

Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee
on Wednesday 1 October 2014, commencing at 6.14pm and concluding at 7.53pm

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

IN ATTENDANCE General Manager (B Cam), Acting Director Mid-Western Operations
(D Colwell), Manager Statutory Planning (G Bruce), Acting Director Finance
and Administration (L Johnson), Corporate Communications Officer
(P Goldsmith), Manager Information Services (S Jones), Manager
Health & Building (T O'Reilly).

MEDIA REPRESENTATIVES Mudgee Guardian / The Weekly (R Murray), Radio 2MG (M Heldon)

Item 1: Apologies

There were no apologies.

Item 2: Disclosure of Interest

Councillors Kennedy and Walker declared a non-pecuniary conflict of interest in Item 6.1.1 as media coverage has named them as people of interest in the ICAC investigation.

Councillor Walker declared a pecuniary conflict of interest in Item 6.2.2 as he is the owner.

Item 3: Confirmation of Minutes

437/14 MOTION: Cavalier / Shelley

That the Minutes of the Ordinary Meeting held on 17 September 2014 (Minute Nos. 409/14 to 436/14) be taken as read and confirmed.

The motion was carried with Councillors voting unanimously.

Item 4: Matters in Progress

438/14 MOTION: Cavalier / Weatherley

That Minute no. 165/14 be noted as completed.

The motion was carried with Councillors voting unanimously.

Item 5: Mayoral Minute

There was no Mayoral Minute

Item 6: General Business

6.1 RESCISSION MOTION

6.1.1 ICAC INVESTIGATION

GOV400023, GOV400038

439/14 MOTION: Cavalier / Webb**That this item be considered in the Confidential Session of this meeting.**

Councillors Kennedy and Walker declared a non-pecuniary conflict of interest in Item 6.1.1 as media coverage has named them as people of interest in the ICAC investigation, left the meeting at 6.16pm and did not participate in discussion or vote in relation to this matter.

In the absence of the Mayor, the Deputy Mayor assumed the Chair.

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

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

Councillors Kennedy and Walker returned to the meeting at 6.19pm and Councillor Kennedy resumed the Chair.

6.2 REPORTS TO COUNCIL

6.2.1 MA0002/2015 – INCREASE IN SHED HEIGHT AND AREA TO ACCOMMODATE OVERHEAD CRANE TO LIGHT INDUSTRIAL SHED, LOT 1 DP 854056 AND LOT 12 DP 626035 – 50 GEORGE STREET, MUDGEE

GOV400038, P1199461 PART 2

440/14 MOTION: White / Cavalier**That:**

- the report by the Senior Town Planner for the Modification Application 0002-2015 for the increase in shed height and area to accommodate an overhead crane to light industrial shed on Lot 1 DP 854056 and Lot 12 DP 626035 - 50 George Street, Mudgee be received;**

2. **That Modification Application 0002/2015 for the increase in shed height and area to accommodate an overhead crane to light industrial shed on Lot 1 DP 854056 and Lot 12 DP 626035 - 50 George Street, Mudgee be refused for the following reasons;**
 1. **The proposed use of the shed that requires such a shed size and the provision of an overhead crane is inconsistent with the definition of 'light industry' within the Dictionary of the Mid-Western Regional LEP 2012.**
 2. **The proposed modification involving the increased building footprint is inconsistent with the Mid-Western Regional Development Control Plan Clause 4.6 Industrial Development – Site Coverage as the proposal represents a variation to this standard.**
 3. **The proposed modification involving the increased building footprint is inconsistent with the Mid-Western Regional Development Control Plan Clause 4.6 Industrial Development – Utilities (d) as the building will be located over Council's storm water drainage line.**
 4. **The proposed modification involving the increased building footprint is inconsistent with the Mid-Western Regional Development Control Plan Clause 5.1 Car Parking – Manufacturing as the proposal represents a significant variation to this standard.**
 5. **The proposed increased building footprint and height on land located at the interface of the IN2 Light Industrial and R3 Medium Density zoned land is inconsistent with Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 as the design has not considered the adjoining residential zone and is of an incompatible bulk and scale.**
 6. **The proposed increased building footprint and height is inconsistent with Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 as the development is not in the public interest as ten (10) submissions of objection were received.**
 7. **The proposed increased building footprint and height is inconsistent with Section 96 of the Environmental Planning and Assessment Act 1979 as the proposal is not considered to be of minor nature and is not substantially the same development.**
 8. **The proposed modification of such significant scale on land adjoining land zoned R3 Medium Density Residential is inconsistent with the Aims of the Mid-Western Regional Development Control Plan as the proposal does not deliver the outcomes desired by the community or provide certainty of development outcomes.**
 9. **The proposed increased building footprint and height of the shed will create adverse visual impacts on the adjoining dwellings and is inconsistent with the IN2 Light Industrial Zone.**
 10. **The proposed increased in building footprint and height of inappropriate bulk is inconsistent with Clause 5.10 Heritage Conservation of the Mid-Western Regional LEP 2012 as the**

