



2015

COUNCIL BUSINESS PAPERS

Ordinary Meeting | WEDNESDAY 15 APRIL 2015





PO BOX 156  
MUDGEE NSW 2850

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

Ph: 1300 765 002 or (02) 6378 2850

Fax: (02) 6378 2815

Email: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

8 April 2015

Dear Councillor

MEETING NOTICE  
**Ordinary Meeting**

Wednesday, 15 April 2015

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 General Manager prior to the commencement of the meeting.

Yours faithfully

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

BRAD CAM  
GENERAL MANAGER

# AGENDA

Item 1:	Apologies.....	4
Item 2:	Disclosure of Interest.....	4
Item 3:	Confirmation of Minutes.....	4
	<b>3.1 Minutes of Ordinary Meeting held on 18 March 2015</b>	<b>4</b>
Item 4:	Matters in Progress .....	21
Item 5:	Mayoral Minute .....	26
	5.1.1 Additional Ordinary Council Meeting – May 2015	26
Item 6:	General Business .....	27
	<b>6.1 Notices of Motion</b>	<b>27</b>
	6.1.1 Business Use of Footpath Policy	27
	<b>6.2 Reports</b>	<b>28</b>
	6.2.1 DA0260/2015, Change of use - Shed to Dual Occupancy @ 809 Old Grattai Road GRATTAI NSW 2850	28
	6.2.2 Planning Proposal - Additional Dwellings Adams Lead Road Gulgong, Spring Flat Road and Market Street Mudgee	42
	6.2.3 Ulan West Modification 3	74
	6.2.4 Water and Sewer Servicing - Subdivision - 238 Broadhead Road Mudgee (Broadview Estate)	80
	6.2.5 Monthly Budget Review February 2015	83
	6.2.6 Monthly statement of investments and bank balances as at 31 March 2015	84
	6.2.7 Financial Assistance Applications	90
	6.2.8 Financial Assistance for Childcare Centre Melton Road	94
	6.2.9 Request for Event Assistance – Mudgee Polo Club	101
	6.2.10 Request to Discount Glen Willow Hire Fees – Western Mariners	104
	6.2.11 Policy Review – Credit Policy	110
	6.2.12 Naming of unnamed road off Hill End Road	113
	6.2.13 Policy Review – Business Use of the Footpath	120
	6.2.14 Quarry Road - Kandos	141
	6.2.15 Review of Policy on Asset Management	145
	6.2.16 Appointment of Acting General Manager	149
	6.2.17 Mudgee & Gulgong Access Committee Minutes	150
Item 7:	Urgent Business Without Notice .....	153

Item 8: Confidential Session

Item 9: Open Council

## 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 18 March 2015**

#### Council Decision:

That the Minutes of the Ordinary Meeting held on 18 March 2015, Minute Nos 48/15 to 79/15 be taken as read and confirmed.

---

The Minutes of the Ordinary Meeting are attached overleaf.

Mid-Western Regional Council

Date: 18 March 2015

## Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee  
on Wednesday 18 March 2015, commencing at 5:53pm and concluding at 7:20pm.

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), Director Operations (D Colwell), Director Development (C Van Laeren), Director Corporate (C Phelan), Director Community (S Jones) Executive Secretary (M Sutton)
MEDIA REPRESENTATIVES	Mudgee Guardian / The Weekly (L Stanford), Radio 2MG (M Heldon)

### Item 1: Apologies

There were no apologies.

### Item 2: Disclosure of Interest

Councillor White declared a pecuniary conflict of interest in Item 6.2.24 as MRTI is a financial member of Central NSW Tourism, her employer.

Councillor Shelley declared a non-pecuniary conflict of interest in Item 6.2.4 as his son is a member of Kandos-Rylstone Amateur Boxing Club.

Councillor Webb declared a non-pecuniary conflict of interest in Item 6.2.19 as he owns property in the vicinity of the proposed Ulan Road works.

### Item 3: Confirmation of Minutes

48/15 MOTION: Cavalier / White

That the Minutes of the Ordinary Meeting held on 18 February 2015 (Minute Nos. 8/15 to 47/15) be taken as read and confirmed.

The motion was carried with Councillors voting unanimously.

### Item 4: Matters in Progress

#### Regional Aviation Services

49/15 MOTION: Cavalier / Shelley

That Minute no. 537/14 be noted as completed.

The motion was carried with Councillors voting unanimously.

Page 1 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
General Manager

Mid-Western Regional Council

Date: 18 March 2015

**Item 5: Mayoral Minute**

There is no Mayoral Minute.

**Item 6: General Business**

## 6.1 NOTICES OF MOTION

6.1.1 COUNCIL LAND AT 45 DUNN STREET KANDOS  
GOV400022, GOV400043

## 50/15 MOTION: Cavalier / White

That the report 6.2.8 be brought forward and dealt with before the notice of motion.

## AMENDMENT: Martens / Webb

That the notice of motion be dealt with as printed in the business paper.

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

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



Mid-Western Regional Council

Date: 18 March 2015

**6.2.8 OFFER TO PURCHASE 45 DUNN STREET KANDOS**

GOV400043, P1985111

**MOTION:** Webb / Martens**That:**

1. Council land at 45 Dunn Street Kandos be given to Kids and Carers Support Group at Kandos to build a Community House for the disabled subject to fees including agents fees owing to be paid by the Kids and Carers Support Group.
2. subject to the organisation becoming incorporated and if the project is not started within 5 years the land is returned to Council at no cost.

**AMENDMENT:** Cavalier / Weatherley**That:**

1. the report by the Revenue & Property Manager on the Offer to Purchase 45 Dunn Street Kandos be received;
2. Council accepts the offer as disclosed in Attachment 2 appended in the Confidential Section of this Business Paper for the purchase of Allotment 1 DP 1192154, being 45 Dunn Street Kandos;
3. the Operational Plan for 2014/2015 be amended to reflect the proposed sale proceeds of allotment 1 DP 1192154;
4. the sale proceeds of Allotment 1 DP 1192154 be transferred to the Land Development Reserve with the Operational Plan 2014/2015 amended accordingly.

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

<b>Councillors</b>	<b>Ayes</b>	<b>Nays</b>
Cr Cavalier	✓	
Cr Kennedy		✓
Cr Martens		✓
Cr Shelley		✓
Cr Thompson		✓
Cr Walker		✓
Cr Weatherley		✓
Cr Webb		✓
Cr White		✓

**AMENDMENT:** Weatherley / Walker**That:**

1. this matter be deferred until such time as the Kids and Carers Group become incorporated and they can provide

Page 3 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

\_\_\_\_\_  
Mayor\_\_\_\_\_  
General Manager

Mid-Western Regional Council

Date: 18 March 2015

Council with a copy of their constitution which will allow Council to verify their objectives and be satisfied that the project will be delivered.

2. The property be withdrawn from sale until this matter is resolved.

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

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

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

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

*As no decision was reached the matter will be referred to the next Council Meeting - Code of Meeting Practice Section 38(8).*

#### 6.1.2 OBSTRUCTION OF PRAM RAMPS IN GULGONG

GOV400022, GOV400043

That Council investigate and implement a measure to prohibit motorists from parking and obstructing the pram ramps in Mayne Street Gulgong.

*The item was withdrawn.*

Mid-Western Regional Council

Date: 18 March 2015

**6.1.3 RYLSTONE SKATE PARK**

GOV400022, GOV400043

**MOTION:** Shelley / Cavalier**That:**

1. Council put out for tender, design and construction for the Rylstone Skate Park;
2. Skate Park to be located, as in Option 1 of the previous business in Council, next to the existing playground by Rylstone Showground;
3. Council fund the Rylstone Skate Park up to, but not exceeding \$125k from capital reserves;
4. Council continue to apply for grant funding offset cost to ratepayers;

**51/15****AMENDMENT:** Thompson / Martens

**That Council consider the construction of the Rylstone Skate Park as part of the 2015/16 budget process.**

The amendment was put and carried and on being put as the motion was again carried with Councillors voting as follows:

<b>Councillors</b>	<b>Ayes</b>	<b>Nays</b>
Cr Cavalier	✓	
Cr Kennedy		✓
Cr Martens	✓	
Cr Shelley		✓
Cr Thompson	✓	
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb	✓	
Cr White	✓	

**6.1.4 BUSINESS USE OF THE FOOTPATH - RYLSTONE & KANDOS**

GOV400022, GOV400043

**52/15****MOTION:** Cavalier / Thompson**That:**

1. Council review their business use of footpath policy specifically relating to the towns of Rylstone, Kandos and Gulgong; and
2. the fee for the business use of the footpath (as per Council policy dated 18 June 2014) not be applicable for business owners in Rylstone, Kandos and Gulgong.

Page 5 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
General Manager

Mid-Western Regional Council

Date: 18 March 2015

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

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

## 6.2 REPORTS TO COUNCIL

### 6.2.1 GULGONG MEMORIAL HALL COMMITTEE

GOV400043, A0100024

**53/15 MOTION: Cavalier / Thompson**

**That:**

1. the report by the Manager, Health and Building on the Gulgong Memorial Hall Committee be received;
2. Council note the minutes from the Gulgong Memorial Hall Committee meeting held on 2nd March 2015.

The motion was carried with Councillors voting unanimously.

### 6.2.2 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING & DETERMINED

GOV400043

**54/15 MOTION: Thompson / Cavalier**

**That the report by the Director, Development on the Monthly Development Applications Processing & Determined be received.**

The motion was carried with Councillors voting unanimously.

### 6.2.3 MONTHLY BUDGET REVIEW JANUARY 2015

GOV400043, FIN300062

**55/15 MOTION: Weatherley / Cavalier**

**That the report by the Manager Finance on the Monthly Budget Review January 2015 be received.**

The motion was carried with Councillors voting unanimously.

Page 6 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

---

 Mayor

---

 General Manager

Mid-Western Regional Council

Date: 18 March 2015

## 6.2.4 FINANCIAL ASSISTANCE APPLICATIONS

GOV400043, A0140201

Councillor Shelley declared a non-pecuniary conflict of interest in Item 6.2.4 as his son is a member of the Kandos-Rylstone Amateur Boxing Club.

**56/15 MOTION: Kennedy / Cavalier**

**That:**

1. the report by the Manager Finance 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:

Goolma Public School	\$200
Twin Town Players	\$500
Mudgee Arts	\$250
Kandos-Rylstone Amateur Boxing Club	\$1000

3. Council provide an in-kind contribution to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy, subject to those requirements being met:

Kandos Kids & Carers Support Group	\$750
Karen Wilkinson	\$206
Mudgee Community Health	\$80
Gulgong Holtermann Museum	up to \$500

The motion was carried with Councillors voting unanimously.

## 6.2.5 MONTHLY STATEMENT OF INVESTMENTS AND BANK BALANCES AS AT 28 FEBRUARY 2015

GOV400043, FIN300053

**57/15 MOTION: White / Cavalier**

**That:**

1. the report by the Manager Finance on the Monthly statement of investments and bank balances as at 28 February 2015 be received;
2. the certification of the Responsible Accounting Officer be noted.

The motion was carried with Councillors voting unanimously.

---

Page 7 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

---

Mayor

---

General Manager

Mid-Western Regional Council

Date: 18 March 2015

6.2.6 LEASE TO VODAFONE NETWORK PTY LTD AT MT MISERY  
GOV400043, P2042211

58/15 MOTION: Thompson / Martens

That:

1. the report by the Revenue & Property Manager on the Lease to Vodafone Network Pty Ltd at Mt Misery be received;
2. Council accept the terms of the attached Heads of Agreement Document and enter into a new lease with Vodafone Network Pty Ltd for the Mt Misery antenna site;
3. Council authorise the General Manager to negotiate the terms of the proposed Lease agreement;
4. Council authorise the General Manager and Mayor to sign necessary documentation in relation to the Heads of Agreement and proposed Lease agreement;
5. Council authorises the Common Seal of Council to be affixed to all documentation necessary in relation to the proposed Lease agreement.

The motion was carried with Councillors voting unanimously.

6.2.7 NOISE FM PTY LTD REQUEST TO CO-LOCATE ANTENNAS  
AT COUNCIL'S FACILITIES  
GOV400043, A0070005, P2042211, P0501311

59/15 MOTION: Cavalier / White

That:

1. the report by the Revenue & Property Manager on the Noise FM Pty Ltd Request to Co-locate Antennas at Council's Facilities be received;
2. Council enters into a Licence agreement with Noise FM Pty Ltd to allow Noise FM Pty Ltd to co-locate an antenna on Council's facility at Mount Misery, Mudgee and an antenna on Council's facility at Flirtation Hill, Gulgong as specified in Attachment 2 of this Report;
3. Council approve an annual Licence fee of \$462.00 (GST inclusive) per facility, per annum, which is to be increased annually by the Consumer Price Index, for the placement of the equipment;
4. the term of the proposed initial Licence agreement be for a period of 12 months;

---

Page 8 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

---

Mayor

---

General Manager

Mid-Western Regional Council

Date: 18 March 2015

5. Council authorise the General Manager to negotiate all other terms of the proposed Licence agreement;
6. Council authorise the General Manager and Mayor to sign necessary documentation in relation to the proposed Licence agreement;
7. Council authorises the Common Seal of Council to be affixed to all documentation necessary in relation to the proposed Licence agreement.

The motion was carried with Councillors voting unanimously.

#### 6.2.9 REALIGNMENT AND ROAD CLOSURE OF PART OF GEORGE CAMPBELL DRIVE MUDGEES

GOV400043, F0470025, A0150046, P2239611

60/15

**MOTION:** Cavalier / Thompson

**That:**

1. the report by the Revenue & Property Manager on the Realignment and Road Closure of Part of George Campbell Drive Mudgee be received;
2. Council proceed with the road closure of that part of George Campbell Drive depicted as "A" on the attached plan and proceed with the road opening and dedication of the land depicted as "B" on the attached plan over part allotment 2 DP 1186687;
3. the General Manager and Mayor be authorised to sign all necessary documentation in relation to the closure of that part of George Campbell Drive and the realignment of George Campbell Drive by way of road opening and dedication;
4. Council authorises the affixing of the Common Seal to all documents necessary to complete the closure of that part of George Campbell Drive and the realignment of George Campbell Drive by way of road opening and dedication.

The motion was carried with Councillors voting unanimously.

#### 6.2.10 TENDER FOR THE PANEL - SUPPLY AND DELIVERY OF ROAD SAFETY BARRIER SYSTEMS - T441415HUN

GOV400043, GOR500017

61/15

**MOTION:** Walker / Cavalier

**That:**

1. the report by the Procurement Manager on the Tender for the panel - supply and delivery of road safety barrier systems - T441415HUN be received;

Page 9 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
General Manager

Mid-Western Regional Council

Date: 18 March 2015

2. Council accept Category 2 – Supply only panel with Ingal Civil, A1 Highways and Roadworks as suppliers;
3. Provision be allowed for a 12 month extension based on satisfactory supplier performance which may take this through to the 31 March 2018.

The motion was carried with Councillors voting unanimously.

6.2.11 ADDITIONAL SUPPLIER - RFT 2013/04 GENERAL  
CONTRACTORS PREFERRED SUPPLIER – MUDGEES  
COMPLETE SERVICES

GOV400043, A0411304, COR400049

62/15 MOTION: White / Cavalier

That:

1. The report by the Procurement Manager on the Additional Supplier - RFT 2013/04 General Contractors Preferred Supplier - Mudgee Complete Services be received;
2. Council accepts the additional supplier for Tender 2013/04 for the provision of General Contractors;

Contractor: Mudgee Complete Services  
Services Provided: General Building Work, Ceramic Tiling and Labour Hire

The motion was carried with Councillors voting unanimously.

6.2.12 CLASSIFICATION OF LAND – LOT 35 DP 1199766 DRAINAGE  
RESERVE 6A SAWYERS PLACE MUDGEES

GOV400043, A0210007, P2318311

63/15 MOTION: Weatherley / Shelley

That:

1. the report by the Revenue & Property Manager on the Classification of Land – Lot 35 DP 1199766 Drainage Reserve 6A Sawyers Place Mudgee be received;
2. Council notify the public of its intention to classify Lot 35 DP 1199766 as Operational by exhibiting the proposal for 28 days and should there be no submissions from the public, the land be so classified as Operational.

The motion was carried with Councillors voting unanimously.



Mid-Western Regional Council

Date: 18 March 2015

## 6.2.13 CULTURAL DEVELOPMENT COMMITTEE

GOV400043, A0420172

**64/15 MOTION: Shelley / Martens****That:**

1. the report by the Director, Community on the Cultural Development Committee be received;
2. Council note the minutes of the Cultural Development Committee meeting held on 11 February 2015.

The motion was carried with Councillors voting unanimously.

## 6.2.14 GULGONG BANNER DESIGNS

GOV400043, A0310032

**65/15 MOTION: Cavalier / Thompson****That:**

1. the report by the Director, Community on the Gulgong Banner Designs be received;
2. Council resolve to place the two design proposals for generic Gulgong banners on public exhibition for a period of 14 days to seek community feedback.

The motion was carried with Councillors voting unanimously.

## 6.2.15 COMPARATIVE INFORMATION ON NSW COUNCILS

GOV400043, A0170031

**66/15 MOTION: Cavalier / White****That Council receive the report by the Director, Community on the Comparative Information on NSW Councils.**

The motion was carried with Councillors voting unanimously.

## 6.2.16 PUBLIC ART PLAN

GOV400043, COU500009

**67/15 MOTION: Weatherley / White****That:**

1. the report by the Director, Community on the Public Art Plan be received;
2. Council place the Public Art Plan on public exhibition for 28 days to seek comment and input from the community.

The motion was carried with Councillors voting unanimously.

Page 11 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

\_\_\_\_\_  
Mayor\_\_\_\_\_  
General Manager

Mid-Western Regional Council

Date: 18 March 2015

## 6.2.17 MUDGEES SPORTS COUNCIL

GOV400043, A0100013

68/15 MOTION: Thompson / Weatherley

That:

1. the report by the Director, Community on the Mudgee Sports Council be received;
2. That the minutes for the Mudgee Sports Council ordinary monthly meeting held on 2 February 2015 and 23 February 2015 be noted.

The motion was carried with Councillors voting unanimously.

## 6.2.18 CLARKES CREEK ROAD, WINDEYER

GOV400043, R0074001

69/15 MOTION: Cavalier / White

That:

1. the report by the Business Manager Works on the Clarkes Creek Road, Windeyer be received;
2. Council do not undertake maintenance works on the unmaintained section on Clarkes Creek Road, Windeyer.

The motion was carried with Councillors voting unanimously.

6.2.19 ULAN ROAD UPGRADE – INVESTIGATION & DESIGN  
CONTRACT – VARIATIONS TO CONTRACT

GOV400043, COR400061

Councillor Webb declared a non-pecuniary conflict of interest in Item 6.2.19 as he owns property in the vicinity of the proposed Ulan Road works, left the meeting at 7.04pm, and did not participate in discussion or vote in relation to this matter.

70/15 MOTION: Shelley / Cavalier

That:

1. the report by the Senior Works Engineer on the Ulan Road Upgrade – Investigation & Design Contract – Variations to Contract be received;
2. Council accepts GHD Pty Ltd (GHD) October 2014 – February 2015 Variations to Contract 2014/01 for the Investigation and Design of the Ulan Road Upgrade to the value of \$27,215.00 excl. GST; and
3. Council delegate authority to the General Manager to approve any additional variations up to a further 5% of the amended contract value of \$384,460 excl. GST.

Page 12 of the Minutes of the Ordinary Meeting of Council held on Wednesday 18 March 2015.

---

 Mayor

---

 General Manager

Mid-Western Regional Council

Date: 18 March 2015

The motion was carried with Councillors voting unanimously.

Councillor Webb returned to the meeting at 7.05pm.

The following recommendations were adopted as a whole, being moved by Cr Shelley, seconded by Cr Walker and carried with Councillors voting unanimously. Each recommendation is recorded with a separate resolution number commencing at Resolution No.71/15 and concluding with Resolution No. 75/15.

- 6.2.20 Local Traffic Committee Minutes of Meeting held 13 February 2015
- 6.2.21 Rylstone Kandos Flood Study & Committee
- 6.2.22 Mudgee Saleyards Management Committee
- 6.2.23 Mudgee Showground Management Committee
- 6.2.25 Restart NSW Deed – Wollar Road

6.2.20 LOCAL TRAFFIC COMMITTEE MINUTES OF MEETING HELD  
13 FEBRUARY 2015

GOV400043, A0100009

71/15 MOTION: Shelley / Walker

That the report by the Director, Operations on the Local Traffic Committee Minutes of Meeting held 13 February 2015, items 15/01 – 15/06 be received; accepted and endorsed.

6.2.21 RYLSTONE KANDOS FLOOD STUDY & COMMITTEE

GOV400043, WAT500052

72/15 MOTION: Shelley / Walker

That:

1. the report by the Director, Operations on the Rylstone Kandos Flood Management Committee be received;
2. Council endorse the recommendations of the Rylstone Kandos Flood Management Committee as detailed in the meeting minutes;
3. Council adopt The Flood Study for Kandos and Rylstone.

