda.

The Tribunal supports initiatives which will bring about improvements in the local government sector. In addition, the Tribunal welcomes the collaborative approach taken by the Government and the local government sector to bring about reform. The Tribunal will monitor the progress of the panel over the coming year.

As outlined at the beginning of the report the Tribunal is now required to have regard to the Government's wages policy when determining the increase to apply to the minimum and maximum fees that apply to Councillors and Mayors. The public sector wages policy currently provides for a cap on increases of 2.5 per cent.

The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Labour Price Index, and finds that the full increase of 2.5 per cent available to it is warranted. On that basis, and having regard to the above, and after taking the views of the Assessors into account, the Tribunal considers that an increase of 2.5 per cent in the fees for Councillors and Mayors is appropriate and so determines

Local Government Remuneration Tribunal

(signed)

Helen Wright

Dated: 27 April 2012

DETERMINATION PURSUANT TO SECTION 239 OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS EFFECTIVE FROM 1 JULY 2012**Category - Principal City (1)**

Sydney

Category - Major City (3)Newcastle
Parramatta
Wollongong**Category - Metropolitan Major (2)**Blacktown
Penrith**Category - Metropolitan Centre (16)**

Bankstown	Liverpool
Campbelltown	North Sydney
Fairfield	Randwick
Gosford	Ryde
The Hills	Sutherland
Hornsby	Warringah
Hurstville	Willoughby
Lake Macquarie	Wyong

Category – Metropolitan (21)

Ashfield	Lane Cove
Auburn	Leichhardt
Botany	Manly
Burwood	Marrickville
Camden	Mosman
Canada Bay	Pittwater
Canterbury	Rockdale
Holroyd	Strathfield
Hunters Hill	Waverley
Kogarah	Woollahra
Ku-ring-gai	

Category - Regional Rural (32)

Albury	Greater Taree
Armidale Dumaresq	Griffith
Ballina	Hawkesbury
Bathurst	Kempsey
Bega Valley	Lismore
Blue Mountains	Maitland
Broken Hill	Orange
Byron	Port Macquarie-Hastings
Cessnock	Port Stephens
Clarence Valley	Shellharbour
Coffs Harbour	Shoalhaven
Dubbo	Tamworth
Eurobodalla	Tweed
Great Lakes	Wagga Wagga
Goulburn Mulwaree	Wingecarribee
Queanbeyan	Wollondilly

Category - Rural (77)

Balranald	Gloucester	Narromine
Bellingen	Greater Hume	Palerang
Berrigan	Gundagai	Parkes
Bland	Gunnedah	Oberon
Blayney	Guyra	Richmond Valley
Bogan	Gwydir	Singleton
Bombala	Harden	Snowy River
Boorowa	Hay	Temora
Bourke	Inverell	Tenterfield
Brewarrina	Jerilderie	Tumbarumba
Cabonne	Junee	Tumut
Carrathool	Kiama	Upper Hunter
Central Darling	Kyogle	Upper Lachlan
Cobar	Lachlan	Uralla
Conargo	Leeton	Urana
Coolamon	Lithgow	Wakool
Cooma-Monaro	Liverpool Plains	Walcha
Coonamble	Lockhart	Walgett
Cootamundra	Mid-Western	Warren
Corowa	Moree Plains	Warrumbungle
Cowra	Murray	Weddin
Deniliquin	Murrumbidgee	Wellington
Dungog	Muswellbrook	Wentworth
Forbes	Nambucca	Yass Valley
Gilgandra	Narrabri	Young
Glen Innes Severn	Narrandera	

TOTAL GENERAL PURPOSE COUNCILS

152

Category - County Councils Water (5)

Central Tablelands	Riverina Water
Goldenfields Water	Rous
MidCoast	

Category - County Councils Other (9)

Castlereagh – Macquarie	Richmond River
Central Murray	Southern Slopes
Far North Coast	Upper Hunter
Hawkesbury River	Upper Macquarie
New England Tablelands	

TOTAL COUNTY COUNCILS**14**

DETERMINATION PURSUANT TO SECTION 241 OF FEES FOR COUNCILLORS AND MAYORS

Pursuant to s.241 of the *Local Government Act 1993*, the annual fees to be paid in each of the categories to Councillors, Mayors, Members and Chairpersons of County Councils effective on and from 1 July 2012 are determined as follows:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Principal City	23,250	34,100	142,250	187,180
Major City	15,490	25,580	32,940	74,530
Metropolitan Major	15,490	25,580	32,940	74,530
Metropolitan Centre	11,640	21,700	24,700	57,660
Metropolitan	7,740	17,060	16,480	37,230
Regional Rural	7,740	17,060	16,480	37,230
Rural	7,740	10,220	8,220	22,310
County Council – Water	1,540	8,530	3,300	14,000
County Council - Other	1,540	5,100	3,300	9,310

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

Local Government Remuneration Tribunal

(signed)

Helen Wright

Dated: 27 April 2012