development has not adequately considered the impact on the character of the Heritage Conservation Area.

AMENDMENT: Walker / Thompson

That:

1. the report by the Senior Town Planner for the Modification Application 0002-2015 for the increase in shed height and area to accommodate an overhead crane to light industrial shed on Lot 1 DP 854056 and Lot 12 DP 626035 - 50 George Street, Mudgee be received;
2. the application for the Modification Application 0002/2015 for the increase in shed height and area to the light industrial shed on Lot 1 DP 854056 and Lot 12 DP 626035 - 50 George Street, Mudgee be deferred;
3. Council staff negotiate amendments to the proposal with the applicant and a report be brought back to Council.

The amendment was put and lost 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		✓

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 MA0013/2015 - PROPOSED STAGED 26 LOT RESIDENTIAL
SUBDIVISION, LOT 1 DP 1176841, 4- 8 PERRY STREET,
MUDGEE

GOV400038, DA0273/2014

Councillor Walker declared a pecuniary conflict of interest in Item 6.2.2 as he is the applicant, left the meeting at 6.40pm and did not participate in discussion or vote in relation to this matter.

441/14 **MOTION: Shelley / Weatherley**

That:

1. **the report by the Manager Statutory Planning Manager, Statutory Planning on MA0013/2015 – Proposed Staged 26 Lot Residential Subdivision, Lot 1 DP 1176841, 4- 8 Perry Street, Mudgee be received;**
2. **Council approve MA0013/2015– Proposed Staged 26 Lot Residential Subdivision, Lot 1 DP 1176841, 4- 8 Perry Street, Mudgee subject to the following amended conditions (in Italics):**

APPROVED DEVELOPMENT

1. **Development is to be carried out generally in accordance with stamped plans (Drawing Number 20708-C01/C01/C03) and Statement of Environmental Effects dated February 2014 by Barnson Pty Ltd 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.**

AMENDMENT

2. **The location of the stormwater outlet as depicted in Proposed Service Plan – Drawing 20708-C04, Rev A dated 18/11/09, prepared by Barnson is to be redesigned so that it complies with the NSW Guidelines for Stormwater Outlets. The outlet structure shall be located on a straight section of the watercourse and pointing in a downstream direction.**

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. **The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.**
4. **A further phase 2 Environmental Assessment is to be undertaken on the site and remediation occurs in accordance with a Remedial Action Plan. Upon completion of the investigation and remediation works, a site validation report**

is to be provided to Council stating that the land is suitable to be used for residential purposes.

5. Prior to development the applicant shall advise Council's Development and Community Services Department, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council's property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
6. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
7. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be provided to Mid-Western Regional Council as an interested party.
8. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, and a detailed construction plan. These plans are to be approved by the Council prior to the issue of a Construction Certificate.
9. A detailed engineering design (including sediment and erosion control) supported by plans, and an "Autocad compatible" Plan, (in dwg format including pen-map), material samples, test reports and specifications are to be prepared in accordance with AUS-SPEC #1 (as modified by Mid-Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council or an *Accredited Certifier* prior to the issue of a Construction Certificate.
10. 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.
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. All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or

commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.