6.2.22 MUDGEE SALEYARDS MANAGEMENT COMMITTEE

GOV400043, F0720036

73/15 MOTION: Shelley / Walker

That:

1. the report by the Director, Operations on the Mudgee Saleyards Management Committee be received;

Mid-Western Regional Council

Date: 18 March 2015

2. the minutes for the Mudgee Saleyards Management Committee ordinary bi-monthly meeting held 12th February 2015 be noted.

## 6.2.23 MUDGEE SHOWGROUND MANAGEMENT COMMITTEE

GOV400043, F0650007

74/15 MOTION: Shelley / Walker

That:

1. the report by the Director, Operations on the Mudgee Showground Management Committee be received;
2. the minutes for the Mudgee Saleyards Management Committee ordinary bi-monthly meeting held on 9th October 2014 be noted.

## 6.2.25 RESTART NSW DEED – WOLLAR ROAD

GOV400043, GRA600029

75/15 MOTION: Shelley / Walker

That:

1. the report by the Director Corporate on the Restart NSW Deed – Wollar Road be received; and
2. Council authorise the Mayor and General Manager to affix the common seal of Council to the Restart NSW Deed for the Wollar Road Upgrade.

## 6.2.24 MRTI QUARTERLY REPORT DECEMBER 2014

GOV400043, F0770077

Councillor White declared a pecuniary conflict of interest in Item 6.2.24 as MRTI is a financial member of Central NSW Tourism, her employer, left the room at 7.06pm, did not participate in discussion or vote in relation to this matter.

76/15 MOTION: Shelley / Martens

That the report by the General Manager on the MRTI Quarterly Report December 2014 be received.

The motion was carried with Councillors voting unanimously.

Councillor White returned to the meeting at 7.07pm.

**Item 7: Urgent Business Without Notice**

Nil.

Mid-Western Regional Council

Date: 18 March 2015

**Item 8: Confidential Session****77/15 MOTION: Weatherley / Martens**

**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: Triamble Road Realignment**

*The reason for dealing with this matter confidentially is that it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, in accordance with Section 10A(2)(c) of the Local Government Act, 1993.*

*Discussion of this matter in an open meeting would be, on balance, contrary to public interest as it involves negotiations on the purchase of land.*

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 Triamble Road Re-alignment**

GOV400043, R4008001

**78/15 MOTION: Walker / Weatherley**

**That Council put forward a formal proposal, to resolve the Triamble Road issue, to the Government including a project plan, design and estimated cost of the preferred project.**

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	✓	

Mid-Western Regional Council

Date: 18 March 2015

**Item 9: Open Council**

**79/15 MOTION: Shelley / Thompson**

**That the Council move to Open Council.**

The motion was carried with Councillors voting unanimously.

The General Manager announced the decisions taken in Confidential Session.

**Closure**

There being no further business the meeting concluded at 7.20pm.

## Item 4: Matters in Progress

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.	<b>No determination as yet.</b>
		Council allocate \$130,000 towards regional-wide new or upgraded footpath and cycleway infrastructure in the region and that staff prepare a report for the July meeting to recommend priorities for the expenditure of these funds.	<b>Council staff have engaged a consultant to prepare a Pedestrian Access Mobility Plan (PAMP). Following this report, a priority list will be prepared for Council's consideration.</b>
Saleyards subdivision	Res 228/14 Ordinary Mtg 4/6/14	That: 2. Council advertise state-wide a tender to sell the former Saleyards site, known as Lot 2 DP534336, Lot 399 DP132580, and Lot 532 DP1132581 which has recently been approved for a 48 lot residential subdivision; 3. all tenders be forwarded to Council for determination as to whether or not Council will sell the site; 4. the tender process to last 60 days, and the tender notice clearly indicate that Council may not necessarily accept all or any tenders; 5. Council demolish the old SES building prior to the public tender of this subdivision and remove all demolished waste from site.	<b>Council has completed the demolition of the old SES building, and the survey of the subdivision is also complete.</b>  <b>Further discussion with Council to decide the best timing to call for a tender of this subdivision.</b>

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Completion of Banner Poles	Res. 411/14 Ordinary Mtg 17/9/14	<ol style="list-style-type: none"> <li>1. Council purchase six banner poles for Gulgong at a cost of approximately \$6000 to be funded from the strategic projects provisions.</li> <li>2. Council allocate \$3000 to produce generic banners for the town of Gulgong to be used at times where community organisations are not utilising the banner poles.</li> <li>3. Council put banner designs on public exhibition for a period of 14 days for the purpose of seeking community feedback, prior to the banners being produced.</li> </ol>	<b>Council to seek feedback on the design of a generic banner. The design will then go on public exhibition. This closes 9 January 2015. A report will be presented to February Council meeting.</b>
Rylstone Skate Park	Res. 426/14 Ordinary Mtg 17/9/14	<ol style="list-style-type: none"> <li>1. Council support the construction of a skate park at Rylstone.</li> <li>2. Council seek grant funding for this project.</li> </ol>	<b>Awaiting outcome of grant funding applications.</b>
Rylstone Pedestrian Bridge Tender Process	Res. 530/14 Ordinary Mtg 3/12/14	<ol style="list-style-type: none"> <li>2. Council accepts the recommendation for the Senior Works Engineer to request the following companies to tender for the work: <ul style="list-style-type: none"> <li>• Waegar Constructions Pty Ltd</li> <li>• Steelworks Engineering Pty Ltd</li> <li>• Fleetwood Urban Pty Ltd</li> <li>• J&amp;R Industries</li> <li>• Wagners CFT Manufacturing Pty Ltd</li> </ul> </li> <li>3. The unsuccessful applicants be notified that their applications were unsuccessful.</li> <li>4. The 2014/15 Operational Plan be amended to include \$150,000, which is brought forward from the 2015/16 budget</li> </ol>	<b>Council to call for tenders for Rylstone Pedestrian Bridge and report costs back to Council</b>



SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Rural Fire Service Headquarters and Museum	565/14 Ordinary Mtg 17/12/14	3. That the General Manager be authorised to continue negotiations with the Rural Fire Service in order to subdivide the necessary 7100sm of land and negotiate an agreement for the timing, design and funding of the Rural Fire Service headquarters and museum at Mudgee.	<b>The General Manager has had a preliminary meeting with the RFS. They have confirmed they are happy with the 7,100 sm of land, and the timing of construction is 2 years away.</b>
Tender for cleaning services for Council buildings in the Mudgee/ Gulgong region	572/14 Ordinary Mtg 17/12/14	2. That Council not accept any tenders and delegate authority to the General Manager to negotiate with the tenderers as necessary.	<b>Council staff are undertaking a comparison of in-house versus external service provision.</b>
Glen Willow Scoreboard	7/15 Extraordinary Mtg 4/2/15	<ol style="list-style-type: none"> <li>1. Council accept the offer from the Mudgee Sports Council to provide the funding (estimated to be approximately \$12,000) for a replacement electronic scoreboard at Glen Willow Regional Sports Complex;</li> <li>2. Council agree to fund the reimbursement of the funds provided by the Mudgee Sports Council for the electronic scoreboard and these funds be included in the budget for 2015/16.</li> </ol>	<b>Council need to include the costs in next year's budget to reimburse the Mudgee Sports Council.</b>
Reseal of Mayne , Herbert and Medley Streets in Gulgong	1/15 Extraordinary Mtg 4/2/15	<ol style="list-style-type: none"> <li>1. the \$155,000 allocated in the 2014/15 Operational Plan for Mayne Street, Gulgong for asphalt works be removed with funds to be reallocated to higher priority roadworks as part of the March 2015 Quarterly Budget Review;</li> <li>2. Council note the concerns of the residents of Gulgong and take those concerns into account when doing any further work in the Gulgong CBD.</li> </ol>	<b>A report will be brought back to Council after the March QBR to determine the roadworks that need to be completed.</b>

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Requests for variations to water and sewer contributions	16/15 Ordinary Mtg 18/2/15	<p>That:</p> <p>2. Condition 44 of MI0011/2013 for the child care centre on Lot 2 DP 844678 being 26 Melton Road Mudgee be reduced by the sum of \$36,639.80 and condition 44 relating to the residential component of the development be amended to read as follows:</p> <p>(a) Payment of a contribution for water and sewerage headworks at the following rate for 1 additional lot:</p> <p style="margin-left: 40px;">Water headworks \$3,917 Sewer headworks \$3,400 <b>Total: \$7,317</b></p> <p>5. That the intention to waive a fee of \$36,639.80 be placed on public exhibition for 28 days and the matter be brought back to Council.</p>	<b>Currently on exhibition</b>
Fit for the Future Program	23/15 Ordinary Mtg 18/2/15	2. That a Councillor workshop be held during April to participate in the development of Council's Improvement Proposal.	<b>Workshop to be scheduled and attended by Councillors.</b>
Kandos Centenary Working Party	39/15 Ordinary Mtg 18/2/15	5. That Council proceed to formally dissolve the Kandos Centenary Working Party as a Section 355 Committee of Council.	<b>A report will be presented at the May Council meeting.</b>
Council Contributions	44/15 Ordinary Mtg 18/2/15	That a discussion paper be prepared in relation to Council contributions and presented to Councillors at the April workshop, so that Councillors can consider how to best assist applicants who demonstrate an economic and social need.	<b>Council will be presented with options at the April workshop.</b>

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Rylstone Skate Park	51/15 Ordinary Mtg 18/3/15	That Council consider the construction of the Rylstone Skate Park as part of the 2015/16 budget process.	<b>This is included as a Community Plan proposal in the 2015/16 budget.</b>  <b>RECOMMEND COMPLETION</b>
Gulgong Banner Designs	65/15 Ordinary Mtg 18/3/15	That: 3. Council resolve to place the two design proposals for generic Gulgong banners on public exhibition for a period of 14 days to seek community feedback.	<b>A report will be presented at the May Council meeting.</b>
Public Art Plan	67/15 Ordinary Mtg 18/3/15	That: 2. Council place the Public Art Plan on public exhibition for 28 days to seek comment and input from the community.	<b>A report will be presented at the May Council meeting.</b>

## Item 5: Mayoral Minute

---

### 5.1.1 Additional Ordinary Council Meeting – May 2015

MAYORAL MINUTE TO 15 APRIL 2015 COUNCIL MEETING

Additional Council Ordinary meeting in May

GOV400043, GOV400020

#### **RECOMMENDATION**

**That an additional Ordinary Council meeting be held on 6 May 2015 commencing with Open Day at 5:30pm.**

---

Council's current schedule of meeting dates includes an Ordinary Council Meeting on Wednesday 20 May 2015 and Wednesday 17 June 2015.

Section 405 of the Local Government Act 1993 requires Council to place its draft Operational Plan on public exhibition for a minimum of 28 days. As there are only 28 days falling between the May and June meetings, an additional meeting in early May is required where Council will consider endorsement of the draft Operational Plan 2015/16 to go on public exhibition, with a view to considering submissions and adopting the final Operational Plan at the Ordinary Council Meeting of 17 June 2015.

In accordance with Section 9 of the Act, and Regulation 232 of the Local Government (General) Regulation 2005, a notice of the meeting will be published in the local newspaper prior to the meeting, specifying the time and place of the meeting.



CR DES KENNEDY  
MAYOR

31 March 2015

## Item 6: General Business

---

### 6.1 Notices of Motion

---

#### 6.1.1 Business Use of Footpath Policy

LISTED BY CR PERCY THOMPSON TO 15 APRIL 2015 COUNCIL MEETING

Business Use of Footpath Policy

GOV400022, GOV400043

**MOTION**

That Council not charge fees for footpath signs and dining in Mudjee, effective 1 July 2015.

**BACKGROUND**

Council has already voted not to charge Rylstone, Kandos and Gulgong. There are plenty of businesses in Mudjee that are struggling as well as in those towns and all businesses should be treated equally in the region.

#### Comments by General Manager

Council needs to understand that Council Staff will still need to inspect both the signage and locations of footpath dining in all towns to ensure it complies to our policy.

## 6.2 Reports

---

### 6.2.1 DA0260/2015, Change of use - Shed to Dual Occupancy @ 809 Old Grattai Road GRATTAI NSW 2850

REPORT BY THE SENIOR TOWN PLANNER TO 15 APRIL 2015 COUNCIL MEETING  
Development application 0260-2015 change of use shed to a dual occupancy  
GOV400043, DA0260/2015

#### RECOMMENDATION

That:

1. The report by the Senior Town Planner on Development Application 0260/2015 for the change of use shed to dual occupancy Lot 1 DP 584930 at 809 Old Grattai Road be received;
2. That Development Application 0260/2015 for the change of use shed to dual occupancy Lot 1 DP 584930 at 809 Old Grattai Road be approved subject to the following conditions:

#### APPROVED DEVELOPMENT

1. The development is to be carried out in accordance with the approved stamped plans and application received by Council 10 March 2015, except as otherwise provided by the conditions of this determination (Note: modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

#### GENERAL

2. The requirements of BASIX Certificate number 615250S issued on 9 March 2015 must be installed and/or completed in accordance with the commitments contained in that certificate. Any alteration to those commitments will require the submission of an amended BASIX Certificate to the Council and/or the Principal Certifying Authority prior to the commencement of the alteration/s
3. A minimum of 45,000 litres of domestic water storage is to be provided for the dual occupancy (second dwelling).

#### PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

4. Prior to the occupation of the second dwelling (dual occupancy), an Occupation Certificate is to be obtained from Council.
5. A Building Certificate for the fit out of the shed for residential purposes is to be obtained within three (3) months of the date of this consent and prior to the issue of an Occupation Certificate.

6. **The owner is to apply for a Building Certificate addressing the following matters;**
1. **Engineer's certification for the structural adequacy of the building making reference to the AS1170 series.**
  2. **Engineer's certification for the timber and wire balustrades and their compliance with Performance Requirement (PR) 2.5.1 and/or Part 3.9.2 of Volume 2 of the BCA.**
  3. **Engineer's certification stating that the building complies with Part 3.12 'Energy Efficiency' of the BCA**
  4. **Licensed Builder to certify the installation of the solid-fuel burning fire place to PR2.3.3 and/or Part 3.7.3 of the BCA.**
  5. **Interconnected smoke alarm to be installed within the ground floor storage area in accordance with Part 3.7.2.4 of the BCA – Certification is required from a licensed electrician.**

---

## Executive summary

<b>APPLICANT:</b>	<b>JOANNA CATHERINE BURNSTEIN</b>
<b>ESTIMATED COST OF DEVELOPMENT:</b>	\$0.00
<b>REASON FOR REPORTING TO COUNCIL:</b>	CALLED UP BY COUNCILLORS
<b>PUBLIC SUBMISSIONS:</b>	1
<b>LOT/DP</b>	LOT 1 DP 584930

The proposed development relates to the use of an existing shed as a dwelling. As there is already a dwelling onsite, the development will become a dual occupancy.

After an inspection of the site, it was observed that shed was converted into and is being used as dwelling. The applicant is now seeking consent for the use as a dwelling.

The builder acting on behalf of the applicant stated the shed was constructed as exempt development. After a review Mid-Western Regional Interim Local Environmental Plan 2008 – Schedule 2, the subject shed could have been constructed as exempt development. Council approved an on-site sewage management system for the shed in January 2009.

The application was notified in accordance with Mid-Western Regional Development Control Plan 2013 (MWRDCP 2013) one submission was received. The submission raised the following issues; inconsistency with zone objective, visibility of the structure, currently being used as a dwelling, social effects, impact on the road network, potential dog attacks, location of dog kennels, noise.

The application is permissible with the consent of Council in the RU1 Primary Production Zone and consistent with Clause 6.1 of the Development Control Plan 2013.

The application is referred to Council for determination at the request of some Councillors.

The application is recommended for approval subject to conditions included within the recommendation and the lodgement and approval of a building certificate.

## Detailed report

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.

### *REQUIREMENTS OF REGULATIONS AND POLICIES:*

#### **State Environmental Planning Policy (Rural Lands) 2008**

The proposed use of the shed as a dwelling is generally consistent with Part 2 Rural Planning Principles as the current agricultural pursuit will be maintained.

Clause 10(3) Matters to be considered in determining development application for rural subdivisions or rural dwellings has been considered below -

*(3) The following matters are to be taken into account:*

*(a) the existing uses and approved uses of land in the vicinity of the development,*

The adjoining land has been developed with dwellings and small scale agricultural activity, the proposed use of an existing shed will have negligible impact upon land in the vicinity.

*(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*

The proposal is not considered to have significant impact on the predominant land uses in the vicinity – that being a variety of small scale agricultural activities.

*(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*

The use is not considered to be inconsistent with land uses developed in the locality.

*(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*

The proposal achieves the minimum setback of 20 metres and is located in close proximity to the existing dwelling and is therefore considered compatible.

#### **State Environmental Planning Policy No 55—Remediation of Land**

The proposal involves the use of an existing shed, no earthworks are proposed.

#### **Mid-Western Regional Local Environmental Plan 2012**

The land is zoned RU1 Primary Production pursuant to the Mid-Western Regional Local Environmental Plan 2012. The proposed use as a dual occupancy is considered to be consistent with the relevant objectives as it will not detrimentally impact upon the current agricultural activity taking place onsite.

#### **Clause 4.2A erection of dwelling houses and dual occupancies on land in certain zones has been considered below –**

*(3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land in a zone to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land:*



*(b) is a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement, or*

The subject site was created by a Council approved subdivision 19/1976 with the plan registered on 17 June 1976. The development consent issued 6 April 1979 specifically refers to the erection of dwellings on the future lots. The erection of a dwelling house or dual occupancy was permissible in accordance with Clause 20(3)(i) of the Mudgee Local Environmental Plan 1998.

(4) Development consent may be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.

#### **Clause 4.3 – Height of Buildings**

There is no specific building height for this site.

#### **Clause 5.10 - Heritage Conservation**

The land is not subject to any listing under the LEP or within a conservation area. The land is considered to be sensitive from an indigenous cultural heritage perspective as identified by Council's mapping. There are no known artefacts within close proximity. However a condition is included within the recommendation for any future ancillary earthworks that may occur on the site.

#### **Clause 6.1 – Salinity**

The proposal does not involve construction.

#### **Clause 6.4 - Groundwater Vulnerability**

The land is considered to be partially groundwater vulnerable but the proposed development is considered to have a negligible impact on groundwater and would not pose any risk to groundwater contamination.

#### **Clause 6.9 - Essential Services**

Essential services are available to the site including electricity and telephone; however due to the sites location reticulated sewer and water are not available. An onsite sewerage management system was approved by Council in 2009 and rainwater tanks exists onsite.

### **Mid-Western Regional Development Control Plan 2013**

#### **Part 6.1 Development in Rural Areas – Setbacks**

For sites located within the RU1 zone, the following setbacks are stipulated; 60 metre front and 20 metre side. The structure is located 20 metres from the side setback and approximately 700 metres from the front setback, therefore the proposal is consistent with this requirement.

#### *IMPACT OF DEVELOPMENT*

#### **Context and Setting**

The subject site is located to the south west of the town of Mudgee, on the western side of the Avisford National Park range. The area is generally established with a variety of agricultural activity and rural dwellings.

#### **Access, transport and traffic**

The subject site has frontage to Old Grattai Creek Road, a Council maintained gravel road. The development application does not include any additional access.

#### **Utilities**

Electricity and telephone are connected at the site, however due to the sites location reticulated sewer and water are not available. An onsite sewer management system has been approved by Council and rainwater tanks exist.

**Heritage**

The land is not subject to any listing under the LEP or within a conservation area. The land is considered to be sensitive from an indigenous cultural heritage perspective as identified by Council's mapping, therefore a suitable condition is included within the recommendation regarding any future earthworks onsite.

**Water**

Rainwater tanks have been provided onsite, however a suitable condition has been included within the recommendation regarding the provision of a rainwater tank.

**Flora & fauna**

The proposal does not involve the disturbance of any flora or fauna.

**Waste**

Council's waste transfer station can be utilised for the disposal of domestic waste.

**Energy**

A BASIX certificate has been provided with the application. The structure achieves the water, thermal comfort and energy targets. A suitable condition has been included within the recommendation stipulating the BASIX certificate number.

**Noise & vibration**

Any future noise generated from the structure used as a dual occupancy is considered to be in line with that expected in the setting. The closest dwelling is located approximately 380 metres from the subject site.

**Natural Hazards**

The subject site is not bushfire prone.

**Site design and internal design**

The structure is located within approximately 35 metres from the existing dwelling onsite, utilising the existing vehicular access. Therefore the use as a dual occupancy is considered appropriate as there will be minimal impact upon the existing agricultural activity occurring onsite.

*SUITABILITY OF SITE FOR DEVELOPMENT***Does the proposal fit in the locality**

The immediate adjoining locality is generally characterised by lots measuring approximately 40 hectares in size developed with single dwellings and small scale agricultural activity. The proposal will not limit or negatively impact upon the agricultural activity occurring onsite or in the immediate locality.

**Are the site attributes conducive to development**

The structure is located within close proximity to the existing dwelling and will utilise the existing vehicular access from Old Grattai Creek Road, therefore the site attributes are conducive to the development as a dual occupancy.

*SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS***Public Submissions**

The development application was notified to neighbours one (1) submission of objection was received and have been summarised in the table below and a copy of the submission attached.

<b>Issue raised</b>	<b>Staff comment</b>
Plans and the Statement of Environmental Effects are not signed or dated.	The documents were prepared by the builder on behalf of the applicant. His name appears on the site plan, however due to copying (before it was submitted) is hard to read on the floor plan.

