

Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee
on Wednesday 1 May 2013, commencing at 5.42 pm and concluding at 6.15 pm

PRESENT Cr D Kennedy (Mayor), Cr P Cavalier, Cr EE Martens (AM), Cr PA Shelley, Cr JP Thompson, Cr MB Walker, Cr JK Weatherley, Cr JR Webb (Deputy Mayor), Cr L White.

IN ATTENDANCE Acting General Manager (B Cam), Acting Director Mid-Western Operations (S Mullinger), Director Development and Community Services (C Van Laeren), Director Finance and Administration (C Phelan), Manager Governance (I Roberts)

MEDIA REPRESENTATIVES Mudgee Guardian / The Weekly (S Paine), Radio 2MG (M. Heldon).

Item 1: Apologies

There were no apologies.

Item 2: Disclosure of Interest

Councillor Kennedy declared a pecuniary conflict of interest in Item 6.2.3 as he is the owner of the subject land.

Item 3: Confirmation of Minutes


154/13 MOTION: Shelley/Weatherley

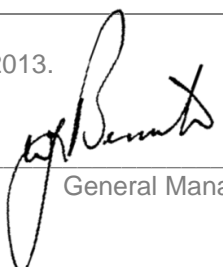
That the Minutes of the Ordinary Meeting held on 17 April 2013 (Minute Nos. 141/13 to 153/13) be taken as read and confirmed.

The motion was put and carried.

Item 4: Matters in Progress

Noted.


Mayor


General Manager

Item 5: Mayoral Minute

5.1 CUDGEGONG WATER SECURITY COMMITTEE

A0100056, A0100029

155/13

MOTION: Kennedy/Webb**That:**

1. Council establish a Section 355 Committee called the Cudgegong Water Security Committee;
2. The Terms of Reference of the Committee be as provided in the attached document; and
3. The Committee comprise:
 - 2 Councillors (The Mayor and Councillor White) with one to be the Chairperson
 - Community members to be nominated and appointed
 - General Manager (or nominee).

The motion was put and carried.

Item 6: General Business

6.1 NOTICES OF MOTION

There were no Notices of Motion.

6.2 REPORTS TO COUNCIL

6.2.1 DA 0007/2013 – PROPOSED CHANGE OF USE TO MACHINERY HIRE AND FABRICATION PREMISES, LOT 5, LOT 6, LOT 7, & LOT 8 DP 35972, 61-65 ILFORD ROAD KANDOS

A0100056, P1585262

156/13

MOTION: Walker/Shelley**That:**

- A. the report by the Graduate Planner on the DA 0007/2013 – Proposed Change of use to Machinery Hire and Fabrication Premises, Lot 5, Lot 6, Lot 7, & Lot 8 DP 35972, 61-65 Ilford Road Kandos be received;
- B. Development Application for the establishment of Machinery Hire and Fabrication Premises at Lot 5 , Lot 6, Lot 7 & Lot 8 DP 35972 61-65 Ilford Road Kandos is granted development consent subject to the following conditions:

APPROVED DEVELOPMENT

1. Development is to be carried out generally in accordance with stamped plans received with Development Application DA0007/2013 received by Council on 12 February 2013 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.

CAR PARKING


2. Car parking within the development is to comply with the following:
 - i) Each parking space is to have minimum dimensions of 5.5m x 2.6m;
 - ii) Each disabled car parking space is to be in accordance with the provisions of Clause D3.5 of the Building Code of Australia and Australian Standard as 2890.1 – 2004;
 - iii) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times;
 - iv) Off street parking is to be encouraged by the placement of prominent signs indicating the availability of parking.
3. The aisle widths, internal circulation, ramp widths and grades of the carpark are to generally conform to the Roads and Traffic Authority guidelines and Australian Standard AS2980.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.

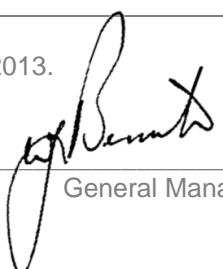
HEALTH AND BUILDING

4. An application for a Building Certificate under Section 149D of the Environmental Planning & Assessment Act 1979 is to be submitted to Council for existing open bay shed.

GENERAL

5. Hour of operation are generally not exceed 7.30am – 4.30pm Monday to Friday and 8.00am to 1.00pm Saturday and no trading is to occur on Sundays and Public Holidays. Should an extension to these hours be sought on an ongoing basis a S.96 application for modification of consent will be required to be submitted to Council.
6. All loading and unloading in connection with the premises shall be carried out wholly within the site.