13. Engineering plans of the water and sewer mains extension are to be submitted to and approved by Council or an accredited certifier prior to the issue of a Construction Certificate.
Note 1: Council will quote on connecting any sewer or water main extension to the existing "live" main on receipt and approval of engineering plans.
Note 2: Council does not permit other bodies to insert new junctions or connections into 'live' mains.
14. The developer is to grant Council (or an *Accredited Certifier* on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
15. The subdivision works are to be inspected by the 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
 - Water and sewer line installation prior to backfilling
 - Establishment of line and level for kerb and gutter placement
 - Road and driveway pavement construction (including excavation, formwork and reinforcement)
 - Road pavement surfacing
 - Practical completion
16. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.
17. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication *Australian Rainfall and Run-off* to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5 year ARI. All storm water detention details including analysis shall be included with the drainage report.
18. The drainage report is to include water quality treatment devices meeting targets as stipulated in the DCP and full

details of compliance are to be provided with the Construction Certificate.

19. All utilities and services including telecommunications, water and sewer reticulation, street lighting shall be installed prior to pavement construction.
20. Prior to commencement of works, the submission of three road names/road in order of preference, for the proposed two (2) new roads within the subdivision, are to be submitted to Council for approval.

Stormwater Drainage

21. A minimum of two (2) roof-water outlets per allotment are to be provided in the kerb and gutter at the time of installation of kerb and gutter. Such outlets shall be located near the projected line of allotment side boundaries and shall be of no less a quality than kerb adaptors kept at Council's Administration Centre as a guide.
22. 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.
23. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.

Roads, Kerbs and Vehicular Access

24. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council standards.
25. A 'Give-Way' sign with associated line marking shall be installed at the intersection of Short and Perry Street pursuant with AS1724.2:2009 Manual of Uniform Traffic Control Devices and the RMS *Delineation Manual*.
26. The developer is to upgrade Perry Street for the full frontage of the proposed subdivision, such that it has the following characteristics:

Item	Requirement
Road Reserve Width	12m
Pavement Width	8m

Item	Requirement
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Nature Strip (x1)	4.5 m
Kerb & Gutter	Roll concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.

27. The new roads in the subdivision are to be constructed in accordance with the following:

Road 2/3: Secondary Roads

Item	Requirement
Road Reserve Width	16 m
Pavement Width	8 m
Nature Strip (x2)	4 m
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.

Earthworks

28. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.
Note: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.
29. Runoff and erosion controls shall be installed prior to clearing and incorporate:-
- diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water;
 - maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.

Water and Sewer

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

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

33. Under the Environmental Planning & Assessment Act, 1979, a *Subdivision Certificate* is required before the linen plan of subdivision can be registered with the Land Titles Office.
Note: The fee to issue a *Subdivision Certificate* is set out in Council's Fees and Charges
34. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
35. If the *Subdivision Certificate* is not issued, for any reason whatsoever, by the end of the financial year immediately following the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
36. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision.
37. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.
 - A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.

- A maintenance bond of 5% of the construction costs to be held for 24 months
 - 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;
 - as to the security to be given to Council that the works will be completed or the contribution paid, and
 - as to when the work will be completed or the contribution paid.
38. 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.
39. The developer must provide Council and land purchasers with a site classification for each lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause of AS2870 - 2011. Results are to be submitted to Council prior to issue of the Subdivision Certificate.
40. 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 at a rate of \$6,737 per lot.

Transport Management			
Traffic Management	\$1,196	25	\$29,900
Open Space			
Local Open Space	\$1,878	25	\$46,950
District Open Space	\$2,549	25	\$63,725
Community Facilities			
Library Buildings	\$246	25	\$6,150
Library Resources	\$295	25	\$7,375
Administration			
Plan Administration	\$573	25	\$14,325
TOTAL	\$6,737	25	\$168,425

41. 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	0.75 x \$8,250	25	\$ 154,688
Sewerage Headworks	0.75 x \$3,767	25	\$ 70,631
Total Payable	\$9,013	25	\$ 225,319

(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.