<b>Issue raised</b>	<b>Staff comment</b>
The application refers to a 'serviced apartment'.	The application was originally lodged as a 'serviced apartment' and then amended to seek consent as a 'dual occupancy'. The application was notified as a dual occupancy. This was specifically explained to the neighbour during a meeting at Council on the 24 March 2015.
It is not a proposal the dwelling is exists onsite.	Council has advised to cease using the structure until the application has been determined. The applicant is seeking consent for the use of the structure as a dwelling. Council has adopted this approach with other developments.
The structure did not receive development consent.	Council reviewed the 'exempt' provisions in force at the time (Mid-Western Regional Interim Local Environmental Plan 2008 Schedule 2); sheds of this size were considered exempt development.
Inconsistent with the RU1 Primary Production Objectives	The proposed development; the use of the existing structure is considered consistent with the zone objectives as the use will not impact upon the continuation of the agricultural activity onsite.
Structure is visible from the dwelling on the adjoining property	The structure is located approximately 380 metres. Yes the structure is visible, however consistent with the DCP setbacks. It should be noted a landowner could build a shed only 10 metres from a side setbacks pursuant to Subdivision 16 Farm Buildings of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
The landowner did not communicate the intention for the structure.	This is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.
The statement 'aim is converting' is misleading.	The landowners may have in fact been using the structure as a dwelling. However Council is now considering the use as a dwelling. Previous unauthorised use does not influence the staff recommendation.
Use as a dual occupancy will create 'social effects' on the locals.	The structure is located approximately 35 metres from the existing dwelling. Due to the structures close proximity to the existing dwelling any 'social effects' can be managed by the landowner.
Impacts on Old Grattai Road by future road users.	The use of the road by the motorist and their driving ability is not a consideration under Section 79C of the Environmental Planning and Assessment Act 1979. As far as additional traffic generated; the additional movements are considered to have negligible impacts.
Potential dog attacks on stock	The Companion Animals Act 1998 provides the specific requirements in relation to the keeping of animals. Any issues in the future can be dealt with by Council's Ranger.
Future location of dog kennels on boundaries	The proposal does not include any dog kennels. Subdivision 3A Animal shelters of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 allows the construction of animals shelters at 450mm from a side boundary (there are further development standards can that can be discussed in detail with a tenant or landowner in the future).
Potential noise generation from motor bike use.	The application does not seek consent for any commercial motor bike use. The riding of motor bikes by residents does not require the consent of Council.

### **Submissions from public authorities**

No submissions.

*THE PUBLIC INTEREST***Federal, State and local government interests and community interests**

The public interest is served by development compliance with Council plans and policies.

There were no political donations reported as part of the development application Health & Building

**Health and Building**

Standard conditions included within the recommendation.

**Financial and Operational Plan implications**

Not applicable.

**Community Plan implications**

The assessment of the development application sits under theme 1 Looking after our Community, Goal 1.1 – A safe and Healthy Community.



CATHERINE VAN LAEREN  
DIRECTOR, DEVELOPMENT

SARAH ARMSTRONG  
SENIOR TOWN PLANNER

1 April 2015

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER

*Attachments:*

1. Locality Plan
2. Site and floor plan
3. Submission

ATTACHMENT 1



Map Scale: 1:12,500

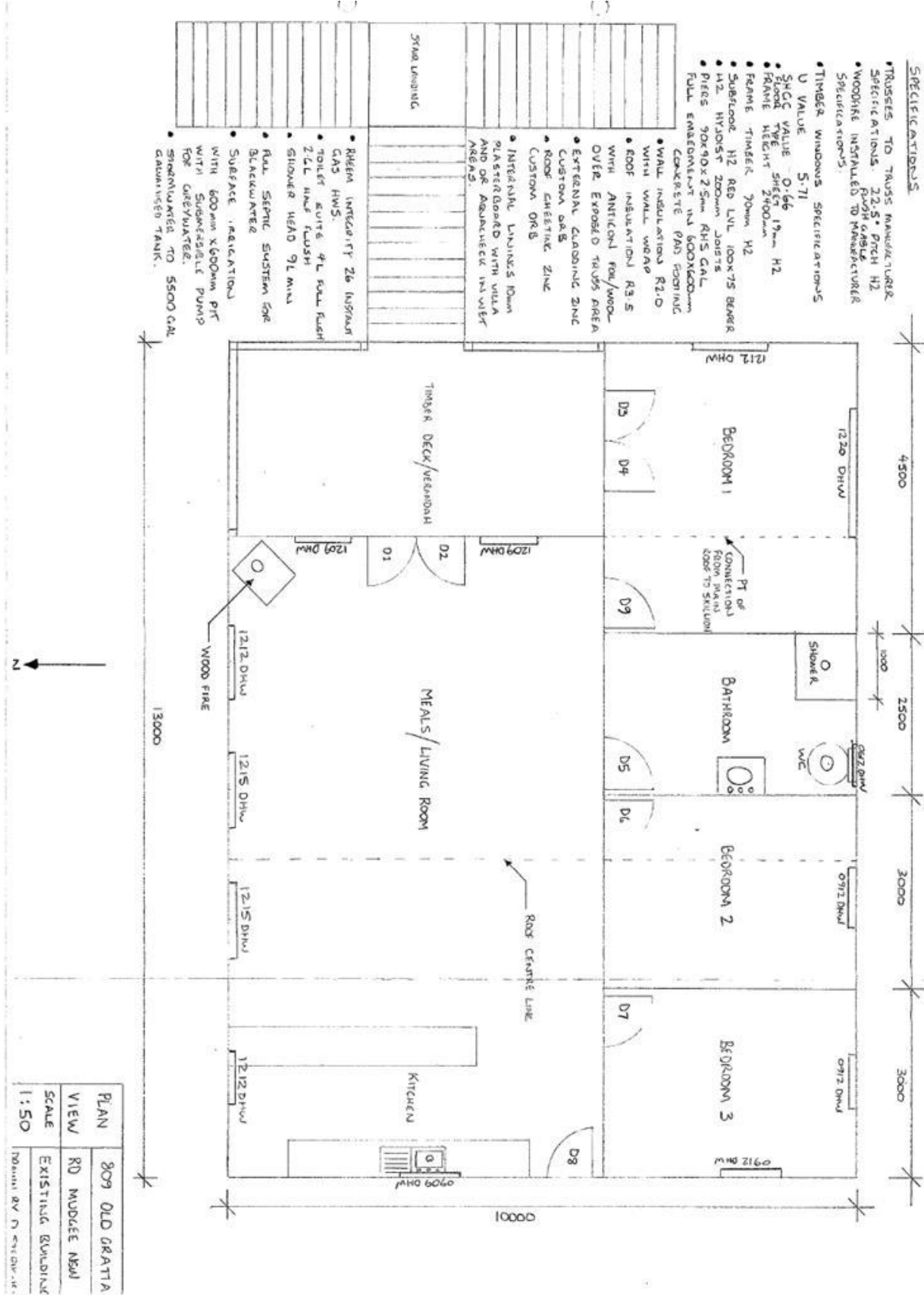


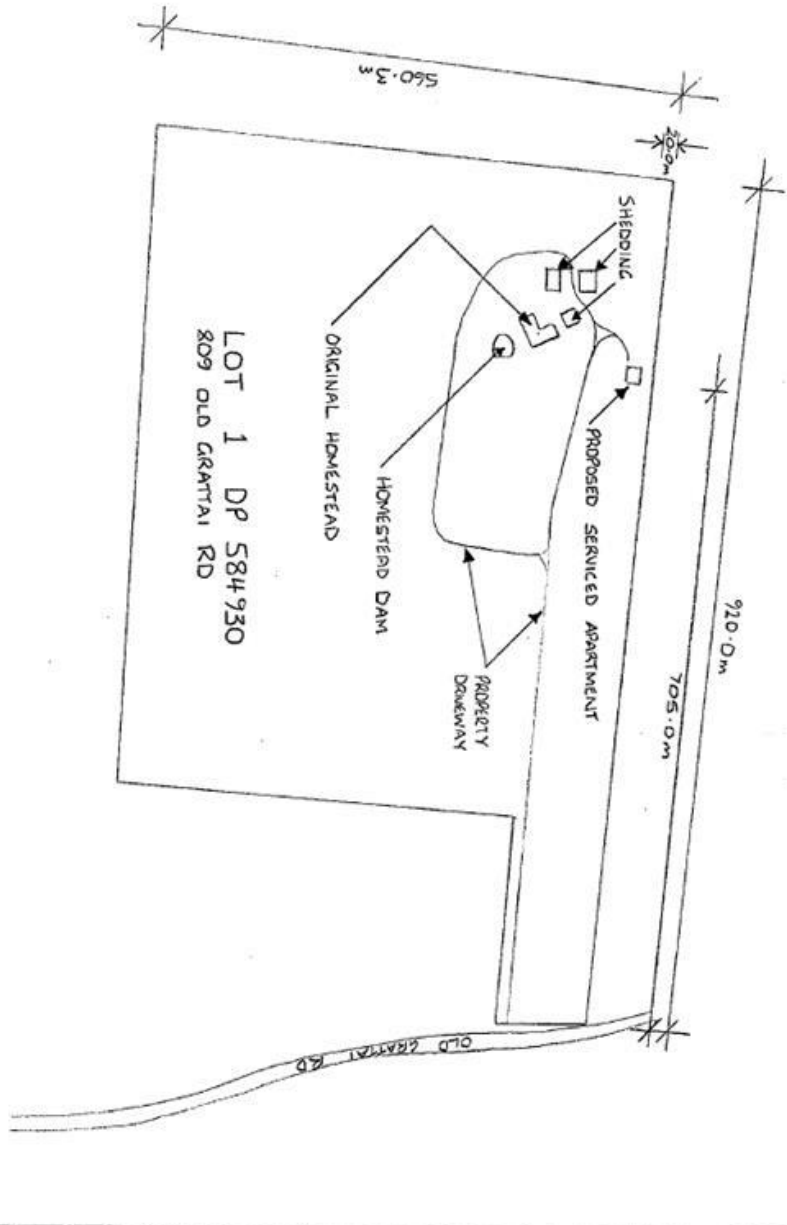
**Development Application: DA0260/2015**  
**Property Address: 809 Old Grattai Road**  
**Legal Description: Lot 1 DP 584930**



Wednesday, 1 April 2015

ATTACHMENT 2





N

DWG. N <sup>o</sup>	809 OLD GRATTAI
2 A	RD MUDGEES NSW
SCALE	EXISTING, DWTLLING
1:5000	
in metres	DRAWN BY D. STEPHENSON

## ATTACHMENT 3

851 Old Grattai Road  
Mudgee NSW 2850  
March 26<sup>th</sup> 2015

General Manager  
Mid Western Regional Council

Response to

**Development Application DA0260/2015 – Proposed change of use – Shed to Dual Occupancy @ 809 Old Grattai Road Grattai NSW 2850 Lot 1 DP 584930**

Dear Sir

Thank you for the Notification of the above DA

I have a copy of the **Statement of Environmental effects**, as part of the DA

I have a copy of the Plans specifications, both referred to as 'Existing building' and 'Existing dwelling'.

Firstly I wish to make some points in regards to these documents, and have some questions:

Neither of these documents are dated or signed/identified. So I have no verification of when or by whom, these were drawn up. Could I please have this information?

The **Statement** refers to an 'application for a 3 bedroom 'serviced apartment' approval.

In the above title heading, this building is referred to and described as a '**Shed**' to have a proposed change of use to a **Dual Occupancy**.

There is a discrepancy. Is the 'proposed use' of the '**Shed**' to be a serviced apartment or a dual occupancy building?

For the time being, I will read Dual Occupancy when Serviced Apartment is mentioned.

The '**shed**' did not meet the Schedule 2 Exempt Development (Interim LEP 2008) standards, where it states the 'structure to be used for storage of materials, feed and machinery only'. It was accommodation from the outset.

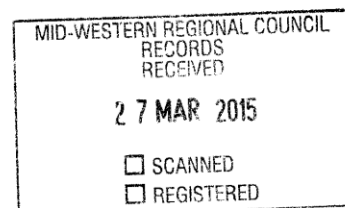
I submit some comments regarding the application for Dual Occupancy:

Please refer to the **Statement of Environmental effects**:

Heading 3 **Previous use:**

'Regarding the specific site for the 'proposed' dwelling,

This is not '**proposed**', this dwelling is already built on the site!





This **existing** building was purpose built by the owners for self contained accommodation, at least 7 years ago, without Council oversight or Development Application. It has been used for accommodation for both private and business use, refer to Mudgee Tourism, Accommodation listings, from the outset.

To be referenced as 'proposed' is misleading.

This point should be taken into consideration when making your assessment.

#### Heading 4 **Local impacts**

'Will not impact on the local area in any significant way'

There will be local impacts whether it is a serviced apartment or a dual occupancy, the latter will also allow the use for long term rental to become a possibility.

I bought into this area specifically for its quiet location, rural aspect and distance from urban development, I did not want to live in an urban environment.

The RU1 Primary Production Zone actively promotes this in its 'Objectives of Zone'.

References to 'visual amenity', 'unique rural character' and 'minimise conflict between land uses' all support my love of living in this area.

I now have a building adjacent to my boundary that, is now deemed an *existing building*.

\* If a DA had been applied for, in the first place all those years ago, and the true proposed use of the build been declared, I would have had the ability to make any objections as to its position and any impact on my farm or visual amenity at that time.

When the build became apparent years ago, in one of my discussions with the neighbour, he promised trees to soften the impact of the corrugated iron building that had become visible from my house. There was an agreement by him to plant trees, to date there are a few small scrappy, kangaroo/weather affected trees in place which in no way camouflages the building. This building is just below a ridgeline but is clearly visible from my house, which before I had an uninterrupted rural view.

The need for a fenced and irrigated substantial tree grove, to ensure optimal growth, and therefore screen the sight of the building from my house, is a requirement that I would hope for, when the final decision is made as to this buildings purpose of use.

The owner did not at any stage inform me he was building self contained accommodation nor that he was planning to long term rent the 'dwelling'.

There is reference to 'our aim in converting the building is so that family and friends can visit' etc

This building is already used for family and friends and for tourist accommodation, so the term 'aim in converting' is misleading.

This building, if it becomes Dual Occupancy and therefore may be rented out, as it is already proposed, (refer to Raine & Horne, recent advertisement), will definitely have an impact on my property, issues I have outlined below.

Heading 5 **Services**

'The building has immediate access to existing tank water, telephone and power, without the need to introduce extra infrastructure such as poles. A septic is already in place ...etc'

If this structure was primarily a shed before this recent DA, would it reasonably have had these services?

I question the validity of the description of a 'Shed' and it's subsequent use, since its build.

Heading 9 **Social and economic effects:**

'In the future, the dwelling could conceivably provide an income through farm stay tourism'

As aforementioned this building is already being used for that purpose.

Should this building become dual occupancy, the expectation of future rental can bring real **social effects** to the locals (both human and wildlife) that live here.

With rental, comes the unpredictability of those who rent.

Rental occupants do not always have knowledge, consideration and concern of minimising local disturbances eg: this road is a quiet dirt road, where families and visitors walk, ride push bikes, horses, and walk dogs, there is minimal traffic and we are all considerate of the possibility of these outings and drive accordingly. There is a population of Wallabies, Possums, Goannas, Shingle back skinks, bearded Dragon lizards, among just a few of our treasured wildlife, that are regular well known pedestrians that we share the road with.

Currently there is barely any littering along the road, occasionally discarded tins/bottles of alcohol, which the residents are not responsible for, but we collect to ensure a uncontaminated rural landscape.

Dog control

**Dog attacks** on stock in primary production areas, from unrestrained dogs, is well documented.

I have already had a dog attack from a close neighbour, the dog unrestrained while owners absent, and had sheep hideously mauled and killed, an animal husbandry nightmare, a distressing time and economic loss for me.

\*Do I have any ability to object to where any future dog kennels are placed, should rental become a reality?

My boundary is close to the building and I use this to move stock in a quiet , unstressed and direct route to the adjoining paddocks on my property. I cannot have dogs barking or rushing at the fence when I am moving stock.

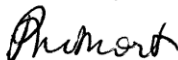
This possibility is a major concern of mine.

**Motor bike/Dirt bike use:** the use of these and the noise they generate are often the source of conflict with neighbours and complaints to council. They will disturb stock if noisy and close to my boundary.

*Due to these concerns, I object to the 'change of use' to Dual occupancy, as it provides for a secondary dwelling/ residential accommodation to be used as a separate domicile, and alters the expected objectives of the RU1 Primary Production Zone and that of Part 4.2A of the Principle Development Standards.*

Thank you for this opportunity to provide my concerns to your department.

Yours faithfully,



Patricia Mort

The MWRC LEP 2012 in this area is zoned as RU1 Primary Production and Part 4.2A of the Principle Development Standards, I have referenced these.

I have referenced the LEP Dictionary for my clarity.

***dual occupancy*** means a dual occupancy (attached) or a dual occupancy (detached).

**Note.** Dual occupancies are a type of ***residential accommodation***—see the definition of that term in this Dictionary.

***dual occupancy (detached)*** means 2 detached dwellings on one lot of land, but **does not include a secondary dwelling**.

***dwelling*** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

***residential accommodation*** means a building or place used predominantly as a place of residence.

## 6.2.2 Planning Proposal - Additional Dwellings Adams Lead Road Gulgong, Spring Flat Road and Market Street Mudgee

REPORT BY THE TOWN PLANNER TO 15 APRIL 2015 COUNCIL MEETING

Planning Proposal

GOV400043, LAN900048

### RECOMMENDATION

That:

1. **the report by the Town Planner on the Planning Proposal - Additional Dwellings Adams Lead Road Gulgong, Spring Flat Road and Market Street Mudgee be received;**
2. **Council exercise the delegation in relation to the preparation of the amendment to Local Environmental Plan 2012 to amend the Mid-Western Regional LEP 2012 – Spring Flat Road, Adams Lead Road, Market Street and Split Zoning subject to the Opinion issued by Parliamentary Counsel.**

---

### Executive summary

Following receipt of Planning Proposal documents from three individuals Council resolved (17 September 2014) to prepare an amendment to the Local Environmental Plan 2012 (LEP2012) to:

1. Amend the Lot Size Map Sheet 006 in Spring Flat Road to facilitate the subdivision of Lot 52 DP 633029 to 20ha minimum lot size;
2. Rezone land to R5 Large Lot Residential and amend the Lot Size Map to 'Z' 2 Ha on land in Adams Lead Road Lot 76 DP 755434 Gulgong
3. Insert a provision in Local Environmental Plan 2012 which allows for the subdivision of split zoned land provided the area containing a dwelling or an opportunity for a dwelling meets the minimum lot size for land within that zone.
4. Rezone to part R1 and part RE2 land in Market Street Lot 41 DP 703056 and Lot 1 DP 564729 Mudgee and insert a provision relating to the permissibility of subdivision & dwellings on certain split zoned Residential land
5. Rezone to R1 General Residential Lot 42 DP 703056, Mudgee and amend the MLS to 600m2

The Planning Proposal was exhibited in accordance with the Gateway Determination **PP\_2014\_MIDWR\_003\_00 (Attachment 1)** from Friday 30<sup>th</sup> January 2015 till Friday 3<sup>rd</sup> April 2015, a total two (2) submissions were received. The exhibition period was extended following an error in the uploading of the necessary documentation to the Council's web site thus providing an additional 28 days for public submissions to be received.

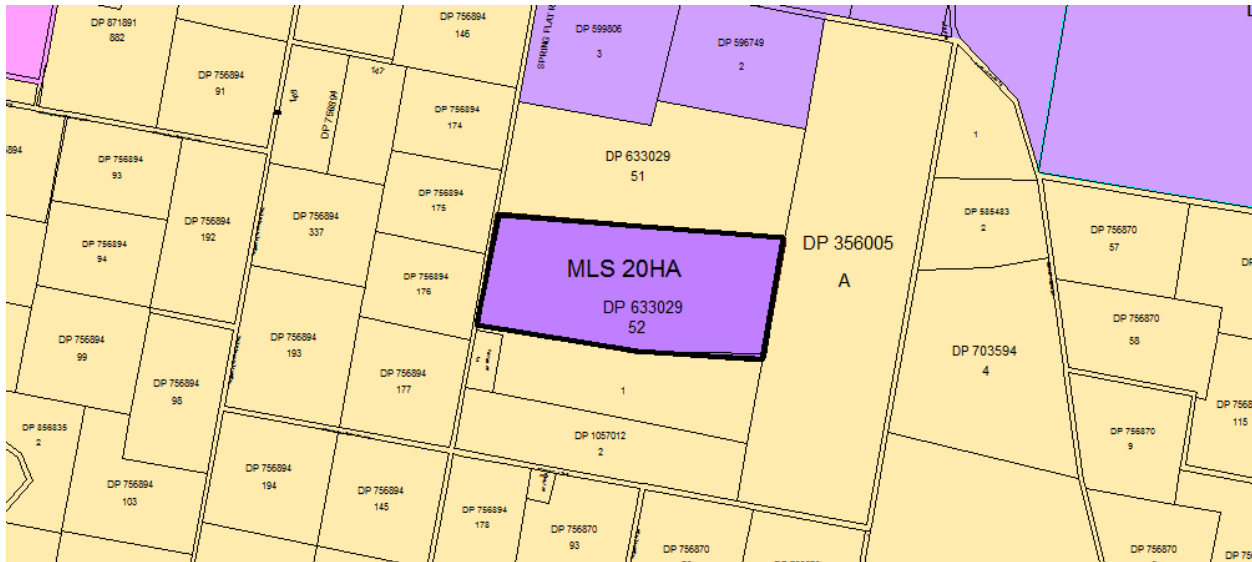
During the exhibition Council received two (2) submissions, all relating to the Market Street aspect of the amendment (item 4 above). These issues are discussed in detail below. The report recommends that Council proceed with a request to Parliamentary Counsel seeking an Opinion that the amendments be made.