Mayor


General Manager

7. All vehicles to enter and leave the site in a forward direction at all times.
8. All car parking and associated driveway works to be completed prior to occupation of the development.
9. No display of goods is to take place from public areas or footpath fronting the premises.
10. Future use of the site for spray painting facilities will be subject to a separate development application detailing facilities to be provided.
11. All vehicles fitted with a reversing beacon are to be upgraded to a new broadband quaker beacon.
12. A 2.1 Metre high impervious (colorbond or wooden) fence is to be erected along the Northern boundary from the building line to the Western corner and for the length of the Western boundary.

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

Councillors	Ayes	Nayes
Cr Cavalier	✓	
Cr Kennedy	✓	
Cr Martens	✓	
Cr Shelley	✓	
Cr Thompson	✓	
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb	✓	
Cr White	✓	

6.2.2 DEVELOPMENT APPLICATION DA0350/2013 SUBDIVISION,
LOT 2771 DP 1167933, 11 CUDGEGONG ROAD, RYLSTONE

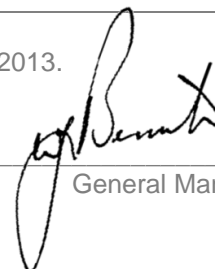
A0100056, P1528862

157/13

MOTION: Walker/Shelley

That:

1. the report by the Environmental Town Planner on the Development Application DA0350/2013 Subdivision, Lot 2771 DP 1167933, 11 Cudgegong Road, Rylstone be received;
2. the report by the Environmental Town Planner and the Determination from the Council Meeting on Development Application DA0350/2013 Subdivision, Lot 2771 DP 1167933, 11 Cudgegong Road, Rylstone be forwarded to the Director-General of the Department of Planning and Infrastructure for concurrence;

3. **Development Application DA0350/2013 Subdivision, Lot 2771 DP 1167933, 11 Cudgegong Road, Rylstone be approved subject to the concurrence of the Department of Planning and Infrastructure and subject to the following conditions:**

APPROVED PLANS

- 1 **Development is to be carried out generally in accordance with stamped plans and the Application received by Council on 19 February 2013 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.**

AMENDMENTS

- 2 **The subdivision plans submitted to council with the subdivision certificate application must show clearly the building envelope in the north eastern portion of the western lot modified such that it does not encroach on the location of endangered ecological communities on site.**
- 3 **The subdivision plans and Section 88b instrument submitted to council with the subdivision certificate application must include a restriction that any Bushfire Asset Protection Zone or Waste Water Disposal System required for a dwelling does not extend beyond the boundaries of the building envelope of the western lot.**


GENERAL

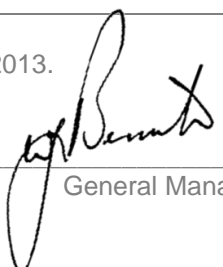
- 4 **If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.**

(Note: A suitably qualified person is required to be present during earthworks to identify whether any artefacts were uncovered).

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

- 5 **A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.**
- 6 **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.**


Mayor


General Manager

- 7 **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.**
- 8 **In accordance with the provisions of section 94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Mudgee Shire Council Section 94 Contribution Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of:**

	Rate	No of Lots	Total
Transport Management			
Traffic Management	\$611	2	\$1,222
Open Space			
Local Open Space	\$0.00	2	\$0.00
District Open Space	\$2,365	2	\$4,730
Community Facilities			
Library Buildings	\$228	2	\$456
Library Resources	\$274	2	\$548
Administration			
Plan Administration	\$532	2	\$1,064
TOTAL PAYABLE	\$4010	2	\$8,020

- 9 **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.**
- 10 **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.**

CONSTRUCTION REQUIREMENTS

- 11 **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.**
- 12 **Safe Intersection sight distance (SISD) requirements outlined in the Austroads Guide to Road Design Part 4A and relevant RMS supplements should be provided in both directions at**

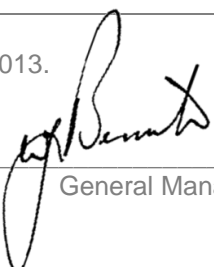
the vehicular access point servicing the proposed lots from Cudgegong Road. For a 100km/h speed zone the minimum SISD is 250 metres.