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 \$1700 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

OR

Where the water service has been provided by the developer. The developer is to provide a water meter for each lot in the subdivision. This can be achieved through providing a water service ending with a lockable ball valve to each lot and make a payment to Council of \$380.00 per lot to cover the cost of a 20mm meter and installation.

Note: Council does not permit other bodies to connect to '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 \$1,550.00 per new junction to cover the cost of Council installing a junction in an existing main.
44. Where the developer is to construct the sewer main to service a lot, the developer is to provide a new junction for each allotment.
Note: Council does not permit other bodies to insert new junctions into "live" sewer mains.
45. Any proposed fencing on the northern boundary of proposed lots 22 to 26 is to be constructed of a lapped and capped 1.8 metre high timber fence. A positive covenant is to be placed on the title of the lots in accordance with the Conveyancing Act.
46. All earthworks are to be monitored by a qualified cultural heritage officer and a minimum of one (1) weeks' notice given to the engaged officer.
47. The developer is to provide a 1.8 metre high fence along the full length of the western boundary at full cost to the developer. The fence is to provide a screen between the two developments but must also allow the passage of flood

waters. Details are to be provided with the application for Construction Certificate.

48. Proposed lot 6 is to access from Perry Street. A positive covenant is to be created for each allotment in accordance with the Conveyancing Act enforcing this requirement.

Flood Conditions

49. *Any future dwellings are to have a Finished Floor Level (FFL) of 500mm above the 1 in 100 year flood level. A positive covenant is to be created for each allotment in accordance with the Conveyancing Act enforcing this requirement and stipulating a minimum FFL for each allotment as described in the attached table;*

<i>Lot No.</i>	<i>1% ARI flood event</i>	<i>Required FFL</i>
<i>1,11,12,21,22</i>	<i>448.5m AHD</i>	<i>449.0m AHD</i>
<i>2,10,13,20,23</i>	<i>448.6m AHD</i>	<i>449.1m AHD</i>
<i>3,9,14,19,24</i>	<i>448.7m AHD</i>	<i>449.2m AHD</i>
<i>4,8,15,18,25</i>	<i>448.8m AHD</i>	<i>449.3m AHD</i>
<i>5,6,7,16,17,26</i>	<i>448.9m AHD</i>	<i>449.4m AHD</i>

50. All fencing below the 1 in 100 year flood level (449m AHD) shall be designed so to allow the passage of water in the event of a flood. A positive covenant is to be created for each allotment in accordance with the Conveyancing Act enforcing this requirement.
51. *Filling of the proposed lots is not permitted. A positive covenant is to be created for each allotment in accordance with the Conveyancing Act enforcing this requirement.*

GENERAL TERMS OF APPROVAL for work requiring a controlled activity approval under s91 of the Water Management Act 2000

Our Reference:	80 ERM2014/0161	File No: 9057799
Site Address:	4-8 Perry Street, Mudgee NSW 2850	
DA Number:	2014/0273	
LGA:	Mid-Western Regional Council	

Number	Condition
Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 2014/0273 and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>

Our Reference:	80 ERM2014/0161	File No: 9057799
Site Address:	4-8 Perry Street, Mudgee NSW 2850	
DA Number:	2014/0273	
LGA:	Mid-Western Regional Council	

Number	Condition
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3	The consent holder must prepare or commission the preparation of: <ul style="list-style-type: none"> (i) Works Schedule (ii) Erosion and Sediment Control Plan (iii) Soil and Water Management Plan (iv) Structural design and specifications Amendment of Plan – Drawing Proposed Service Plan - Drawing 20708-C04, Rev A dated 18/11/09, prepared by Barnson to relocate Stormwater outlet to be inline with the NSW Office of Water Guidelines for Stormwater Outlets.
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx <ul style="list-style-type: none"> (i) Laying pipes and cables in watercourses (ii) Outlet structures
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
Rehabilitation and maintenance	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