### Detailed report

It is intended that the objectives and intended outcomes as described in Part 1 will be achieved through the application of the following mechanisms:

*1. AMEND LOT SIZE MAP SHEET 006 IN SPRING FLAT ROAD LOT 52 DP 633029 SPRING FLAT TO REFLECT A 20HA MINIMUM LOT SIZE.*

It is proposed that the Minimum Lot Size (MLS) Map Sheet 0006 be amended to reflect a MLS of 20 ha for the area identified on the map below.



### Background

This proposal involves an amendment to the lot size map to facilitate the subdivision and additional rural dwelling. The site falls on the edge of the area identified in the Comprehensive Land Use Strategy (CLUS) as being identified as rural lifestyle opportunities within 15 km of Mudgee. The proposed amendment is generally consistent with the strategic direction established in the CLUS for lifestyle lots.

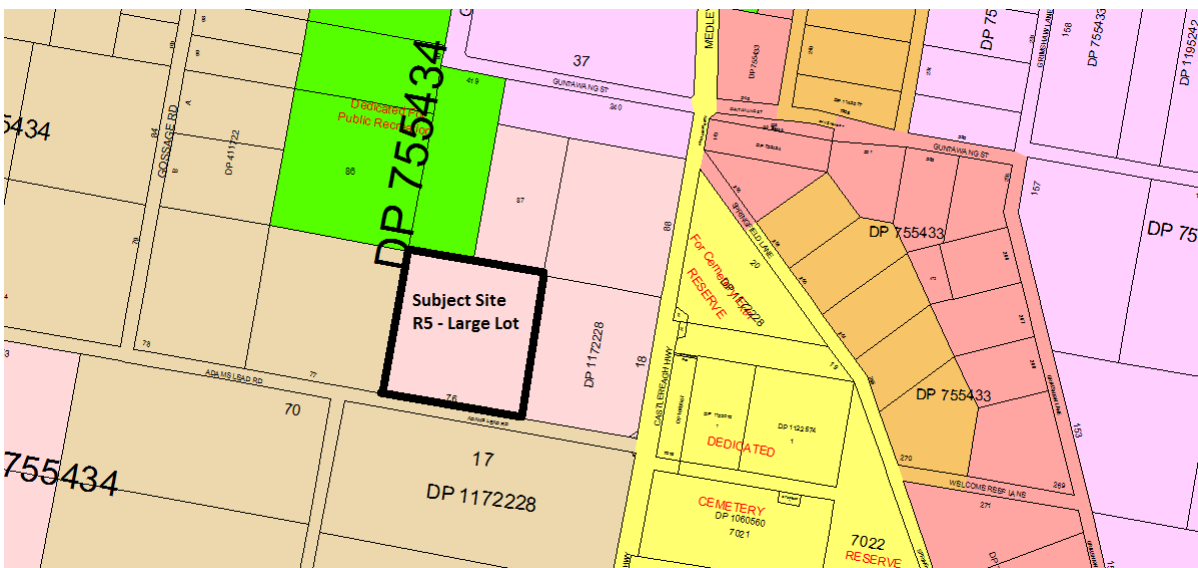
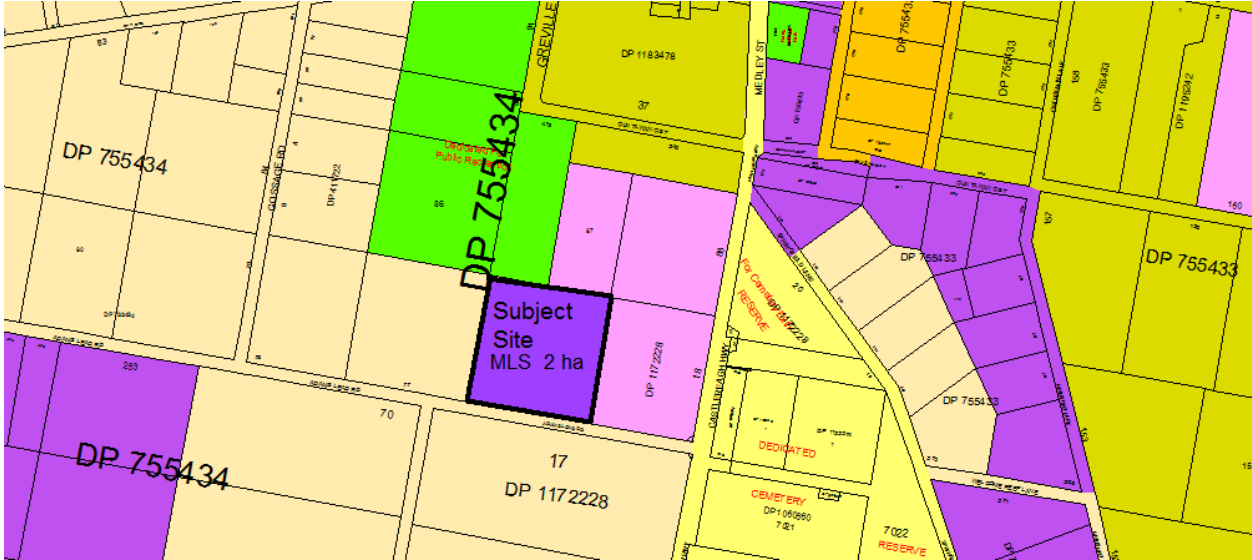
The site has an area of 44.05ha. In 2007 Council approved a subdivision for the land into two 20ha lots under the provisions for intensive agriculture. At this time part of the land use under grapes and a cellar door operated on the site. The subdivision consent included conditions relating to the availability of water which was not meet resulting in the subdivision not proceeding at that time.

The CLUS through a constraints sieve process, identified land suitable for lifestyle development. This site is on the cusp of one such area identified at Spring Flat. To date, Council have not dealt with any proposals to rezone land to facilitate lifestyle development in the vicinity and the zone has not been applied to any other land at Spring Flat. In this instance the land is adjacent to the existing RU4 Primary Production Small Lots zone and within 2km of the sealed road network at Queens Pinch Road. The CLUS suitability criteria include a requirement that land be within 1km of the sealed road network. Clearly, this criterion has not been met. However, the circumstances are such that the rezoning proposes only one additional dwelling.

The development standards adopted for the R5 zone include a 12ha minimum lot size. As this is just a minimum and given the range of lot sizes on which dwellings are erected in the area and the preference of the applicant for 20ha lots, it is proposed to retain the RU1 Primary Production zone and amend only the Lot Size Map to indicate a 20ha minimum lot size over the land. Maintaining the zone will also retain the objectives of the land as rural rather than residential. This is consistent with surrounding development and consistent with the earlier subdivision approval while still creating a life style opportunity. Further, the traffic generated by the additional dwelling is likely to be less than that which is experienced by a cellar door and more akin to the surrounding pattern of

land use. In this instance and under the circumstances a variation to the 1km to a sealed road requirement is reasonable.

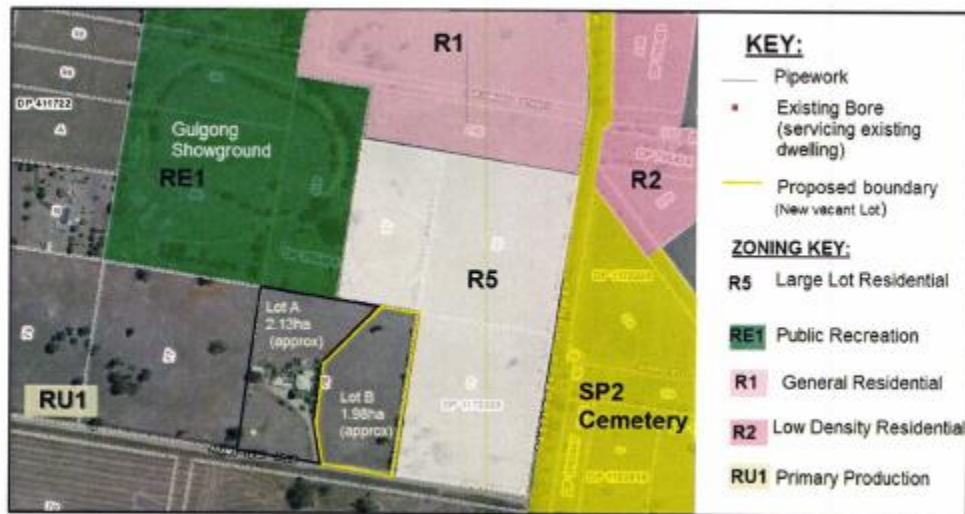
**2. REZONE LAND TO R5 LARGE LOT RESIDENTIAL AND AMEND THE LOT SIZE MAP ON LAND IN ADAMS LEAD ROAD LOT 76 DP 755434 GULGONG**



**Background**

Refer to Attachment 1, detailed planning proposal prepared by Minespex.

The land is located on the southern side of the residential area of Gulgong and adjoining an RE1 Public Recreation and R5 Large Lot Residential zone. The land itself has an area of approximately 4ha and houses an existing dwelling. The amendment proposed would enable the division of the land into two lots of approximately 2.13ha and 1.98ha.



### Extract Planning Proposal prepared by Minespex August 2014

*This site was not strategically identified in the CLUS, however, the CLUS does discuss a principle of development on adjoining zoned land in terms of maintaining consistency and continuity and providing opportunities for development on the fringe of residential areas. Under the provisions of the LEP 2012 a second dwelling could be achieved on the site as dual occupancy development, however, the land could not be subdivided.*

*The site is well situated on the edge of Gulgong town and could readily accommodate the development. In terms of the mechanism for achieving the desired outcome it is proposed to adopt the R5 Large Lot Residential zone to the site with an accompanying 2ha minimum lot size. This will enable the subdivision of the newly created lot resulting in a similar land use outcome as currently enjoyed but with the benefit of being able to legally register the second title.*

*At 2ha the site would generally not be required to be connected to water and sewer, however, Adams Lead Road from the new lot to the Castlereagh Highway being a distance of approximately 260m may be required to be sealed though the development application process.*

*Draft Urban Release Strategy – the planning proposal is not in response to any perceived shortfall in residential land in Gulgong being only one lot and as stated above not creating opportunities for dwellings outside framework provided by the current zone (that is the state could accommodate a detached dual occupancy). However, the Draft Urban Release Strategy (URS) currently on public exhibition does identify a supply of 2ha lots in Gulgong sufficient for the demand of one lot per annum. As this is only a single lot it is not considered to significantly impact or undermine the Draft URS.*

*3. INSERT A PROVISION IN LOCAL ENVIRONMENTAL PLAN 2012 WHICH ALLOWS FOR THE SUBDIVISION OF SPLIT ZONED LAND PROVIDED THE AREA CONTAINING A DWELLING OR AN OPPORTUNITY FOR A DWELLING MEETS THE MINIMUM LOT SIZE FOR LAND WITHIN THAT ZONE.*

### Dwellings on Split Zoned Land

One of the issues plaguing Council is the difficulty and uncertainty around development of residential land with more than one minimum lot size as is the case in this planning proposal.

Currently, where a lot is split zoned with a split minimum lot size, provided that the part of the site on which a dwelling will be erected has an area at least consistent with the minimum lot size for the erection of a dwelling in that particular zone, Council will consider an application for a dwelling. In

essence this practice applies the less of the two minimum lot sizes applicable to a single parcel of land.

In this case both lots are currently split zoned part R1 General Residential and part E3 Environmental Management and the minimum lot size in the two zones is 600m<sup>2</sup> and 400ha respectively. The objective of the E3 zone in this location is to protect the ecological and aesthetic values attributed to the river corridor. Part of both lots is also below the flood planning level, however, the site of a proposed building envelope immediately behind the existing house which fronts Market Street on Lot 1 is well above the 1 in 100 flood level. Based on current practice, if 600m<sup>2</sup> of the lot was included in the R1 General Residential zone as per the planning proposal Council would approve the erection of a dwelling on the lot provided the dwelling was located on land that is zoned R1 and land that has a MLS of 600m<sup>2</sup>.

Council is seeking a local provision to address these issues. The provision would be applicable to all residential zones identified in the LEP 2012 as follows; R1 – General Residential, R2- Low Density Residential, R3 – Medium Density Residential, R5 Large Lot Residential and RU5 - Village.

***Facilitating the subdivision and boundary adjustment between land zoned R1 General Residential and land zoned E3 Environmental Management.***

Rezoning part of the site alone will not overcome the difficulties in undertaking a boundary adjustment and subdivision as part of the lot will still be zoned E3 Environmental Management and the MLS for subdivision within this zone is 400m<sup>2</sup>.

Clarifying the provisions around dwellings on split zoned land such that provided the area zoned R1 is at least 600m<sup>2</sup> consistent with a residential lot size on the Lot Size Map the dwelling could be approved.

The uncertainty surrounding land containing two areas of land mapped for different minimum lot sizes has been addressed by Post Stephens Council in a specific clause in their LEP which is extracted as follows:

***4.1D Minimum lot sizes for certain split zones***

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

*(A) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,*

*(B) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.*

*(2) This clause applies to each lot (an original lot) that contains:*

*(A) land in a residential, business or industrial zone, or Zone RU5 village, and*

*(B) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living*

*(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:*

*(A) one of the resulting lots will contain:*



- I. land in a residential, business or industrial zone or Zone RU5 Village that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and*
- II. all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living that was in the original lot, and*

*(B) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.*

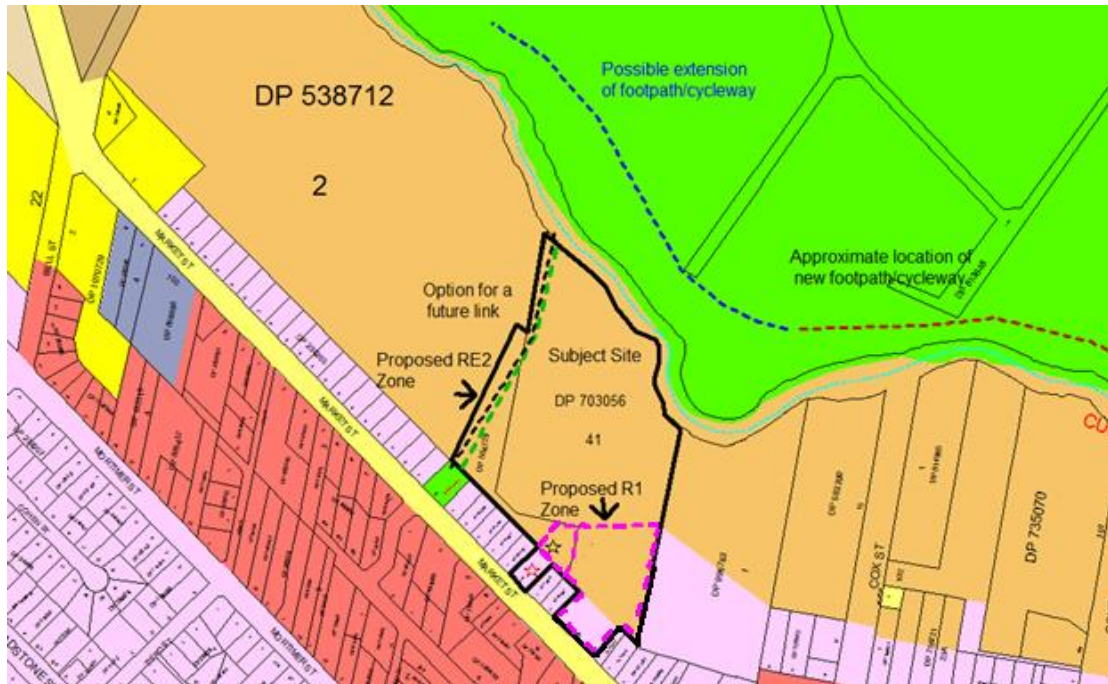
This clause assumes that the operation of clause 4.1 relating to subdivision does not apply to split zoned land. On the face of it, this is not the case, however, this local provision does provide some clarity in terms of subdivision of parcels with a split minimum lot size and a similar provision is being sort for the Mid-Western Regional LEP 2012.

For subdivision the same practice has been adopted in that provided the minimum lot size for the R1 General Residential land can be achieved the lot can be excised leaving an undersized E3 or zoned parcel which, if it does not contain a dwelling would have no opportunity to do so in the future. In this case the land use remains consistent. Council is seeking clarification to this in a local provision in the LEP.

*4. & 5. REZONE TO PART R1 AND PART RE2 LAND IN MARKET STREET LOT 41 DP 703056 AND LOT 1 DP 564729 AND REZONE TO R1 LOT 42 DP 703056 MUDGEES AND AMEND THE MINIMUM LOT SIZE MAP TO 600M<sup>2</sup>*

The third of the proposal is the most complex. The intention is to enable a dwelling to be erected on land currently within the E3 Environmental Management zone by rezoning part of the land to R1 General Residential, rezone a strip of land to ultimately provide a link to the Cudgegong River and facilitate a subdivision and boundary adjustment.

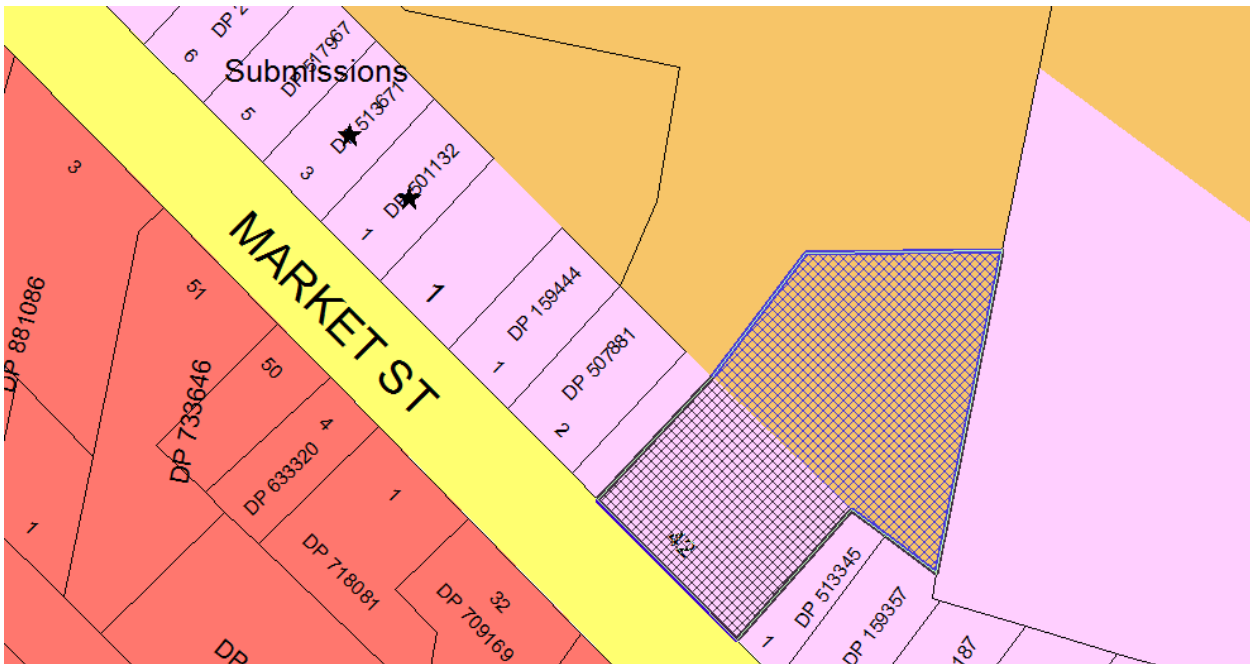
The proposal offers a Public Recreation zone, however, at this stage and until Council is in a position to acquire the land a Private Recreation zone may be more appropriate. The RE2 Zone would run along Lot 1 DP 564729 154 Market Street and the north western corner of Lot 41 DP 703056 146 Market Street and provide a link to the Cudgegong River from Interact Park in Market Street. This is shown on the map below.



The proposal to rezone part of Lot 41 DP 703056 and Lot 1 DP 564729 and all of Lot 42 DP 703056 to R1 General Residential as outlined on the maps above leads to the need for clarity in developing on split zones.

In addition to the rezoning the Lot Size Map will be amended to show 600m<sup>2</sup> for the subject rezoned land at Lot 41 DP 703056, Lot 1 DP 564729 and Lot 42 DP 703056 to align with the General Residential zoning and facilitate boundary adjustments.