- 13 A basic right (BAR) turn treatment as shown in Figure 7.5 of the *Austrroads Guide to Road Design: Part 4A* shall be provided in Cudgegong Road at the access to both lots. The widened shoulder is to be sealed and built for a 100km/h speed environment to provide a reasonable level of safety for traffic turning into the proposed lots and to allow following traffic an area to pass the right turning vehicle on the left hand side;
- 14 A basic left (BAL) turn treatment as shown in Figure 8.2 of the *Austrroads Guide to Road Design: Part 4A* shall be provided at the access to both lots. The BAL facility will also need to be sealed and built for a 100km/h environment.
- 15 The construction of an all-weather vehicle access to each lot in the development. The accesses from Cudgegong Road servicing the development shall be constructed in accordance with *Austrroads Guide to Road Design: Part 4 Figure 7.4 'standard rural property access'* and any relevant RMS Supplements.

The access should be sealed a minimum of 10 metres from the edge of the travel lane in Cudgegong Road, match existing road levels and not interfere with existing road drainage. The access shall have the following minimum specifications:

- a) 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;
 - b) 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;
 - c) 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.
- 16 The access shall be formed as to provide a lay-by on the departure of the access for use as school bus/mail service shelter.
 - 17 All works shall be undertaken at full cost to the developer to the satisfaction of Mid-Western Regional Council.
 - 18 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


Mayor


General Manager

construction, encompassing the following stages of construction:

- a) Installation of vehicle accesses
- b) Construction of basic right (BAR) turn treatment
- c) Construction of basic left (BAL) turn treatment
- d) Practical Completion

19 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.

20 Prior to issue of the Subdivision Certificate, Council is to be supplied with:

- a) A certificate from an energy provider indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.
- b) A certificate from a communication provider indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.

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

Councillors	Ayes	Nayes
Cr Cavalier	✓	
Cr Kennedy	✓	
Cr Martens	✓	
Cr Shelley	✓	
Cr Thompson	✓	
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb	✓	
Cr White	✓	

6.2.3 PLANNING PROPOSAL – 220 ULAN ROAD MUDGEE


A0100056, A0420258

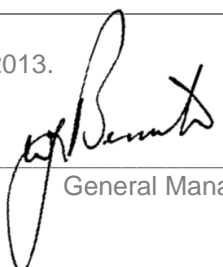
Councillor Kennedy declared a pecuniary conflict of interest in that he is owner of the subject land, vacated the Chair and left the meeting at 5.45pm and did not participate in discussions or vote in relation to this matter. In his absence Councillor Webb assumed the Chair.

MOTION: Walker/Cavilier

That:

1. the report by the Manager Strategic Planning on the Planning Proposal – 220 Ulan Road Mudgee be received;
2. Council prepare an amending Local Environmental Plan for 220 Ulan Road to provide for residential development;


Mayor


General Manager

3. the Planning Proposal under section 55 of the Environmental Planning and Assessment Act for 220 Ulan Road Mudgee be forwarded to the Department of Planning and Infrastructure seeking a Gateway Determination;
4. a further report be presented to Council upon the completion of the exhibition addressing any submissions.

AMENDMENT: White/Martens

That consideration of this matter be deferred to permit preparation of a more detailed report including a study into the impact on adjoining land.

The amendment was put and lost with Councillors voting as follows:

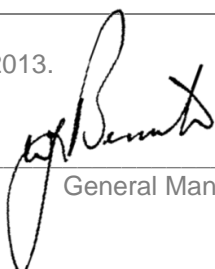
Councillors	Ayes	Nayes
Cr Cavalier		✓
Cr Martens	✓	
Cr Shelley		✓
Cr Thompson	✓	
Cr Walker		✓
Cr Weatherley		✓
Cr Webb		✓
Cr White	✓	

The motion was put and lost on the casting vote of the Chairperson with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Cavalier	✓	
Cr Martens		✓
Cr Shelley	✓	
Cr Thompson		✓
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb		✓
Cr White		✓

Councillor Kennedy returned to the meeting at 5.58 pm and resumed the Chair.


Mayor


General Manager

6.2.4 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING & DETERMINED

A0100056

158/13

MOTION: Weatherley/Shelley

That the monthly development application report for the month ending 28 February 2013 be received.

The motion was put and carried.