Reporting requirements

8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
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Security deposits

9	N/A
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Our Reference:	80 ERM2014/0161	File No: 9057799
Site Address:	4-8 Perry Street, Mudgee NSW 2850	
DA Number:	2014/0273	
LGA:	Mid-Western Regional Council	
Number	Condition	
Access-ways		
10	N/A	
11	N/A	
Bridge, causeway, culverts, and crossing		
12	N/A	
13	N/A	
Disposal		
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.	
Drainage and Stormwater		
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.	
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.	
Erosion control		
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.	
19	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.	
Maintaining river		
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.	
21	N/A	
River bed and bank protection		
22	N/A	
23	N/A	
Plans, Standards And Guidelines		
24	N/A	
25	N/A	

Our Reference:	80 ERM2014/0161	File No: 9057799
Site Address:	4-8 Perry Street, Mudgee NSW 2850	
DA Number:	2014/0273	
LGA:	Mid-Western Regional Council	
Number	Condition	
26	N/A	
27	N/A	
END OF CONDITIONS		

The motion was put and carried on the Mayor's casting vote with Councillors voting as follows:

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

Councillor Walker returned to the meeting at 6.42pm.

6.2.3 SERVICING DUAL OCCUPANCY AND MINIMUM RESIDENTIAL LOT SIZES

GOV400038, LAN900046

442/14

MOTION: White / Cavalier

That:

1. the report by the Director, Development and Community Services on the Servicing Dual Occupancy and Minimum Residential Lot Sizes be received;
2. the Mid-Western Development Control Plan 2013 be amended to require an assessment to be made at the time of the subdivision application of land within the R1 General Residential and the R3 Medium Density Residential zone to determine those lots capable of supporting dual occupancy development. The identified sites shall then be conditioned to be provided with dual water, sewer, stormwater, electrical and telecommunication services.
3. the Draft DCP be placed on public exhibition for a period of 28 days in accordance with the requirements of the Environmental Planning and Assessment Act and regulation.
4. the Comprehensive Land Use Strategy be amended to require that any greenfield site to be rezoned to R1 General Residential and R3 Medium Residential have a minimum lot size of 450m².

5. **consultation be undertaken with the Department of Planning and Environment regarding the amendment of the Comprehensive Land Use Strategy and that the amendment be placed on exhibition in accordance with the requirement of the Department but for a minimum of 28 days.**
6. **a further report be presented to Council at the completion of the exhibition period.**

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	✓	

6.2.4 FINANCIAL ASSISTANCE APPLICATIONS

GOV400038, A0140201

443/14

MOTION: Cavalier / Webb

That:

1. **the report by the Acting Director, Finance & Administration on the Financial Assistance Applications be received;**
2. **Council provide a donation to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy, subject to those requirements being met:**

Rylstone and District Historical Society Inc	\$ 640
Rylstone-Kandos Show Society	\$3,000
Mudgee High School	\$135
Hill End Public School	\$1,500
St Matthews Catholic School	\$800
Lifeskills	\$327
Mudgee Civilian Rifle and Bore Club Inc	\$1,451
3. **Council provide a donation to the following applicants for the annual Christmas Parties:**

Rotary Club of Rylstone-Kandos Inc	\$3,520
Gulgong Memorial Hall Committee/Gulgong Men's Shed	\$3,000
4. **Council defer consideration of the community grant of \$6,000 to Gulgong Chamber of Commerce until after the Gulgong Chamber of Commerce Annual General Meeting later this month.**

AMENDMENT: Shelley /

That:

1. the report by the Acting Director, Finance & Administration on the Financial Assistance Applications be received;
2. Council provide a donation to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy, subject to those requirements being met:

Rylstone and District Historical Society Inc	\$ 640
Rylstone-Kandos Show Society	\$3,000
Mudgee High School	\$135
Hill End Public School	\$1,500
St Matthews Catholic School	\$800
Lifeskills	\$327
Mudgee Civilian Rifle and Bore Club Inc	\$1,451
3. Council provide a donation to the following applicants for the annual Christmas Parties:

Rotary Club of Rylstone-Kandos Inc	\$3,520
Gulgong Memorial Hall Committee/Gulgong Men's Shed	\$3,000
4. Council provide a community grant of \$6,000 to Gulgong Chamber of Commerce. The conditions of this grant are:
 - a. Prior to payment Gulgong Chamber of Commerce must submit a project plan which details the anticipated benefits arising from the activities;
 - b. Gulgong Chamber of Commerce must report on the acquittal of the grant before being considered for further funding of this project. This requires reporting of the expenditure on the project and the benefits delivered to the community.

The amendment lapsed for want of a seconder.

The motion was put and carried with Councillors voting unanimously.

6.2.5 MONTHLY BUDGET REVIEW AUGUST 2014

GOV400038, FIN300062

444/14

MOTION: Cavalier / Weatherley

That the report by the Acting Director, Finance & Administration on the Monthly Budget Review August 2014 be received.

The motion was carried with Councillors voting unanimously.

6.2.6 MINOR LOCALITY BOUNDARY ADJUSTMENT AROUND LOT
124 DP 756864

GOV400038, P0252111

445/14 MOTION: Cavalier / Martens

That:

- 1. the report by the Revenue & Property Manager on the minor Locality boundary adjustment around Lot 124 DP 756864 be received;**
- 2. the Locality boundary adjustment be approved, moving Lot 124 DP 756864 from the Locality of Avisford into the Locality of Hargraves.**

The motion was carried with Councillors voting unanimously.

6.2.7 NAMING OF UNNAMED LANE OFF DABEE ROAD

GOV400038, R0790141

446/14 MOTION: Thompson / Martens

That:

- 1. the report by the Revenue & Property Manager on the Naming of unnamed Lane off Dabee Road be received;**
- 2. Council name the lane Bloodsworth Lane.**

The motion was carried with Councillors voting unanimously.

6.2.8 MEMBERSHIP OF CENTROC (CENTRAL NSW COUNCILS)

GOV400038, GOR500016

MOTION: Thompson / Martens

That:

- 1. the report by the General Manager on Membership of Centroc (Central NSW Councils) be received;**
- 2. Council defer a decision on this issue until Council has a discussion with the Minister about whether Council can remain within the HunterROC boundaries.**

447/14 AMENDMENT: Cavalier / Shelley

That:

- 1. the report by the General Manager on Membership of Centroc (Central NSW Councils) be received;**

2. Council makes an application to join Centroc effective 1 January 2015.

The amendment was put and carried and on being put as the motion was again 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	✓	

6.2.9 RESTART NSW DEEDS

GOV400038, A0820020

448/14 MOTION: Cavalier / Martens

That:

- 1. the report by the Economic Development Officer on the Restart NSW Deeds be received;**
- 2. Council authorise the Mayor and General Manager to affix the common seal of Council to the Restart NSW Deeds for the Red Hill Project and the Fairydale and Saleyards Lane Upgrade Project.**

The motion was carried with Councillors voting unanimously.

6.2.10 NOXIOUS WEEDS ADVISORY COMMITTEE

GOV400038, ENV200017

449/14 MOTION: Webb / Thompson

That the report by the Noxious Weeds Administrator on the Noxious Weeds Advisory Committee be received.

The motion was carried with Councillors voting unanimously.

6.2.11 KANDOS CENTENARY WORKING PARTY MINUTES

GOV400038, P1553611

450/14 MOTION: Shelley / White

That:

1. the report by the Manager, Community Services on the Kandos Centenary Working Party Minutes be received;
2. Council note the minutes of the meeting held on 1st, 8th and 15th September 2014, and the accompanying Income and Expenses and Budget reports.