It should be noted that, the initial Planning Proposal did not interfere with Lot 42 DP 703056 which is currently zoned part R1 General Residential and part E3 Environmental Management. However, as proposed this would have resulted in an isolated parcel of E3 and it was a condition of the Gateway Determination to include Lot 42 DP 703056 in its entirety as R1 with a corresponding MLS of 600m<sup>2</sup>.



Lot 42 DP 703056 as hatched above – Initially not included in the Planning Proposal but required as a condition of the Gateway to be included in the R1 General Residential zone. Stars denote submissions.



Stars denote the location of objections. Hatch is Lot 42 DP 703056 being the additional lot included at the Gateway.

**GATEWAY DETERMINATION**

The Department of Planning & Environment (DP&E) gave permission for the Planning Proposal to proceed and be exhibited on 9 December 2014 (**Attachment 1**), subject to the following amendments:

- a) to address State Environmental Planning Policy (SEPP) 55 Remediation of Land and State Environmental Planning Policy (Rural Lands) 2007,
- b) to outline the zones which are to be affected by the minimum lot size for split zones provision,
- c) to zone land at lot 76 DP 755434 Adams Lead Road, Gulgong Zone R5 Large Lot Residential,
- d) to clearly indicate the intent to amend the minimum lot size on part Lot 41 DP 703056 and part lot 1 DP 564729 Market Street, mudgee to 600 square metres, and

- e) to zone land that forms part Lot 42 DP 703056 within Zone E3 Environmental Management, Zone R1 General Residential and amend the minimum lot size to 600 square metres.

On Monday 26 January 2015 the Planning Proposal had been amended as requested and DP&E agreed Council could publically exhibit the Planning Proposal.

#### *PUBLIC EXHIBITION*

The Planning Proposal and all accompanying attachments were placed on Public Exhibition from Friday 30<sup>th</sup> January 2015 till Friday 27<sup>th</sup> February 2015. The Public Exhibition involved a newspaper advertisement, neighbour notification letters, uploading the documents to Council's website and having a hard copy of the Planning proposal at Gulgong, Mudgee and Rylstone Council offices for the public to view.

There was an error loading an attachment to the website and as such a second exhibition period was undertaken to ensure all community members had appropriate time to respond.

The second exhibition was between Friday 6<sup>th</sup> March 2015 and Friday 3<sup>rd</sup> April 2015.

During the Exhibition Periods responses from the Rural Fire Service (RFS), Office of Environment and Heritage (OEH) and two (2) formal objections were received from the public. As discussed below.

#### *SUBMISSIONS AND RESPONSES*

##### **Public Authority Responses –**

The Rural Fire Service (RFS) responded on the 10<sup>th</sup> March 2015 stating RFS had reviewed the 'plans and documents received for the proposal and subsequently has no concerns or issues in relation to bushfire'.

The NSW Office of Environment & Heritage (OEH) responded on 27<sup>th</sup> February 2015, generally supporting the Planning Proposal. OEH noted an item of Aboriginal Heritage near the Market Street portion of the proposal and suggests further 'due diligence' will be required before any future development.

This will be addressed at the development application stage as is practice of Council.

**Public Submissions – the issues raised in the two public submissions are addressed below. Copies of the submissions are Attachments 2 & 3.**

<b>Location</b>	<b>Issue</b>	<b>Staff Comment</b>
<b>Planning Proposal - Exhibition</b>	The information placed on public exhibition is incomplete and inadequate. Particularly the gateway determination and attachments not being uploaded to Council's Website properly.	There was a problem with uploading the documents which went unnoticed during the first exhibition. All documents were available at Council's Mudgee, Gulgong and Rylstone offices during the first exhibition.  However in response to the concerns it was decided to re-exhibit the Planning Proposal and Associated documentation between Friday 6 <sup>th</sup> March 2015 and Friday 3 <sup>rd</sup> April 2015.
	The planning proposal as exhibited is not the same	The Planning proposal provided to the Department was the same as

Location	Issue	Staff Comment
	as that Considered by Council at its Council meeting in September 2014 and therefore Council has not endorsed the planning proposal as provided to the Department for Gateway determination.	the Planning proposal endorsed by Council in September 2014. The changes made prior to the exhibition were made as conditions in the Gateway Determination. These changes were to; <ul style="list-style-type: none"> <li>• include Lot 42 DP 703056 in the Residential zone and impose the MLS to 600m2 for this lot; and</li> <li>• to use the R5 rather than the R2 zone for land in Adams Lead Rd Gulgong (no change to lot size).</li> </ul>
<b>154 Market Street, Mudgee</b>	Potential rezoning of the land from E3 – Environmental Management to R1 – General Residential will result in dwellings behind my property.	The option to build a second dwelling under the dual occupancy provisions already exists on the land in question, however, under the current LEP framework the dual occupancy could not be subdivided. Under the proposal, the second dwelling will be still be permissible and the land could be subdivided to create a separate tile for the dual occupancy.
	Negative Impact on property values	Property Values are not a Planning consideration under the EP&A Act 1979
	Loss of views	Council has setback and height limit controls to assist in maintaining neighbourhood amenity at the development application stage. In this case, that part of the existing lot that is proposed to be rezoned R1 is immediately behind the existing dwelling on the site and includes the area in which a dual occupancy could be located under the current LEP provisions. Any DA be it a dual occupancy under the current LEP or a second dwelling in line with the proposed amendment will require a full merit assessment.
	The need/viability of the proposed RE2 land and potential pathway connecting Market Street to the Cudgegong.	A new public walking link is considered a positive outcome as it provides important access to the Cudgegong River and allows more flexible future pathways planning.
	Building in Flood Prone Land	The proposed rezoning is on land identified as ‘no flood risk’ towards market street and low flood risk (maximum extent) towards the Cudgegong River. This is similar to

Location	Issue	Staff Comment
		the remainder of properties on the northern Side of Market Street and any impacts on dwellings will be assessed at DA stage.
	Overlooking/ Loss of Privacy / Overshadowing	The main intent of the zoning change is not to allow additional uses but facilitate subdivision. Amenity concerns will be addressed if and when a DA for a dwelling is lodged in line with Council LEP and DCP controls.
	Traffic generation from new developments	There is considered to be no significant change in traffic generation. A dual Occupancy development is currently permissible and would result in additional dwellings, the rezoning is for the provision of subdivision.

The Public Submissions have been taking into consideration and are considered to be of minor consequence to the Planning proposal as addressed above.

In addition to the written submissions, a request was made by an objector to meet with staff to discuss concerns. Despite staff setting aside time to do this, the objector did not avail themselves of the opportunity.

### Financial and Operational Plan implications

Not applicable.

### Community Plan implications

The strategic planning function sits under the theme Looking After Our Community in the Community Plan. Should the recommendation proceed it will have implications for land use development as a result of an amendment to the LEP 2012.



CATHERINE VAN LAEREN  
DIRECTOR, DEVELOPMENT

AMBROSE MARQUART  
TOWN PLANNER

7 April 2015

*Attachments:* 1. Gateway Determination  
2. Public Submission  
3. Public Submission  
4. RFS Response  
5. OEH Response

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

ATTACHMENT 1



Mr Brad Cam  
General Manager  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850



Dear Mr Cam

**Planning Proposal (PP\_2014\_MIDWR\_003\_00) to amend Mid-Western Regional LEP 2012 – Spring Flat Road, Adams Lead Road, Market Street and Split Zoning**

Thank you for your letter dated 5 November 2014 requesting a Gateway Determination under Section 56(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) with respect to the Planning Proposal including various amendments to Spring Flat Road, Adams Lead Road, Market Street and Split Zoning.

As a delegate for the Minister for Planning, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway Determination (**Attachment 1**).

While I support the proposed amendments, it is identified that the rezoning of land at Spring Flat Road and Adams Lead Road are inconsistent with the Mid-Western Regional Comprehensive Land Use Strategy (CLUS). It is recommended that Council consider a review of the CLUS to ensure consistency with the proposed amendments. Further, Council should ensure that planning proposals to amend provisions on rural land are consistent with the CLUS and are strategically justified.

The Minister delegated his plan making powers to Councils in October 2012. It is noted that Council has accepted this delegation. I have considered the nature of Council's Planning Proposal and have decided to issue authorisation for Council to exercise delegation and make this plan (**Attachment 2**).

The amended Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's office ([parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au)) 6 weeks prior to the projected publication date.

A copy of the request should be forwarded to the Department of Planning and Environment ([westernregion@planning.nsw.gov.au](mailto:westernregion@planning.nsw.gov.au)) for administrative purposes.

**Department of Planning & Environment**

Western Region Office 188 Macquarie Street, Dubbo NSW 2830 | PO Box 58 Dubbo NSW 2830 | T 02 6841 2180 | F 02 6884 8483 | [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

The amended LEP maps and GIS data is to be uploaded to the Departments FTP site at [ftp://lepup:lep\\_upload@203.3.194.247/](ftp://lepup:lep_upload@203.3.194.247/) and the map information emailed to: [pocgis@planning.nsw.gov.au](mailto:pocgis@planning.nsw.gov.au) and a copy to [westernregion@planning.nsw.gov.au](mailto:westernregion@planning.nsw.gov.au) .

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in the determination are not met.

In accordance with 'A guide for the preparation of local environmental plans', the Delegated Plan Making Reporting Template (**Attachment 3**) is enclosed for your reference. Table 2 of the document is to be completed and forwarded to [westernregion@planning.nsw.gov.au](mailto:westernregion@planning.nsw.gov.au) when requesting the Planning Proposal to be notified, in accordance with section 59 of the EP&A Act.

Should you have any further enquiries, I have arranged for Jessica Holland, Planning Officer to assist you. Ms Holland may be contacted at the Departments Western Region Office on (02) 6841 2180.

Yours sincerely

 9-12-2014  
Ashley Albury  
General Manager, Western Region

Enclosed:

Attachment 1 – Gateway Determination  
Attachment 2 – Written Authorisation to Exercise Delegation  
Attachment 3 – Delegated Plan Making Reporting Template





**Planning &  
Environment**

## Gateway Determination

**Planning Proposal (Department Ref:PP\_2014\_MIDWR\_003\_00):** to amend the Mid-Western Regional LEP 2012 – Spring Flat Road, Adams Lead Road, Market Street and Split Zoning.

I, the General Manager, Western Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Mid-Western Regional Local Environmental Plan 2012 (LEP) to:

- a) amend the minimum lot size on land at Lot 52 DP 633029 Spring Flat Road, Spring Flat from 100 hectares to 20 hectares;
- b) amend the land use zone at Lot 76 DP 755434 Adams Lead Road, Gulgong from Zone RU1 Primary Production to Zone R2 Low Density Residential and amend the minimum lot size from 100 hectares to 2 hectares,
- c) amend the land use zone at part Lot 41 DP 703056 and part Lot 1 DP 564729 Market Street, Mudgee from Zone E3 Environmental Management to Zone R1 General Residential and Zone RE2 Private Recreation and amend the minimum lot size from 400 hectares to 600 square metres, and
- d) insert a provision regarding minimum lot sizes for split zoned lots to provide for subdivision of lots that are within more than one zone,

should proceed subject to the following variations and conditions:

1. Prior to undertaking public exhibition, Council is to amend the Planning Proposal:
  - a) to address State Environmental Planning Policy (SEPP) 55 Remediation of Land and State Environmental Planning Policy (Rural Lands) 2008,
  - b) to outline the zones which are to be affected by the minimum lot size for split zones provision,
  - c) to zone land at Lot 76 DP 755434 Adams Lead Road, Gulgong Zone R5 Large Lot Residential,
  - d) to clearly indicate the intent to amend the minimum lot size on part Lot 41 DP 703056 and part Lot 1 DP 564729 Market Street, Mudgee to 600 square metres, and
  - e) to zone land that forms part Lot 42 DP 703056 within Zone E3 Environmental Management, Zone R1 General Residential and amend the minimum lot size to 600 square metres.

The Planning Proposal is not to be placed on public exhibition until the Department is satisfied that the above amendments have been adequately addressed.

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 a minimum of 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 5.5.2 of 'A Guide to Preparing LEPs' (Department of Planning and Infrastructure 2013).
3. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act and/or comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage



## Planning & Environment

- NSW Rural Fire Service

4. 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).
5. Prior to submission of the Planning Proposal under section 59 of the EP&A Act the relevant Land Zoning Maps and Lot Size Maps that apply to the subject land are to be prepared compliant with the Department's 'Standard technical requirements for LEP maps'.
6. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.

Dated *9th* day of *December*

2014.

*a.w. alb*  
**Ashley Albury**  
General Manager, Western Region  
Planning Services

**Delegate of the Minister for Planning**



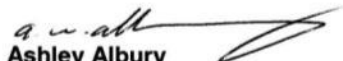
**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Mid-Western Regional Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 10 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_MIDWR_003_00	Spring Flat Road, Adams Lead Road, Market Street and Split Zoning.

In exercising the Minister's functions under section 59, Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 9th December 2014

  
**Ashley Albury**  
 General Manager, Western Region  
 Planning Services  
 Department of Planning and Environment

**Delegate of the Minister for Planning**

---

## Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

### Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the department**

Stage	Date/Details
Planning Proposal Number	PP_2014_MIDWR_003_00
Date Sent to Department under s56	
Date considered at LEP Review Panel	<b>Considered by the Director Generals Delegate 9 December 2014</b>
Gateway determination date	<b>9 December 2014</b>

**Table 2 – To be completed by the RPA**

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

**Table 3 – To be completed by the department**

Stage	Date/Details
Notification Date and details	

**Additional relevant information:**

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



Mrs Sally Wilson  
156 Market Street  
MUDGEE NSW 2850

26 February 2015

**RE: Planning Proposal Objection to Rezone to part R1 and Part RE2 land in Market Street Lot 41 DP 703056 and Lot 1 DP 564729 and rezone to R1 Lot 42 DP 703056 Mudgee and amend MLS to 600m<sup>2</sup>**

I write to object to the planning proposal to rezone land on Market Street, Mudgee to residential as published by Mid Western Regional Council on 30 January 2015.

The planning proposal is of interest to me because of the close proximity to my property at 156 Market Street, Mudgee. The rear of my property adjoins the subject of the planning proposal DP 703056 Lot 41 and 42, which is proposed to change from land currently zoned E3 Environmental Management Zone to R1 General Residential.

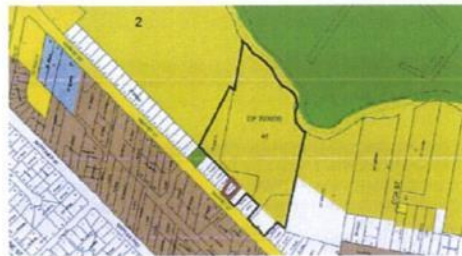


Figure 3 - Existing Land Zoning Map



Figure 4 - propose Land Zoning Map

Figure 1: 156 Market Street in relation to the subject site (outlined in red)

The nature of the change and the proximity to my property will impact on my enjoyment of living on a block that backs onto open space which forms much of the attractiveness of living on my side of Market Street.

The major impacts of the rezoning and my specific objections are outlined below and we request that they be taken into consideration by Council in their assessment on the planning proposal:

#### **Inadequate information placed on exhibition and procedural issues**

The information placed on public exhibition is incomplete and inadequate. The information placed on exhibition fails to include: a copy of Council's resolution; a copy of the Gateway Determination which specifies the requirements associated with the Planning Proposal including any amendments and its consultation; and a copy of all the appendices referenced in the Planning Proposal.

The method of the rezoning also calls into question the nature of whether due process has been followed by Council. Further, the Planning Proposal does not clearly reveal the specific intentions for the land parcels as to the true ultimate usage as it fails to identify how the land will be subdivided and where a future potential residential dwelling may be located within each allotment created as would be the case for isolated site specific rezoning.

The planning proposal as exhibited is not the same as that considered by Council at its meeting in September 2014, therefore the Council has not endorsed the planning proposal as provided to the Department for the Gateway Determination. Inadequate information placed on exhibition.

#### **Inadequate consultation**

Part 5 "Community Consultation" describes the proposal of minor significance. I would contend that the zoning change has major significance on the individual property owners that adjoin the subject site.

My home at 156 Market Street was chosen as our family dwelling, in part, because of its outlook on idyllic open space in a country setting. A change to zoning to land at the rear of my property from E3 Environmental Management to R1 General Residential threatens the future for enjoyment of this property in the following ways:

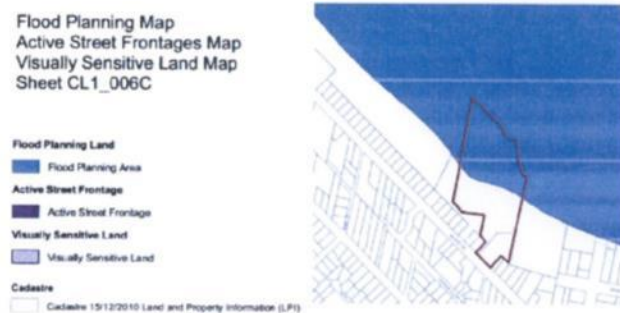
- Overlooking into my property threatening my privacy
- New residential buildings overshadowing my property
- Obstruction of existing views to idyllic open space
- Traffic generation from new developments

Little evidence has been demonstrated in the notification letter received from council that any degree of assessment has been made by the proponent or Council to consider the impacts of the zoning change on adjoining properties. Furthermore, it appears that this rezoning is occurring in isolation rather than as a strategic change driven by economic, social or environmental principles.

The Planning Proposal document published on the Mid-Western Regional Council website does little more to demonstrate an evidence based assessment.

### Flood prone land

The proposed change in zoning is to occur on a property that has been identified as flood prone land. It is Council's duty to consider the potential effects of flooding and impacts both on the subject land and surrounding development.



**Figure 2:** Flood planning map demonstrates the subject site is flood prone

Prior to notifying the public of the planning proposal, no investigation into the specific impacts of any changes to the land zoning in relation to the existing flood impacts appears to have occurred. Neither the letter received by adjoining residents, nor does the Planning Proposal document published on the Mid-Western Regional Council website contain any evidence that such any risk or hazard assessment relating to flood prone land has been completed,

The section 117 Directions issued by the Minister of Planning clearly state that a planning proposal should not rezone land within flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zone to Residential. The planning proposal as exhibited fails to provide any justifications associated with requesting a variation of any Section 117 Direction. Even if this was undertaken as part of Appendix 2, this information is missing from the exhibited documentation.

To date, neither Council nor the proponent have provided sufficient evidence that a rezoning would be safe and have not explored any avenues to mitigate flood risk impacts on new or existing developments on Market Street.

We are happy to discuss these issues further and welcome a Council officer site inspection to demonstrate our concerns. Please do not hesitate to contact me on 0488 910 077.

Yours Sincerely

Sally Wilson

## ATTACHMENT 3

**Ambrose Marquart**

---

**From:** Ambrose Marquart  
**Sent:** Monday, 2 March 2015 11:01 AM  
**To:** 'Alayna Gleeson'  
**Subject:** RE: 154 Market St

Hi Mr & Mrs. Gleeson,

Thanks for your submission and interest in the planning decision affecting your local area.

The subject Planning Proposal (PP\_2014\_MIDWR\_003\_00) exhibition period has now finished. As such Council will be collating the submissions received and making a recommendation to the Department of Planning. Please remember Council did not propose the rezoning and acts in an intermediary role.

Property values are not a planning consideration under the EP&A Act 1979 and therefore cannot be considered during the assessment process, however change of land use and loss of privacy will be taken into consideration.

I am happy to book in a time to discuss the Planning Proposal with you both. Please let me know when you are available.

Thanks and Regards,

Ambrose Marquart | Town Planner - Planning and Development  
PO Box 156 | Mudgee NSW 2850  
P: 02 6378 2850 | F: 02 6378 2815  
e: [Ambrose.Marquart@midwestern.nsw.gov.au](mailto:Ambrose.Marquart@midwestern.nsw.gov.au)



---

**From:** Alayna Gleeson [<mailto:alayna.gleeson@hotmail.com>]  
**Sent:** Thursday, 9 October 2014 8:37 PM  
**To:** Des Kennedy; paul.  
**Subject:** 154 Market St

Hi Des & Paul.

Hope all is well.

I've recently been made aware that Council has been dealing with a DA proposal for 154 Market St, Mudgee which includes rezoning parcels of land and potential subdivision.



This property adjoins our property (158 Market St) at the rear due to the unusual layout of the land at number 154.

We are extremely concerned that Council will potentially be rezoning this land from an Environment Zone to Residential and as such, dwellings may be built directly behind our property.

We are concerned that Council would be so quick to rezone a parcel of land and if this approval is given, where does it stop? The area is an Environmental Zone for a reason and this shouldn't be interrupted.

One of our biggest concerns is the potential impact on our property value if dwellings are built directly behind our property. We purchased our property three years ago knowing that the land at the rear was an Environmental Zone and there would never be the potential for our view (which is the number one selling point of our property) to be interrupted.

I also question the viability of the proposed pathway from Interact Park to the river. When Council is investing in so much infrastructure on the northern side of the river, what purpose would the proposed path on the southern side serve? It would lead to nowhere? Council should be continuing to invest in pathway LINKS for the whole community to enjoy.

I ask that Council carefully considers its approval of this application. I would also like the opportunity to discuss this matter with you further and in more detail.

I look forward to hearing from you.