6.2.5 FINANCIAL ASSISTANCE – APPLICATIONS

A0100055, A0140201

159/13

MOTION: Shelley/Cavalier**That:**

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

Kandos Gardens Fair Committee	\$1000
Gulgong Heritage Harness Association Inc	\$500
Mudgee Endurance Riders Association Inc	\$500

The motion was put and carried.

6.2.6 GOVERNANCE POLICY REVIEW

A0100056, A0100021, A0220040, A0140326, A0230001

160/13

MOTION: Cavalier/Shelley**That:**

- 1. the report by the Manager Governance on the Governance Policy Review be received;**
- 2. Council confirm and adopt the existing Access to Information policy.**
- 3. Council adopt the revised Companion Animals Management Plan.**
- 4. Council adopt the revised Complaints policy.**
- 5. Council confirm and adopt the existing Local Preference policy.**
- 6. Council adopt the revised Risk Management policy.**

7. Council adopt the revised Statement of Business Ethics.

The motion was put and carried.

6.2.7 NAMING OF A SECOND BRIDGE OVER CARWELL CREEK

A0100056, R0790041, R9001001

161/13 MOTION: Shelley/Webb**That:**

- 1. the report by the Revenue & Property Manager on the Naming of a Second Bridge over Carwell Creek be received;**
- 2. Council formally approve the name of Cuth Foster Bridge for this bridge.**

The motion was put and carried.

6.2.8 NAMES TO BE INCLUDED IN THE PRE-APPROVED STREET/ROAD NAMES LIST

A0100056, R0790041, R0790141

162/13 MOTION: Shelley/Cavalier**That:**

- 1. the report by the Revenue & Property Manager on the Names to be included in the Pre-Approved Street/Road Names List be received;**
- 2. Council approved the inclusion of Bloodsworth, Lovett, Minorca, Oakborough, Pirie, Riversdale and Sorata in the pre-approved street/road names list for use at a later date.**

The motion was put and carried.

6.2.9 NAMING OF NEW UNNAMED ROADS OFF RIFLE RANGE ROAD

A0100056, R0790141

163/13 MOTION: Weatherley/Cavalier**That:**

- 1. the report by the Revenue & Property Manager on the Naming of New Unnamed Roads off Rifle Range Road be received;**
- 2. Council name the new road reserves Hardwick Avenue and Faucett Drive.**

The motion was put and carried.

6.2.10 MUDGEES SHOWGROUND MANAGEMENT COMMITTEE

A0100056, F0650007

164/13 **MOTION:** **Webb/Cavalier**

That the report by the Director, Mid-Western Operations on the Mudgee Showground Management Committee be received.

The motion was put and carried.

Item 7: Urgent Business Without Notice

7.1 Vandalism – Bellevue Playground

A0100056, F0650042, R0790170

165/13 **MOTION:** **Walker/Webb**

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.

166/13 **MOTION:** **Walker/Webb**

That Council offer a \$2,000 reward for information about the act of vandalism at the Bellevue Playground on Tuesday 30 April 2013 that lead to a conviction of the perpetrators.

The motion was put and carried.

Item 8: Confidential Session

167/13 **MOTION:** **Walker/Shelley**

That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public.

Following the motion to close the meeting being moved and seconded, the Manager Governance announced that the following matter would be considered in confidential session and the reason why it was being dealt with in this way.

Subject: Recategorisation of Land for Rating Purposes Legal Expenses

The reason for dealing with this report confidentially is that it relates to advice concerning litigation, or advice that would otherwise be privileged from product in legal proceedings on the grounds of legal professional privilege in accordance with Section 10A(2)(g) of the Local Government Act 1993.

Discussion of this matter in an open meeting would not be in the public interest as it could prejudice ongoing negotiations and/or discussions with persons with whom the Council is conducting business.

Following an enquiry from the Mayor, the Manager Governance advised that there were no written representations in respect of this matter and that no person in the gallery wished to make verbal representations.

The motion was put and carried.

8.1.1 Recategorisation of Land for Rating Purposes Legal Expenses

A0100056, A0340007

168/13

MOTION: Weatherley/Webb

That:

1. the report by the Director, Finance & Administration on the recategorisation of land for rating purposes legal expenses be received; and
2. Council endorses the revised estimate of a further \$150,000 in legal expenses to defend appeals in the Land and

The motion was put and carried.

Item 9: Open Council

The Manager Governance announced the decisions taken in Confidential Session.

Closure

There being no further business the meeting concluded at 6.15 pm.