The motion was carried with Councillors voting unanimously.

6.2.12 MUDGEES SPORTS COUNCIL

GOV400038, A0100013

451/14 MOTION: Shelley / White

That:

1. the report by the Acting Director, Mid-Western Operations on the Mudgee Sports Council be received;
2. That the minutes for the Mudgee Sports Council ordinary monthly meeting held on 25 August 2014 be noted.

The motion was carried with Councillors voting unanimously.

Item 7: Urgent Business Without Notice

7.1.1 PEABODY COURT COSTS

GOV400029, A0340047

452/14 MOTION: Shelley / Cavalier

That this matter be dealt with as urgent business without notice in the Confidential Session of this meeting.

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

Item 8: Confidential Session

453/14 MOTION: Cavalier / Webb

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 General Manager announced that the following matter would be considered in confidential session and the reason why it was being dealt with in this way.

Subject: MA0010/2015 – Proposed Subdivision, Lot 1 DP 1136192, Lots 65, 66 and 67 DP 755434, Lot 168 DP 1145165, 96 Bergalin Road Gulgong

Subject: Peabody Court Costs

The reason for dealing with these matters confidentially is that they comprise advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege, in accordance with Section 10A(2)(g) of the Local Government Act, 1993.

Subject: ICAC Investigation

The reason for dealing with this report confidentially is that it relates to information that would, if disclosed, prejudice the maintenance of law.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as the report contains reference to personal information, the disclosure of which would be in breach of the provisions of the Privacy and Personal Information Protection Act 1988.

Following an enquiry from the Mayor, the General Manager 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 carried with Councillors voting unanimously.

8.1.1 MA0010/2015 – PROPOSED SUBDIVISION, LOT 1 DP 1136192,
LOTS 65, 66 AND 67 DP 755434, LOT 168 DP 1145165, 96
BERGALIN ROAD GULGONG

GOV400038, P2090761

454/14

MOTION: Cavalier / Walker

A. That:

- 1. the report by the Manager, Statutory Planning on the MA0010/2015 – Proposed Subdivision, Lot 1 DP 1136192, Lots 65, 66 and 67 DP 755434, lot 168 DP 1145165, 96 Bergalin Road Gulgong be received;**
- 2. MA0010/2015 – Proposed Subdivision, Lot 1 DP 1136192, Lots 65, 66 and 67 DP 755434, lot 168 DP 1145165, 96 Bergalin Road Gulgong be approved in accordance with 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 7 August 2014 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.**

ENGINEERING CONSTRUCTION

2. **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;**
3. **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.**
4. **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 ISSUE OF CONSTRUCTION CERTIFICATE

5. **A detailed engineering design of the proposed road works and intersection 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 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.**

CONSTRUCTION REQUIREMENTS

6. **All works are to be constructed at the full cost of the developer, in a manner consistent with AustRoads, MWRC Development Control Plan 2013 and Council’s standard drawings.**
7. **DELETED vide MA0010/2015 October 2014**
8. **DELETED vide s.82A application February 2014**

9. **Intersection and accesses shall be provided with lay-bys on the departure side for school bus stops.**
- 10 **Give Way Signs are to be installed on the proposed internal road at the intersection with Bergalin Road.**
11. **A 375mm diameter reinforced concrete pipe culvert with headwalls, located outside the clear zone at the intersection of Bergalin Road and the proposed internal road in the subdivision, having the table drain directed through it.**
12. **DELETED vide MA0010/2015 October 2014**
13. **The developer is to construct the proposed internal road in accordance with Council's Development Control Plan 2013 and Austroads standards to a Rural Sealed Road and the following minimum specifications:**
 - **formation width 9.0m.**
 - **sealed width 6.0m.**
 - **seal type – 14/7 mm double-double.**
 - **standard cross-section with 3%.**
 - **pavement thickness – 150-300 mm.**
 - **pavement material – gridded, rock busted or crushed – depends on material type and availability. Material to be approved by assets prior to placement.**
 - **Minimum compaction:**
 - **sub base 96% MDD**
 - **base course 98% MDD**
 - **Erosion and drainage control measures such as cross fall, table drains, mitre drains, and culverts where necessary.**
14. **DELETED vide s.82A application February 2014**
15. **The construction of an all-weather vehicle access to each lot in the development. The accesses from the proposed loop road servicing the development shall be constructed in accordance with Austroads Guide to Road Design: Part 4 Figure 7.4 'standard rural property access' and any relevant RMS Supplements. 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.**