Alayna & Murray Gleeson  
[alayna.gleeson@hotmail.com](mailto:alayna.gleeson@hotmail.com)  
0415 515 188

---

This e-mail has been scanned for viruses by MCI's Internet Managed Scanning Services - powered by MessageLabs. For further information visit <http://www.mci.com> or contact Information Technology Business Unit - Mid-Western Regional Council

## ATTACHMENT 4

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



---

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

PP\_2014\_MIDWR\_003\_  
Your Ref:00  
Our Ref: L13/0024  
DA15020595666 KV

---

**ATTENTION:** Ambrose Marquart

10 March 2015

---

Dear Sir/Madam

**Planning Instrument for Planning Proposal - Spring Flat Road, Adams Leads Road and Market Street**

I refer to your letter dated 2 February 2015 seeking advice for the above Planning Instrument in accordance with the 'Environmental Planning and Assessment Act 1979'.

The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence please contact Kalpana Varghese on 1300 NSW RFS.

Yours sincerely

Iona Cameron  
**A/Team Leader, Development Assessment and Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

## ATTACHMENT 5



Your reference: PP\_2014\_MIDWR\_003\_00  
Our reference: DOC15/41094  
Contact: Michelle Crawford 02 6883 5339  
Date: 27 February 2015

Ambrose Marquart  
Town Planner  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850

Dear Ambrose

**RE: Planning Proposal (PP\_2014\_MIDWR\_003\_00) – Spring Flat Road, Adams Leads Road and Market Street**

Thank you for your letter (dated 2 February 2014) seeking comment from the Office of Environment and Heritage (OEH) on the above planning proposal.

Please note that as of the 29<sup>th</sup> February 2013, the Environmental Protection Authority (EPA) was re-created as an independent authority. Please consult the EPA separately.

The OEH has the following primary areas of interest relating to strategic land use planning proposals:

1. The impacts of development and settlement intensification on biodiversity and Aboriginal cultural heritage;
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 planning proposals 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 generally support strategic planning proposals which:

- Avoid rural settlement intensification in areas of biodiversity value, Aboriginal cultural heritage value and other environmentally sensitive areas;

- Include objectives, such as 'no net loss of native vegetation', that will ensure the LEP supports the NSW State Natural Resource Management Targets and Catchment Management Authority Action Plans; and
- Minimise flood risk to human life, property and the local environment while maintaining floodplain connectivity for environmental benefit.

Some specific comments on the proposed rezone are included below. For all other matters please refer to Attachment A which includes our generic recommendations for local government strategic planning. Council should ensure that those matters within Attachment A which are relevant to the rezoning proposal have been appropriately addressed.

#### Aboriginal Cultural Heritage

OEH notes that your AHIMS search shows one recorded Aboriginal site within or near the subject site in Market Street, Mudgee. OEH also notes that due to this and the proximity to the Cudgegong River that at development stage further due diligence assessment supported by heritage site surveys will be undertaken. Further details are provided in Attachment A.

If additional information relating to the proposal indicates that areas within OEH responsibilities require further investigation, we may provide future input. Should you require further information, please contact Michelle Crawford, Conservation Planning Officer on (02) 6883 5339.

Yours sincerely,



**SONYA ARDILL**  
**Senior Team Leader Planning, North West Region**  
**Regional Operations**

Enclosure: Attachment A

## ATTACHMENT A

### Office of Environment and Heritage (North West Branch) general advice for local government strategic planning 2013

#### BIODIVERSITY VALUES

Rural settlement intensification can have significant impacts on biodiversity. Development will have short and long-term negative impacts on biodiversity. These negative impacts are caused by activities such as:

- the clearing of house and building sites
- the disturbance caused by infrastructure (such as new roads, fence lines, dams and access to utilities), and
- the construction of asset protection zones for statutory fire protection.

The cumulative effect of multiple subdivisions will magnify these substantial impacts on biodiversity. These impacts are not regulated by the *NSW Native Vegetation Act 2003* (NV Act).

There is also a need to recognise climate change as a severe and wide ranging threat to biodiversity in NSW. Rising temperatures and sea-levels, changed rainfall and fire regimes will affect biodiversity in complex and often unpredictable ways. As a result of climate change, current threats to biodiversity, including habitat loss, weeds, pest animals and drought, are expected to intensify.

In many cases, existing approaches to biodiversity conservation (protection of intact vegetation, species recovery, mitigation of current threats and revegetation and restoration activities) will form the basis of adaptation programs to address the impacts of climate change. Reducing existing threats to biodiversity, such as habitat loss, pests and weeds is the most effective option for enabling species to adapt to climate change (at least in the short term) as this will increase the capacity of species to persist in their current locations and form the base from which migration can occur.

Council has the responsibility to control the location and, to a degree, development standards of settlement and other land use intensification. Local Environmental Plans (LEPs) can be used to avoid settlement and development in Environmentally Sensitive Areas (ESAs) including areas of remnant native vegetation.

The S117 Directions (*Environmental Planning and Assessment Act 1979*) require that Councils in preparing a new LEP must include provisions that facilitate the protection and conservation of ESAs. As a minimum, these provisions must aim to maintain the existing level of protection for ESAs within the LGA, as afforded by the current LEP.

As a matter of priority the OEH recommends six actions be taken by Councils when developing new LEPs. These will address the S117 Directions, and protect biodiversity from growth, development and associated pressures and changes:

1. Implement appropriate Environmental Zonings.
2. Avoid development in remnant native vegetation.
3. Establish large minimum lot sizes.
4. Conduct comprehensive environmental studies if areas of high environmental sensitivity occur in sites where there is a strong imperative to intensify land use.
5. Include a biodiversity overlay and clauses within the LEP.
6. Define biodiversity protection and management measures in Development Control Plans.

## 1. Implement appropriate Environmental Zonings

The zone, E1 'National Parks and Nature Reserves', should be applied to all of the OEH estate within the LGA. We also encourage Councils to apply other environmental and water ways zones in appropriate areas.

The E1 zoning is intended to apply to all lands acquired under the *National Parks and Wildlife Act 1974* (NP&W Act), and therefore is not limited to only the 'National Park' and 'Nature Reserve' classifications.

OEH is also strongly supportive of the implementation of appropriate environmental zonings to other areas identified to have high biodiversity or Aboriginal cultural sensitivity. Private and public lands with high conservation values, including those providing linkages or corridors, can be protected in LEPs through appropriate zoning and/or via overlays with associated development controls. Councils should implement land use zonings such as E2-E4 and W1-W2 to provide as much protection as possible to biodiversity and ecological communities. Specific advice regarding the use of these zones is included in Practice Note previously forwarded to Council.

In particular, we advocate the application of the E2 zone to areas of private or Crown lands that are presently managed primarily for conservation (such as crown reserves or areas under conservation covenants).

We also recommend that Travelling Stock Reserves (TSRs) with known conservation values are included in E3 zones at a minimum, although E2 zoning would be preferred. Mapping of TSRs, including identified conservation values, is available via the Grassy Box Woodlands Conservation Management Network. This mapping can be accessed via <http://gbwcmn.net.au/node/6>.

## 2. Avoid development in remnant native vegetation

- Council, through the Land Use Strategy and LEP, can protect biodiversity by avoiding development such as settlement and other land use intensification, in areas of remnant native vegetation.
- Development should be directed to areas that have already been cleared, unless such areas have been identified as having environmental importance (eg targeted by a Catchment Management Authority for revegetation to improve regional connectivity).

Avoiding development in areas of native vegetation will contribute to the achievement of Catchment and State biodiversity targets.

Settlement should also be avoided in locations that are likely to be targeted for investment by the Catchment Management Authority (CMA). Landholders in such areas may receive incentive funding for protection and enhancement of native vegetation or revegetation of cleared areas.

OEH will not support strategic land use recommendations or LEP provisions that allow further settlement opportunities in these areas, particularly if Council assumes that ongoing management could be effectively controlled by complex DCP rules.

To assist, the best available mapping of remnant native vegetation has been supplied to Council as part of an interagency package of Environmentally Sensitive Area (ESA) mapping and associated Technical and Practice Notes to help Council identify areas where further settlement intensification should not be allowed. At the broad strategic level, these maps can be used to identify areas that are most likely to be free from significant land, water or biodiversity constraints, therefore more suited to development.

Excluding remnant native vegetation from development pressure on private land could be largely achieved by retaining such areas on relatively large holdings, within RU1 and RU2 zones for example. This would also allow the CMA approval processes, under the *Native Vegetation Act 2003*, to be applied.

Similarly, higher density settlement in 'fire prone' locations should be avoided in the first instance. Where residential areas abut native vegetation there is pressure for the required Asset Protection Zones and other hazard management measures to encroach on that vegetation, particularly where adequate existing cleared land has not been retained to fulfil that role.

Avoiding settlement in remnant native vegetation is also likely to avoid bushfire prone lands and protect any Aboriginal cultural heritage that may remain in such areas.

### **3. Establish large minimum lot size limits**

Minimum lot size limits should be large in RU1 and RU2 zones as well as environmentally sensitive areas. This will reduce the pressures of development and settlement on biodiversity in rural lands.

Minimum lot size limits can be used to reduce the pressures of development and settlement on biodiversity. The LEP should define realistically large minimum lot size limits with associated dwelling provisions to control the intensity of development and settlement.

In particular, Council needs to ensure that minimum lot sizes in environmentally sensitive areas are of an appropriately large size to control the cumulative impact of any development and settlement intensification permitted in those areas by the LEP.

Council needs to adopt a risk-based approach to this matter. The selected sizes should be designed to meet expectations of rural living while minimising the adverse environmental impacts of any settlement that may occur with the sub division.

If Council is strongly of the opinion that lot sizes need to be reduced then this should not be applied uniformly across the shire with environmentally sensitive areas excluded from such revisions.

### **4. Conduct targeted environmental studies**

Where development in areas of native vegetation or environmentally sensitive areas cannot be avoided, a targeted environmental study should be conducted. This should focus on ensuring a "maintain or improve" outcome for biodiversity.

Where Council is unable to avoid applying zonings or minimum lot sizes which permit essential development intensification in remnant native vegetation, a targeted study should be conducted to investigate the biodiversity values of the area. Any study should determine how potential impacts can be mitigated or, where this is not possible, offset through conservation management of other areas.

This study and any resulting objectives and zonings should aim to ensure a 'maintain or improve' outcome. This is a vital step in the strategic planning process and in effectively addressing the S117 Directions.

### **5. Include a biodiversity overlay and suitable clauses within the LEP**

OEH strongly recommends the use of overlays and associated provisions with the LEP to provide additional protection for biodiversity.

It is particularly important to define assessment and development control provisions for those instances where development or settlement intensification cannot be avoided in remnant native vegetation.

LEPs should include objectives and provisions that require a 'maintain or improve' outcome for native vegetation and threatened species whenever clearing of native vegetation or environmentally sensitive areas cannot be avoided

Overlays can also be used to update any existing 'environmentally sensitive lands' provisions in current LEP and therefore meet the requirements of the S117 Directions to at least maintain existing environmental protection standards.

Importantly, the use of such overlays is consistent with the Department of Planning and Infrastructure (DoPI) Practice Note PN 09-002v (30 April 2009) on environmental zones<sup>1</sup> which states:

*'Local environmental provisions may be applied where zone provisions need to be augmented in order to ensure that special environmental features are considered. For example, rural land that is still principally for agriculture but which contains environmentally sensitive areas may be zoned RU1 or RU2 and the environmental sensitivities managed through a local provision and associated ('overlay') map.*

*The benefits of this approach include:*

- *The intended conservation or management outcomes for land can be clearly articulated in the LEP.*
- *Areas are clearly defined and controls streamlined.*
- *Sub-zones are not created. (These are not permitted under the standard instrument).*

*Provisions for environmentally sensitive areas may include multiple natural resource or other features such as acid sulfate soils and riparian land. A local provisions clause may include objectives and, where the sensitivity is a mappable attribute, a map would accompany the provision'.*

OEH advocates the inclusion of the environmentally sensitive land overlays developed by the former Departments of Water and Energy, Environment and Climate Change, and Primary Industries (Fisheries). These overlays and clauses have been prepared to provide Council with information on resource assets and environmental constraints and how these assets and constraints should be managed during the assessment of development applications. The use of the environmentally sensitive areas overlays supplied by agencies is now common-place in both exhibited and gazetted LEPs.

The use of these overlays and clauses and how these may affect land uses are outlined in the previously mentioned Practice Note and Technical Note. When implemented in this way the layers and clauses do not exclude development. Rather, they act as a flag for values that may be present at a site. Sites should be checked for these potential values prior to any development approval. If the values are present at the site, the impact should be avoided or, if this is not possible, at the very least minimised and mitigated.

## **6. Define biodiversity protection and management measures in Development Control Plans**

Biodiversity protection and management measures should be defined in Development Control Plans (DCP) for all areas zoned for rural small holdings, residential and other development intensifications.

We view DCPs as a secondary mechanism to provide biodiversity protection and management measures. It is vital that biodiversity values are first considered strategically in zoning decisions and



development assessment provisions. We do not consider it acceptable to completely defer consideration of these matters to the DCP stage.

It is also important to consider the threats to remnant native vegetation posed by adjoining land uses.

For example, threats to biodiversity associated with nearby growth and intensification of residential land use include (but are not limited to):

- clearing,
- domestic animals,
- invasive plants,
- effluent and waste dispersion,
- changes in hydrology and hydraulics,
- increasing access due to fire trails and other tracks, and
- firewood collection.

Particular attention should be paid to relevant Key Threatening Processes identified and listed under the TSC Act<sup>2</sup>. Mechanisms to abate threats to ESAs (such as implementing codes of practice, best management practice, alternative designs and operations, control technology and buffers between remnant vegetation and small holdings) should be considered.

Council should recognise that buffers may be necessary between environmentally sensitive areas and other land uses. The size of the buffer will vary depending on the nature or activity being undertaken and the level of management control required to prevent or minimise adverse impacts. Provisions should be made to rigorously assess any developments within environmentally sensitive areas and adjoining buffers to prohibit land uses and activities that threaten the ecological integrity, values and function of the area.

Some forms of development adjacent to national parks and reserves can impact on their values and should be avoided or restricted. Council should consider how these areas could be buffered from incompatible development and activities so that potential conflicts can be minimised.

The OEH Guidelines for Developments Adjoining OEH Estate<sup>3</sup> have been designed to assist Councils when they are assessing development on lands adjoining OEH estate. However, the issues identified in these guidelines are also relevant when considering buffers for protection of environmentally sensitive areas.

## ABORIGINAL CULTURAL HERITAGE

Land Use Strategies, LEPs and DCPs should aim to identify and protect culturally sensitive areas, rather than relying on site by site development assessment.

Aboriginal objects, places and areas are protected across all land tenure under the *National Parks and Wildlife Act 1974*. However, Council should not rely on the site by site development assessment process as the only mechanism for considering the impact of development and settlement intensification on Aboriginal cultural heritage.

It is clear from the S117 directions and mandatory clauses in the Standard Instrument that DoP supports a **strategic approach** to the protection of Aboriginal cultural heritage. Provisions to facilitate the strategic conservation of Aboriginal cultural and heritage within a local government area should include a landscape framework for assessing potential impacts and partnership development with local Aboriginal people.

We strongly recommend that Councils develop planning strategies that result in the **avoidance** of impacts to Aboriginal cultural heritage and minimise impacts in instances where avoidance is not possible.

Specifically, it is important to:

- Develop a framework for effective Aboriginal engagement; and
- Identify sensitive and least sensitive areas through:
  - accessing existing Aboriginal site information;
  - cross reference to landscape information;
  - assessment of areas of potential development/settlement intensification;
  - use of the Department's search tools;
  - reports from previous studies.
  - Aboriginal knowledge; and by
  - Undertaking site surveys to ground truth assumptions.

We offer the following advice to aid Council efforts in adequately addressing Aboriginal cultural heritage assessment and protection within strategic planning documents and environmental planning instruments:

### **1. The Aboriginal Heritage Information Management System**

Councils should contact the OEH to seek access to the Aboriginal Heritage Information Management System (AHIMS) prior to the drafting of any new Land Use Strategy or LEP. AHIMS is the State register of known Aboriginal site locations. A data licence agreement between the OEH and Council can be prepared on application. Information about obtaining a data licence is available on the OEH website<sup>4</sup>. Alternatively, the AHIMS Registrar can be contacted by phone on (02) 9585 6513 or (02) 9585 6345 or by email at [ahims@environment.nsw.gov.au](mailto:ahims@environment.nsw.gov.au).

### **2. Aboriginal Heritage Study**

We recommend using the AHIMS data, along with any previous landscape assessments of the occurrence of Aboriginal objects and sensitive areas, to assist in developing effective strategies to assess impacts to Aboriginal sites in areas being considered for future development. The selection of landscape mapping to overlay with AHIMS site data will highlight distribution patterns between landscape features and Aboriginal sites. This information can assist in identifying potential areas of sensitivity in locations where no location information for Aboriginal sites exists.

OEH can be contacted to advise on data searches for previous cultural and heritage studies undertaken in each Council LGA, and discuss the potential for appropriate desktop tools for use in cultural heritage management.

We recommend that the strategic planning process be used to initiate the development of a strategic framework for engaging local Aboriginal community interests to ensure that active engagement with Aboriginal people evolves over time.

### **3. Implement a range of tools to ensure strategic management of Aboriginal cultural heritage**

We strongly recommend that Councils aim to protect identified areas of Aboriginal cultural sensitivity through:

- The designation of appropriate zoning provisions and boundaries where possible,

- Inclusion on the Heritage Map of any specific important areas identified (which will enable the mandatory clauses in the Standard Instrument to be effectively applied),
- The generation of a cultural heritage constraints map which could be used in a similar way to the ESA layers provided by the natural resource management agencies,
- Appropriate provisions within DCPs to ensure adequate assessment and protection of Aboriginal cultural heritage values,
- Formation of an Aboriginal community Advisory Group to ensure on going input and dialogue on identification and management of Aboriginal cultural heritage for the LGA

#### 4. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales<sup>5</sup>

This code of practice is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

The *National Parks and Wildlife Act 1974* (NPW Act) provides that a person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP.

The NPW Act allows for a generic code of practice to explain what due diligence means. Carefully following this code of practice, which is adopted by the *National Parks and Wildlife Regulation 2009* (NPW Regulation) made under the NPW Act, would be regarded as 'due diligence'. This code of practice can be used for all activities across all environments.

This code sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

- identify whether or not Aboriginal objects are, or are likely to be, present in an area
- determine whether or not their activities are likely to harm Aboriginal objects (if present)
- determine whether an AHIP application is required.

When formulating DCPs and other planning controls, Council should require proponents to undertake due diligence in accordance with the Code of Practice. Proponents should provide Council with evidence that the due diligence process has been fol

<sup>1</sup> [http://www.planning.nsw.gov.au/planningsystem/pdf/pn09\\_002\\_envt\\_protection\\_zones.pdf](http://www.planning.nsw.gov.au/planningsystem/pdf/pn09_002_envt_protection_zones.pdf)

<sup>2</sup> **Key Threatening Processes:**

<http://www.environment.nsw.gov.au/threatenedspecies/KeyThreateningProcesses.htm>

<sup>3</sup> **Guidelines for Development Adjoining DECCW Estate:**

<http://www.environment.nsw.gov.au/protectedareas/developmntadjoiningdecc.htm>

<sup>4</sup> <http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm>

<sup>5</sup> **Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW**

<http://www.environment.nsw.gov.au/licences/archinvestigations.htm>

## 6.2.3 Ulan West Modification 3

REPORT BY THE MANAGER, STATUTORY PLANNING TO 15 APRIL 2015 COUNCIL MEETING

Ulan West Modification 3

GOV400043, A0420028

### RECOMMENDATION

#### That:

1. **the report by the Manager, Statutory Planning on the proposed Ulan West Modification 3 be received;**
2. **Council note that the proposed modification is on exhibition until the 17 April 2015;**
3. **Council not lodge a submission with the Department of Planning and Environment (DPE).**

---

### Executive summary

Ulan Coal Mines Limited has submitted a modification application for the Ulan Continued Operations Project (08\_0184 MOD 3). The proposal involves:

- extending the life of the project by 2 years (to 2033);
- modifying the approved Ulan West mine plan to:
  - realign longwall panels 5 to 12;
  - reduce longwall panel 5 by 170 metres; and
  - extend longwall panels 6 to 12 by up to 1300 metres; and
- minor changes to approved Ulan West surface infrastructure, including realigning infrastructure corridors, repositioning as yet unconstructed dewatering bores and ventilation shafts and constructing additional ventilation shafts to service the modified longwall panels.

The Environmental Assessment (EA) prepared by Umwelt (dated March 2015) has identified that there are a number of impacts including subsidence, noise, groundwater, aboriginal archaeology and ecology. It is considered that these impacts can be managed by existing and updated management plans.

The proposed modification does not seek to increase production rates, operating hours, workforce numbers but will extend the mine life by two years from August 2031 to August 2033.

It is therefore considered that there is no need for Council to specifically raise any issue with the Department (DPE) and that the identified impacts in the Environmental Assessment (EA) will be assessed by Department of Planning and Environment (DPE) and Office of Environment and Heritage (OEH) staff.

### Detailed report

Ulan Coal Mine Limited has lodged a proposed modification (No.3) to their Project Approval PA 08\_0184 which was issued in 2010. The Project Approval was granted under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) for the Ulan Coal Complex. The proposed modification has been sought under Section 75W of the EP&A Act.