- d) The access should be sealed a minimum of 10 metres from the edge of the travel lane to minimise mud on through road, match existing road levels and not interfere with road drainage.
 - e) 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.
16. 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:
- Road pavement construction
 - Installation of vehicle accesses
 - Practical Completion
17. 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.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

18. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by Council's Authorised Officer.
19. 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.

20. 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**

All Other Areas

Section 94 Contributions

Transport Management

Traffic Management	\$3948
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Open Space

Local Open Space	\$0
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District Open Space	\$15,288
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Community Facilities	
Library Buildings	\$1,482
Library Resources	\$1,776
Administration	
Plan Administration	\$3,438
Total Payable	\$25,932

21. 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.
22. 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.
23. 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 electronically 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.
24. 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.
25. The subdivision has a minor traffic impact on Bergalin Road and therefore it has not been required to be upgraded or sealed. A notation to this effect is to be placed on the title of each allotment stating that Council will not be responsible for sealing Bergalin Road.

B. That:

1. the Mid-Western Development Control Plan 2013 be amended to apply the standards for the R2 Low Density Residential zone for all lots 2 hectares or less in the R5 Large Lot Residential zone.
2. the Draft DCP be placed on public exhibition for a period of 28 days in accordance with the requirements of the Environmental Planning and Assessment Act and regulation.

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	✓	

8.1.2 PEABODY COURT COSTS

GOV400023, GOV400038

Councillor Walker left the meeting at 7.30pm.

455/14 MOTION: Shelley / Cavalier

That:

1. The report by the Acting Director, Finance & Administration on the payment of legal costs – Peabody Pastoral Holdings Pty Ltd v Mid-Western Regional Council be received;
2. The General Manager be authorised to enter negotiation to settle the claim for payment of legal costs paid in both the Land and Environment Court and Court of Appeal proceedings by Peabody Pastoral Holdings Pty Ltd; and
3. The settlement amount of \$280,000 will be funded from the Community Plan Reserve and that the Operational Plan 2014/15 be amended accordingly for the settlement amount up to this value.

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 Weatherley	✓	
Cr Webb	✓	
Cr White	✓	

6.1.1 ICAC INVESTIGATION

GOV400023, GOV400038

Councillor Kennedy declared a non-pecuniary conflict of interest in Item 6.1.1 as media coverage has named him as people of interest in the ICAC investigation, left the meeting at 7.32 and did not participate in discussion or vote in relation to this matter.

In the absence of the Mayor, the Deputy Mayor assumed the Chair.

456/14 MOTION: Webb / White

That the Council's decision on 20 August 2014 stating "*that a copy of the Occupier's Notice not be provided*" be and is hereby rescinded.

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

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

457/14 MOTION: Webb / White

That a copy of the Occupier's Notice be provided to all Councillors present in confidential session and that all copies be returned at meeting's end and then destroyed.

AMENDMENT: Thompson /

That a copy of the Occupier's Notice be provided to all Councillors.

The amendment lapsed for want of a seconder.

Councillor Shelley left the meeting at 7.41pm and then returned to the meeting at 7.42pm.

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

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

Item 9: Open Council

458/14 MOTION: Shelley / White

That the Council move to Open Council.

The motion was carried with Councillors voting unanimously.

Councillors Kennedy and Walker returned to the meeting at 7.52pm and Councillor Kennedy resumed the Chair.

The General Manager announced the decisions taken in Confidential Session.

Closure

There being no further business the meeting concluded at 7.53pm.