The modification has come about due to further exploration of the coal resource and identification of a more efficient mine plan. Attachments 1 and 2 indicate the approved mine plan and the proposed mine plan as you can see there is a lengthening of some longwalls and the extension into a new area. This was previously avoided because of an identified fault that has subsequently been found to be located further south. This has enabled significant coal resource to be included in the mine plan through extension and reconfiguration of existing planned longwalls.

The proposed modification will not pose significant impacts on the surface due to the mine being underground but will have some additional impacts in terms of realignment of surface infrastructure and additional infrastructure due to the amended mine plan. Some of this infrastructure includes ventilation vents, service boreholes and infrastructure corridors.

#### *SUBSIDENCE*

The Environmental Assessment (EA) has identified that there will be a 13% increase in the effect of subsidence. This will be monitored through the Subsidence Plan but it has been identified that one house will be impacted and UCML amongst other measures may have to compensate the landowner.

#### *NOISE*

Noise during operation is anticipated to meet the criteria established in the Project approval. During construction there is one house that is likely to be impacted by levels above accepted criteria. This can be mitigated by sound barriers or a specific agreement with the landowner during the construction period.

#### *FLORA AND FAUNA*

Council has no specific requirements regarding impact on flora and fauna as these issues will be assessed by the Office of Environment and Heritage.

The site does include the Brokenback Conservation Area but this was part of the original assessment that was approved and the proposed changes can be mitigated by management plans.

#### *GROUND AND SURFACE WATER*

Council has no specific requirements regarding impact on surface and ground water as these issues will be assessed by NSW Office of Water and the Environment Protection Agency (EPA).

#### *ABORIGINAL ARCHAEOLOGY*

The Environmental Assessment (EA) includes an updated study and stakeholder consultation with interested indigenous groups. These are being managed through the Heritage Management Plan (HMP). There were 294 aboriginal sites identified in the Approved Ulan West mining area and a further 19 identified as part of the proposed mining area. Of the 294 sites identified previously, 5 will no longer be impacted.

Impacts are likely due to direct impacts of surface infrastructure and indirect impacts from subsidence. These will be monitored through the approved HMP and further consultation will occur with Aboriginal stakeholders regarding culturally acceptable mitigation or offsetting measures.

## Financial and Operational Plan implications

There are no specific financial implication to the proposed modification other than the increase in mine life which would affect the Voluntary Planning Proposal (VPA).

## Community Plan implications

The assessment of the Environmental Assessment sits under:

- Theme 1 - Looking after our Community, Goal: A Safe and Healthy Community; and
- Theme 5 - Protecting our Environment, Goal: Protect and Enhance our Natural Environment



GARY BRUCE  
MANAGER, STATUTORY PLANNING



CATHERINE VAN LAEREN  
DIRECTOR, DEVELOPMENT

1 April 2015

*Attachments:*

1. Approved Mine Plan (umwelt, March 2015)
2. Proposed Mine Plan (umwelt, March 2015)
3. Draft Submission

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

ATTACHMENT 1

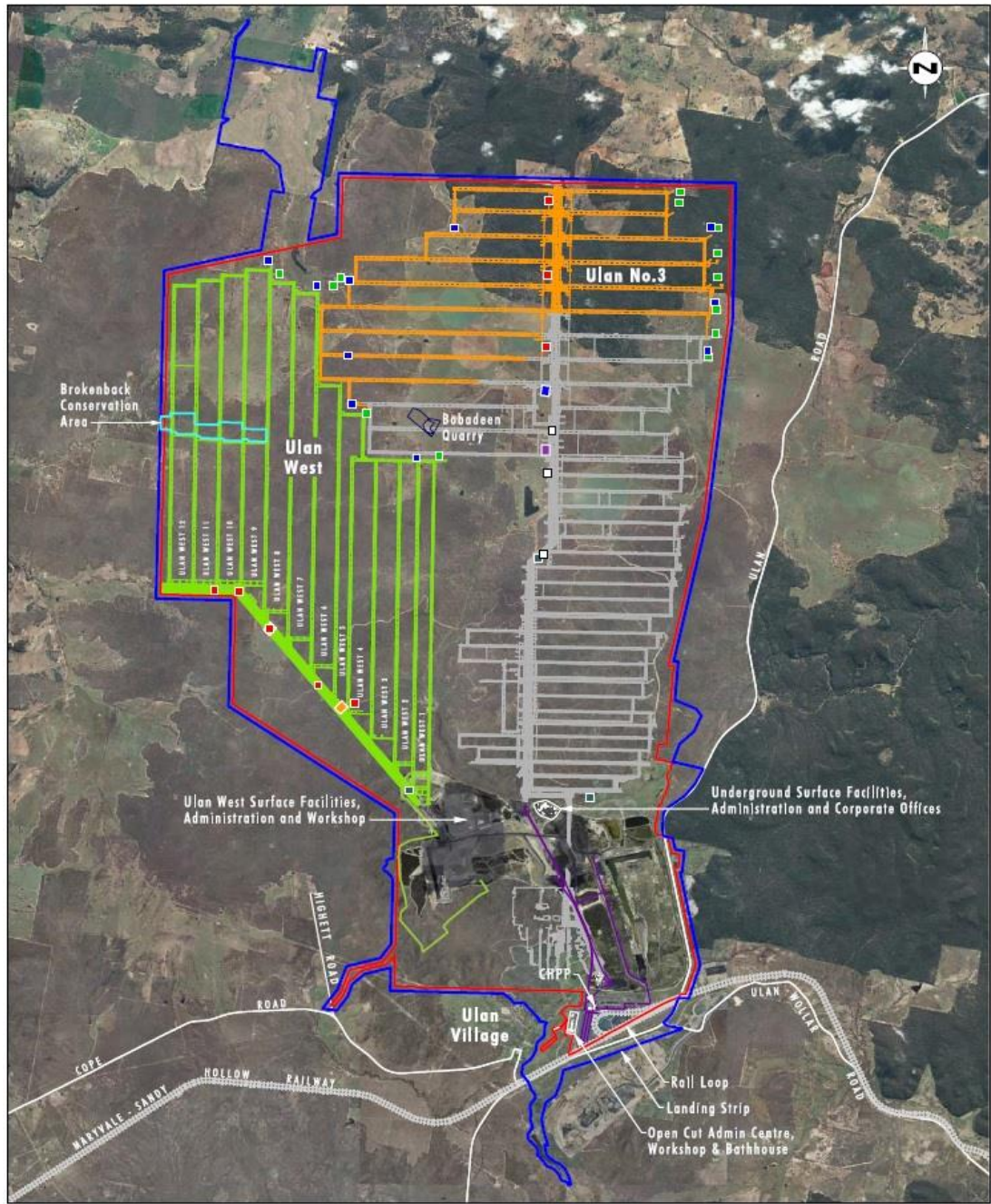


Image Source: Ulan Coal (2008, 2010, 2012, 2014)  
 Data Source: Ulan Coal (2013)



- Legend**
- Existing Colliery Holding Boundary
  - UCML Continued Operations Project Approval Area
  - Approved Open Cut Extension
  - Approved Brokenback Conservation Area
  - Bobadeen Quarry
  - Approved Ulan West Mine Plan
  - Approved Ulan No.3 Underground Mine Plan
  - Previous Underground Mining Operations
  - Conveyors
  - Approved Upcast Ventilation Shaft
  - Approved Downcast Ventilation Shaft
  - Approved Service Borehole Facility
  - Approved Man Riding Shaft
  - Approved Dewatering Bore
  - Existing Ventilation Shaft
  - Existing Service Borehole

File Name (A4): R01/3363\_019.dgn  
 20141015 16:31

**FIGURE 2.1**  
**Approved Ulan**  
**Complex Operations**

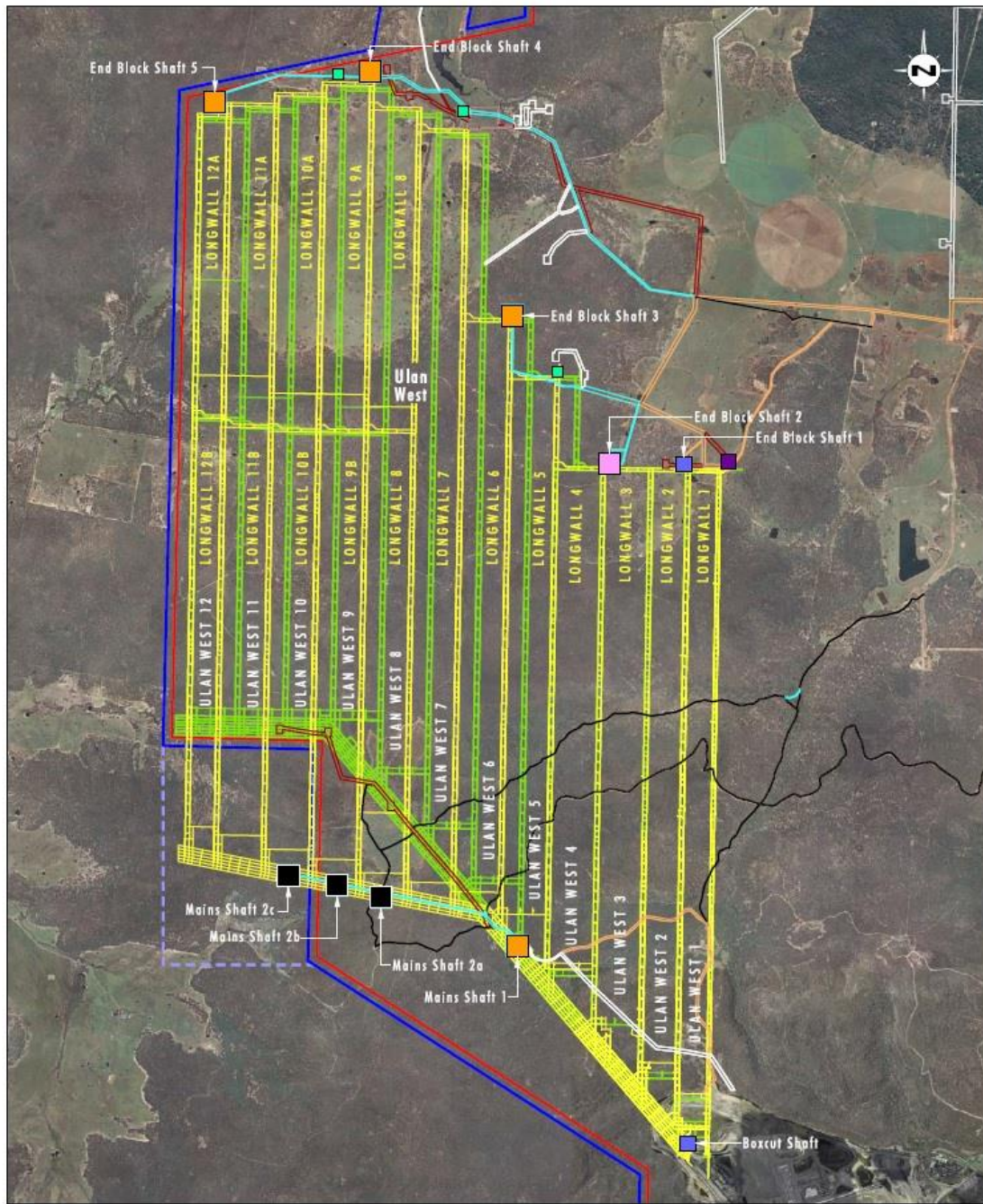


Image Source: Ulan Coal (2008, 2010, 2014)  
 Data Source: Ulan Coal (2014)

**Legend**

- |  |  |
|--|--|
| Existing Colliery Holding Boundary                     | Constructed Infrastructure Corridor                        |
| UCML Continued Operations Project Approval Area        | Existing Access Road                                       |
| MLA 475  | Existing Vent Shaft Compound                               |
| Approved Ulan West Mine Plan                           | Existing Dewatering Bore Compound                          |
| Proposed Conceptual Ulan West Mine Plan                | Proposed Realigned Dewatering Bore Compound                |
| Approved Infrastructure Corridor                       | Proposed New Ventilation Shaft Compound                    |
| Approved Infrastructure Corridor Not to be Constructed | Proposed Realigned Ventilation Shaft Compound              |
| Proposed Infrastructure Corridor                       | Potential Location of Realigned Ventilation Shaft Compound |

**FIGURE 2.3**  
**Proposed Ulan West Modification**



ATTACHMENT 3



PO BOX 156  
MUDGEES NSW 2850  
86 Market Street MUDGEES  
109 Herbert Street GULGONG  
77 Louisa Street RYLSTONE  
Ph: 1300 765 002 or (02) 6378 2850  
Fax: (02) 6378 2815  
email: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

Gary Bruce: A0420028

16 April 2015

NSW Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Attention: Mr Paul Freeman

Dear Sir/Madam

**ULAN CONTINUED OPERATIONS PROJECT (08\_0184) – MODIFICATION 3**

Reference is made to the above-mentioned project and to its exhibition that will close on the 17 April 2015.

Council has reviewed the Environmental Assessment and has no submission to make in reference to the proposal to modify the Ulan Continued Operations Project approval.

Should you have any further enquiries regarding this matter please contact Liz Densley or Catherine Van Laeren of Council's Planning and Development Department on ☎ 02 6378 2850.

Yours faithfully

**CATHERINE VAN LAEREN  
DIRECTOR DEVELOPMENT**

## 6.2.4 Water and Sewer Servicing - Subdivision - 238 Broadhead Road Mudgee (Broadview Estate)

REPORT BY THE DIRECTOR, DEVELOPMENT TO 15 APRIL 2015 COUNCIL MEETING

Broadhead Road Servicing

GOV400043, P2109711

### RECOMMENDATION

That:

1. **the report by the Director, Development on Water and Sewer Servicing - Subdivision - 238 Broadhead Road Mudgee (Broadview Estate) be received;**
2. **Negotiations regarding the servicing of the Broadview Estate be finalised and a further report be presented to Council for endorsement detailing the terms of the agreement including design and costs.**

### Executive summary

The purpose of this report is to provide information regarding the process for the provision of water and sewer services to the Broadview Estate located at 238 Broadhead Road Mudgee. A further detailed report finalising the design and the agreement will be presented to Council at a later stage.

### Detailed report

Council considered a report on the 15 October 2015 regarding the provision of water and sewer servicing prior to the scheduled provision of those services and resolved the following:

2. **That Council clarify its policy position as outlined in the DSP in relation to the levying and undertaking of “works in kind as follows:**

#### **DISTRIBUTION WORKS INCLUDED IN THE CAPITAL WORKS PLAN**

**Where a developer wishes to undertake a development that requires extension of distribution works that is included in Council’s Capital Works Plan but is required out of sequence or is yet to be included in the Council’s Capital Works Program, the following will apply:**

- (a) A report of the proposed works will be presented to Council; and**
- (b) Council will enter into an agreement for the distribution works to be constructed by the developer, including works that are necessary to service the entire development catchment at the full upfront cost to the developer. Such works will be offset by crediting relevant developer charges. Where the cost of works exceeds the developers charges levied, the developer will be repaid as Council collects future developer charges from that catchment.**

#### **RETICULATION WORKS**

**Reticulation works are to be undertaken at the full cost to the developer with no offset from developer contributions. Reticulation works will be identified during the assessment of the development application.**

The servicing of the Broadview Estate is the first subdivision to be considered under the DSP since the resolution of Council in October. Council staff have been negotiating with the developer

regarding the servicing of Broadview Estate (DA0367/2014) which is a 67 lot subdivision located at 238 Broadhead Road, Mudgee.

To provide sewer services to the site it is necessary that an extension to the main be provided across the land currently owned by private landholders. This will include securing an easement across this private land which will be the responsibility of the developer. A concept plan showing the proposed location of the main is attachment 1 to this report.

Council is still investigating options for the provision of water services to the subdivision. The two options under investigation are:

1. Extension of the reticulated network that would only service the subdivision and therefore the full cost would be borne by the developer; or
2. Extension of the distribution network that will service a larger catchment and be subject to a works in kind agreement with Council.

At the time of writing this report Council was waiting for further information from the applicant.

#### *FUTURE PROCESS*

1. A further report of the proposed works, including details such as design and costs, will be presented to Council seeking the Council resolution to enter into the agreement;
2. Upon resolution, Council will enter into an agreement for the distribution works to be constructed by the developer, including works that are necessary to service the entire development catchment at the full upfront cost to the developer. Such works will be offset by crediting relevant developer (water and/or sewer headwork) charges. Where the cost of works exceeds the developers charges levied, the developer will be repaid as Council collects future developer charges from that catchment.

## Financial and Operational Plan implications

The approach outlined in this report is consistent with the previous resolution of Council and provides the opportunity for Council to facilitate the servicing of development that is outside of Council's current works program.

## Community Plan implications

The consideration of this report sits under Theme 1 Looking after our Community, Strategy 3.1 – Provide infrastructure and services to cater for the current and future needs of our community.



CATHERINE VAN LAEREN  
DIRECTOR, DEVELOPMENT

31 March 2015

*Attachments:* 1. Concept Plan for Sewer Provision

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

PROPOSED SEWER AND WATER MAINS EXTENSION BROADHEAD ROAD, MUDGEEE



Table with 2 columns: Description and Date. Includes sections for Construction, Revision, Amendments, Status, and Client information.

CONSTRUCTION ISSUE TRIAXIAL Consulting logo and contact information for Professional Engineering Services.

Table with 2 columns: Description and Date. Includes sections for Inspection Hold Points, Survey, and General notes.



DRAWING LIST

Table with 2 columns: Drawing No. and Title. Lists sheets MX10270.00-C01 through MX10270.00-C11.

GENERAL

- 1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES... 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES...

- 20. NO PILES ARE TO BE LEFT OR WASTE MATERIALS LEANING ON THE SITE... 21. ALL MATERIALS TO BE USED MUST BE STORED IN A SECURE AND PROTECTED MANNER... 22. WHERE THE LAND IS TO BE FILLED, GRANULATED FILLING MUST BE USED...

INSPECTION HOLD POINTS THE CONTRACTOR MUST BE AVAILABLE TO THE CONSULTANT FOR THE FOLLOWING REASONS...

SURVEY

- 1. ALL LEVELS ARE TO BE TO THE FINISHED FLOOR LEVEL... 2. ALL CHANGES AND LEVELS ARE TO BE SHOWN IN RED ON THE DRAWING...

## 6.2.5 Monthly Budget Review February 2015

REPORT BY THE MANAGER FINANCE TO 15 APRIL 2015 COUNCIL MEETING

Monthly Budget Review February 2015

GOV400043, FIN300062, A0100056

### RECOMMENDATION

**That Council receive the report by the Manager Finance on the Monthly Budget Review February 2015.**

---

### Executive summary

This report presents to Council the February Monthly Budget Review of the 2014/15 Operational Plan.

### Detailed report

Clause 202 of the Local Government (General) Regulation 2005 states that the responsible accounting officer is to maintain a system of budgetary control that enables actual income and expenditure to be monitored each month and compared with the estimate of Council's income and expenditure and that any material difference be reported to the next meeting of Council.

### Financial and Operational Plan implications

This monthly budget review has no recommended budget variations, and therefore has no impact on the 2014/15 Operational Plan.

### Community Plan implications

The Monthly Budget Review meets Community Plan Theme 5 - Good Governance:

#### **Goal 2: Good Communications and Engagement**

Strategy 2.1: Improve communications between Council and the community and create awareness of Council's roles and responsibilities.

#### **Goal 3: An Effective and Efficient Organisation**

Strategy 3.3: Prudently manage risks associated with all Council activities.

LEONIE JOHNSON  
MANAGER FINANCE

CLARE PHELAN  
DIRECTOR, CORPORATE

1 April 2015

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

*Attachments:* 1. Capital Program Update (included at the end of the business paper)

## 6.2.6 Monthly statement of investments and bank balances as at 31 March 2015

REPORT BY THE MANAGER FINANCE TO 15 APRIL 2015 COUNCIL MEETING

Investments and Bank balances.docx

GOV400043, FIN300053

### RECOMMENDATION

**That:**

1. **the report by the Manager Finance on the Monthly statement of investments and bank balances as at 31 March 2015 be received;**
2. **the certification of the Responsible Accounting Officer be noted.**

### Executive summary

The purpose of this report is to certify that Council's investments have been made in accordance with legal and policy requirements; provide information on the detail of investments and raise other matters relevant to Council's investment portfolio as required.

### Detailed report

As per Clause 212 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer certifies that;

- a) this report sets out details of all money that the Council has invested under Section 625 of the Act, and
- b) all investments have been made in accordance with the Act, the regulations and Council's investment policies.

This report has been made up to the last day of the month preceding this meeting.

### Financial and Operational Plan implications

Council requested a list of restricted cash balances (internally restricted and externally restricted) to clarify what makes up Council's cash at bank. This has been provided as attachment 3. It should be noted that there are timing issues which occur when money is received (income) as budgeted in the Operational Plan and when expenditure occurs, throughout the year. These timing issues can cause fluctuations in the cash balance. The budgeted unrestricted cash balance is not the difference between cash at bank and estimated restricted cash, because of these timing differences. For a full breakdown of unrestricted cash, restricted cash and fund balances Council should refer to the most recent Quarterly Budget Review.

### Community Plan implications

Theme	Good Government
Goal	An effective and efficient organisation
Strategy	Prudently manage risk associated with all Council activities



LEONIE JOHNSON  
MANAGER FINANCE

CLARE PHELAN  
DIRECTOR, CORPORATE

1 April 2015

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

- Attachments:*
1. Monthly statement of bank balances and investments
  2. Schedule of MWRC investment policy requirements
  3. Restricted cash summary
  4. Monthly investment portfolio activity

## ATTACHMENT 1

For the month ended: 31-Mar-15

Bank Accounts	Opening Balance	Receipts	Payments	Closing Balance	Overdraft Limit
National Australia Bank	\$ 1,023,423	\$14,526,665	\$ 15,448,075	\$ 102,013	\$ 700,000

The bank balance has been reconciled to the General Ledger as at

31/03/2015

Investments	Type	Amount \$'000	Yield %	Maturity Date	Term	Rating	Financial Claims Scheme
National Australia Bank	At Call	880	2.55%	N/A	At Call	A-1+	1
National Australia Bank	Term Deposit	1,000	3.55%	1/04/2015	182	A-1+	2
National Australia Bank	Term Deposit	1,000	3.58%	15/04/2015	175	A-1+	2
National Australia Bank	Term Deposit	1,500	3.52%	22/04/2015	140	A-1+	2
National Australia Bank	Term Deposit	1,000	3.55%	17/06/2015	189	A-1+	2
National Australia Bank	Term Deposit	1,000	3.30%	5/08/2015	182	A-1+	2
National Australia Bank	Term Deposit	1,600	3.58%	8/07/2015	182	A-1+	2
National Australia Bank	Term Deposit	2,000	3.14%	16/09/2015	189	A-1+	2
National Australia Bank	Term Deposit	1,000	3.20%	28/10/2015	252	A-1+	2
St George Bank	Term Deposit	1,400	3.58%	29/04/2015	181	A-1+	1
St George Bank	Term Deposit	500	3.50%	6/05/2015	182	A-1+	2
St George Bank	Term Deposit	1,000	3.55%	10/06/2015	189	A-1+	2
St George Bank	Term Deposit	700	3.37%	22/07/2015	182	A-1+	2
St George Bank	Term Deposit	1,300	3.40%	29/07/2015	180	A-1+	2
St George Bank	Term Deposit	1,500	2.95%	2/09/2015	189	A-1+	2
St George Bank	Term Deposit	2,500	3.00%	9/09/2015	189	A-1+	2
St George Bank	Term Deposit	1,000	2.80%	21/10/2015	204	A-1+	2
Bankwest	Term Deposit	2,000	3.45%	6/05/2015	180	A-1+	1
Bankwest	Term Deposit	2,000	3.45%	13/05/2015	182	A-1+	2
Bankwest	Term Deposit	2,000	3.45%	20/05/2015	182	A-1+	2
Bankwest	Term Deposit	1,800	3.40%	1/07/2015	175	A-1+	2
Bankwest	Term Deposit	1,000	3.40%	15/07/2015	182	A-1+	2
Bankwest	Term Deposit	1,500	3.05%	26/08/2015	189	A-1+	2
ANZ	Term Deposit	1,000	3.59%	8/04/2015	182	A-1	1
ANZ	Term Deposit	1,000	3.56%	3/06/2015	189	A-1	2
ANZ	Term Deposit	1,300	3.56%	3/06/2015	189	A-1	2
ANZ	Term Deposit	2,000	2.90%	30/09/2015	183	A-1	2
AMP	Term Deposit	1,000	3.30%	12/08/2015	182	A-1	1
AMP	Term Deposit	1,500	3.05%	19/08/2015	182	A-1	2
ING Australia Bank	Term Deposit	1,000	3.52%	24/06/2015	189	A-2	1
Bank of Queensland	Term Deposit	2,000	3.55%	27/05/2015	189	A-2	1
Bank of Queensland	Term Deposit	1,500	3.60%	10/06/2015	189	A-2	2
Bank of Queensland	Term Deposit	500	3.10%	23/09/2015	189	A-2	2
Peoples Choice C/Union	Term Deposit	600	3.50%	23/09/2015	182	A-2	1
Members Equity Bank	Term Deposit	1,000	3.48%	22/04/2015	175	A-2	1
Members Equity Bank	Term Deposit	1,000	3.18%	12/08/2015	180	A-2	2
Newcastle Permanent	Term Deposit	1,000	3.00%	9/09/2015	105	A-2	1
<b>Total Investments</b>		<b>47,580</b>					

---

**Financial Claims Scheme**


---

- |   |                         |
|---|-------------------------|
| 1 | Guaranteed to \$250,000 |
| 2 | Not Covered             |



## ATTACHMENT 2

**MWRC Policy Requirements:**

Investments by Institution	Long/Short Term Ratings	Amount \$'000	% of Portfolio	
			Actual	Policy Limit
National Australia Bank	AA/A-1+	10,980	23%	25%
Bankwest	AA/A-1+	10,300	22%	25%
St George Bank	AA/A-1+	9,900	21%	25%
ANZ	AA/A-1	5,300	11%	25%
AMP	A+/A-1	2,500	5%	15%
ING Australia Bank	A-/A-2	1,000	2%	10%
Bank of Queensland	A-/A-2	4,000	8%	10%
Newcastle Permanent	BBB+/A-2	1,000	2%	10%
Members Equity Bank	BBB+/A-2	2,000	4%	10%
Peoples Choice C/Union	BBB+/A-2	600	1%	10%
		<b>47,580</b>	<b>100%</b>	

Investments by Rating	Rating*	Amount \$'000	% of Portfolio	
			Actual	Limit
Direct Securities	AA/A-1+	31,180	66%	100%
	AA/A-1	5,300	11%	100%
	A/A-1	2,500	5%	60%
	BBB/A-2	8,600	18%	20%
	BBB-/A-3	-	0%	20%
	Unrated	-	0%	20%
		<b>\$ 47,580</b>	<b>100%</b>	

\*Investments lower than AA/A-1 are restricted to licenced banks, credit unions and building societies

Term to Maturity	Amount \$'000	Actual	% of Portfolio	
			Minimum	Maximum
Less than 1 year	47,580	100%	30%	100%
Between 1 and 3 years	-	0%	0%	70%
Between 3 and 5 years	-	0%	0%	50%
More than 5 years	-	0%	0%	25%
	<b>47,580</b>	<b>100%</b>		

## ATTACHMENT 3

<b>Restricted Cash Summary (as at 31 December 2014*)</b>	<b>As at 31 Dec 2014* \$ '000</b>	<b>Est. at 30 June 2015 \$'000</b>
<b>Internal Reserves</b>		
Employee Leave Entitlements	2258	2,295
Emergency	200	200
Land Development	544	361
Airport Development	(235)	(235)
Elections	165	195
Plant Replacement	38	765
Asset Replacement	927	1,108
Capital Program	573	410
Livestock Exchange	52	32
State Roads Warranty	395	200
Rylstone Community Services	6	6
Community Plan	313	33
Future Fund	100	200
Airline Support	-	-
<b>External Reserves</b>		
Waste Fund	2626	2,809
Sewer Fund	3288	2,314
Water Fund	1968	997
Community Services	77	77
Community Tenancy Scheme	64	64
Family Day Care	90	118
Bequest – Simpkins Park	96	96
Bequest – Kandos Museum	32	32
Community Transport Vehicle Replacement	79	79
Ulan Road Strategy	-	-
<b>Total Reserves</b>	<b>13,656</b>	<b>12,156</b>
<b>Section 94</b>		
Traffic Management	1194	1,214
Open Space	1457	1,569
Community Facilities	473	520
Administration	252	132
Civic Improvements	(5)	(5)
Car Parking	235	241
S94A Levies	376	391
Drainage	15	(240)
<b>Section 64</b>		
S64 Water	4087	703
S64 Sewer	1820	1,749
<b>VPA</b>	<b>896</b>	<b>2,190</b>
<b>Total Developer Contributions</b>	<b>10,800</b>	<b>8,464</b>
<b>Other Restrictions</b>		
Unspent Loans	-	-
Unspent Grants	755	317
Trust Deposits	867	867
Water Fund	3604	2,648
Sewer Fund	2740	1,921
Waste Management	5170	1,360
<b>Total Other Restrictions</b>	<b>13,136</b>	<b>7,113</b>
<b>Total Restricted Cash</b>	<b>37,592</b>	<b>27,733</b>

\* As reported in the December QBR

## ATTACHMENT 4

**Monthly Investment Portfolio Activity:**

The below table shows monthly investment activity within the portfolio including investments that have matured and have been redeemed or re-invested, and new investments placed.

<b>Bank Accounts</b>	<b>Opening Balance \$'000</b>	<b>Redeemed Balance \$'000</b>	<b>Re-invested Balance \$'000</b>	<b>Change in interest rate</b>	<b>Change in Term (days)</b>	<b>New Term Rate</b>
National Australia Bank	480		880	0.00%	At Call	2.55%
ANZ	1,000	1,000		Redeemed		
St George			2,500	New Deposit		3.00%
Newcastle Permanent			1,000	New Deposit		3.00%
NAB	2,000	-	2,000	-0.51%		3.14%
St George	1,500	1,500		Redeemed		
Bank of Queensland			500	New Deposit		3.10%
Peoples Choice C/Union	1,100	500	600	-0.50%	7	3.00%
ANZ			2,000	New Deposit		2.90%
St George			1,000	New Deposit		2.80%
	<b>6,080</b>		<b>10,480</b>			
<b>Net Portfolio Movement</b>	<b>4,400</b>	<b>Addition</b>				

## 6.2.7 Financial Assistance Applications

REPORT BY THE MANAGER FINANCE TO 15 APRIL 2015 COUNCIL MEETING

Financial Assistance Report  
GOV400043, A0140201

### RECOMMENDATION

#### That:

1. **The report by the Manager Finance 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:**

<b>Mudgee Endurance Riders Association Inc.</b>	<b>\$500.00</b>
<b>Rylstone &amp; District Historical Society</b>	<b>\$774.37</b>

### Executive summary

This report considers requests for financial assistance under the Council's Financial Assistance Policy.

### Detailed report

Provision is made in Council's Financial Assistance Policy for community not for profit organisations, groups and individuals which offer a significant contribution to the social, economic and/or environmental well-being of the Community.

#### *MUDGEE ENDURANCE RIDERS ASSOCIATION*

Mudgee Endurance Riders intend to hold their annual Ray Gooley Memorial ride on the 16<sup>th</sup> & 17<sup>th</sup> May 2015 at Cooyal Community Grounds.

The ride is expected to have 100 competitors and crowds of up to 200 in support of the event, drawing in people from other regions to Mudgee.

The Mudgee Endurance Riders Association is a non for profit organisation and is requesting the ground hire fee of \$500 for the Cooyal Community Grounds be waived.

Link to Community Plan: *Strategy 1.1.3. Support networks, program and facilities which promote health and wellbeing and encourage healthy lifestyles.*

#### *RYLSTONE & DISTRICT HISTORICAL SOCIETY*

Rylstone & District Historical Society is a not for profit association which manages the Cottage Museum and Bridge View Inn situated in Rylstone as well as provides information on genealogy in the local region.

The Society is requesting a rates rebate for the property of 28 Louee Street Rylstone in which the Bridge View Inn and Cottage Museum are located. The rates total \$1548.74 for the 2014/15 year. Due to the building being used as a commercial premise, we recommend that only 50% of the rates are reimbursed.

Link to Community Plan: *Strategy 1.2.1. Respect and enhance the historic character of our Region and heritage value of our towns*

## Financial and Operational Plan implications

Funding of \$157,000 is provided in the Operational Plan for Financial Assistance. \$148,379 has been allocated to date, leaving a balance of \$8,621.

Should Council approve the recommendations in this report, a balance of \$7,346.63 will remain.

## Community Plan implications

Council's Financial Assistance Policy applies.

LEONIE JOHNSON  
MANAGER FINANCE

CLARE PHELAN  
DIRECTOR, CORPORATE

1 April 2015

APPROVED FOR SUBMISSION:

A handwritten signature in black ink, appearing to be 'BRAD CAM', with a horizontal line extending to the right.

BRAD CAM  
GENERAL MANAGER

*Attachments:* 1. Applications for financial assistance

ATTACHMENT 1



## Mudgee Endurance Riders Association Inc.

~ Established 1971 ~

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



27 March 2015

Dear Sir

### MUDGEE RAY GOOLEY MEMORIAL ENDURANCE RIDE- 16 & 17 MAY 2015

The Mudgee Endurance Riders Association Inc (MERA) will once again be holding the annual endurance ride at Cooyal. The financial assistance that has been forthcoming from Council in the past has been most gratefully appreciated. Without this support, and that of the community, the Mudgee Endurance ride would not be the success that it has been for the past 41 years.

The weekend includes a 20km introductory ride, a 40km training ride and an 80km endurance ride. It is expected that these events will attract up to 100 competitors, if not more, with an additional 200 plus support crew and volunteers.

The ride will be attended by riders from all over the state and it gives local riders the opportunity to compete in an event close to home. It also offers local community groups such as the Cooyal Progress Association and the Cooyal, Botobolar and Moolarben RFS brigades fund raising opportunities which they look forward to every year. The RFS have the added opportunity of practicing their communications. Competitors are encouraged to take advantage of local services as they pass through our region's townships as they travel to and from the event, with many staying in our region for 3 or 4 days.

The Club is mindful of its budget and tries to keep costs to a minimum with the Committee, friends and family all assisting to help minimise costs. MERA is a not-for-profit organisation and relies on donations and event entry fees to cover costs. The events budget for the Mudgee Endurance Ride is approximately \$9,000 and each year the ground hire fee for the Cooyal Community Grounds is \$500.

MERA appreciatively asks Council to consider a contribution toward the ground hire fee. In return, Council's contribution will be acknowledged on all event correspondence on the day, advertising on chat-lines and in the NSW Endurance newsletter. MERA thanks Council for considering this request.

Yours sincerely

Mette Sutton  
PRESIDENT

*Ack letter  
Sent 31/3/15*



***Rylstone and District Historical Society Inc.***

***ABN 69 040 337 724***

***PO Box 66***

***Rylstone NSW 2849***

***Email: [rylstonehistory@westnet.com.au](mailto:rylstonehistory@westnet.com.au)***

18<sup>th</sup> March 2015

The General Manager,  
Mid Western Regional Council,  
PO Box 156  
Mudgee 2850

Re : Property number 16273 - Request for Council rate rebate.

Dear Mr Cam,

On behalf of Rylstone & District Historical Society I wish to make application to Council for a land rate rebate that our society is entitled to claim.

The property location is known as 28 Louee Street Rylstone 2849 and the description is known as Lots 3 & 21 Sec 5A DP758891.

If you require an application form to be completed by the Society to enable us to apply for the rebate, or any further information, please forward the respective form to the Society email address on [rylstonehistory@westnet.com.au](mailto:rylstonehistory@westnet.com.au) or post to PO Box 66 Rylstone 2849.

Yours faithfully,

*Debra Bush*

Debra Bush

Secretary

Rylstone & District Historical Society Inc.

## 6.2.8 Financial Assistance for Childcare Centre Melton Road

REPORT BY THE GENERAL MANAGER TO 15 APRIL 2015 COUNCIL MEETING

Financial Assistance – Childcare centre  
GOV400043, P1193065

### RECOMMENDATION

#### That Council:

1. receive the report by the General Manager on the Financial Assistance for Childcare Centre Melton Road; and
2. not proceed with the provision of financial assistance of \$36,639.80 by way of reduced Section 64 Developer Contributions.

### Executive summary

At the Ordinary Council Meeting of 18 February 2015, Council approved in principle to provide financial assistance to Child Care Specialists Australia Pty Ltd, the proponent of a new Childcare Centre at 26 Melton Road Mudgee, in the form of a rebate on water and sewerage headworks contributions (Section 64 Charges).

The purpose of this report is to consider submissions made in response to the proposal, and make a final recommendation to Council on the granting of financial assistance.

### Detailed report

Modified development consent MI0011/2013 requires payment of \$136,639.80 in headworks contributions.

As per Minute 16-15, Council proposed to provide financial assistance of \$36,639.80. Under Section 356 of the Local Government Act 1993, Council was required to provide at least 28 days' public notice of the intention to provide the financial assistance as it was to a proposed recipient who acts for private gain, and such assistance does not form part of a specific program for financial assistance, details of which must have been included in Council's Operational Plan.

Council advertised in local media and on its website, inviting submissions on the proposal in writing to be received no later than Friday 3 April 2015. A total of three written submissions were received, copies of which are attached to this report:

1. Melissa Craze and Belinda Roberts, Puggles Child Care Centre
2. Mr Robert and Mrs Wendy Craze
3. Matt Cover, Cover Constructions

#### *Summary of submissions*

The three submissions raise a number of objections to the proposal. These are briefly summarised as follows:

Issue	Detail
Funding of request	Council's budget does not include funding for the proposed financial assistance.



Issue	Detail
Impact on existing water and sewer infrastructure	Concerns raised about number of staff and children that will be on premises and the associated impact on existing infrastructure
Application of the Development Servicing Plan	Council's DSP states the formula to be used for levying Section 64 contributions. Developer would be aware of expected contribution when making decision to invest in region.
Consistency and equity	<ul style="list-style-type: none"> <li>• Other child care centres that have established new businesses in the region have not been provided financial assistance with Developer Contributions</li> <li>• Other requests for financial assistance considered by Council as part of the same report at the February Council Meeting were not supported</li> <li>• Request is inconsistent with objective of Council's Financial Assistance Policy</li> <li>• Public perception around consistent treatment of application</li> </ul>
Provision of financial assistance to recipient who acts for private gain	Objection to provision of financial assistance by ratepayers to a private developer with significant revenue streams.

## Financial and Operational Plan implications

Consistent with the initial report presented to Council at the 18 February meeting, Officer's recommend the request for financial assistance be declined.

The financial assistance proposed to be provided does not have funding allocated within the 2014/15 Operational Plan. Council has an annual allocation of \$157,000 for grants and donations, the majority of which has already been allocated for 2014/15. Applications for financial assistance are considered in accordance with Council's Financial Assistance Policy – the objective of this policy is to:

*provide financial assistance to organisations, groups and individuals that offer a significant contribution to community outcomes and goals as provided in the Towards 2030 Community Plan. Financial assistance should be provided in a consistent, equitable and transparent manner.*

The Policy does not prevent provision of financial assistance to an individual or organisation who acts for private gain, however Council would need to consider how the provision of such assistance is aligned to the goals of the Community Plan; and whether this request falls within the scope and intent of the Financial Assistance Program.

Further, Council is in itself the proponent of an Early Childhood Hub on Saleyards Lane, a facility designed to provide early childhood learning in the 3-5 years age group for up to 40 children per day. As part of the Development Consent, Council as the applicant was required to pay \$40,970 in Section 64 Headworks charges, without subsidy. This facility will compete in a similar market to the Melton Road Childcare Centre.

The waiving or reduction of fees could potentially be seen as inconsistent or inequitable for other child care operators in the region, and indeed any future developments.

However, if Council were of a mind to support the provision of financial assistance, any such assistance should be tied to the commencement of operations at the Centre, together with the employment of local residents. These were identified as key factors by Councillors when initially considering the request for financial assistance ie attraction of a new business to the region, provision of additional child care places, and enhanced employment opportunities for local residents. Tying the provision of any financial assistance to those milestones will help ensure

Council's objectives with respect to the request are met. Finally, a budget would need to be identified and adopted as part of the March 2015 Quarterly Budget Review.

Currently listed on Matters in Progress is a workshop with Councillors to explore development of a policy framework for provision of financial assistance to for-private-gain enterprises looking to establish business in the Mid-Western Region.

## Community Plan implications

### **Building a Strong Local Economy**

2. An attractive business and economic environment

2.3 Support the expansion of essential infrastructure and services (education, health) to match business and industry development in the region

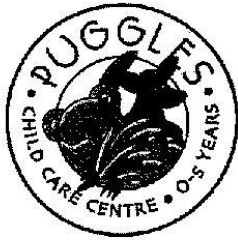


BRAD CAM  
GENERAL MANAGER

7 April 2015

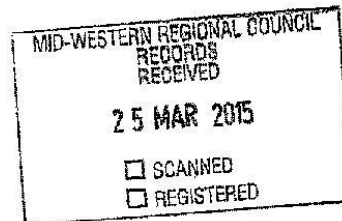
- Attachments:*
1. Submission – Puggles Child Care Centre
  2. Submission – Mr and Mrs Craze
  3. Submission – Cover Constructions

ATTACHMENT 1



## Exceptional care and opportunities for your children OLAF

Melissa J Craze &  
Belinda L Roberts  
Puggles Child Care Centre  
PO Box 18  
Mudgee NSW 2850

24<sup>th</sup> March 2015

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

RE: SECTION 96 APPLICATION NO: M10011/2013- CHILD CARE CENTRE- LOT 2 DP844678-26  
MELTON ROAD MUDGEE NSW 2850

We hereby object to Council's recent approval in principle to provide financial assistance to Child Care Specialists of Australia Pty Ltd in the form of a rebate on water and sewerage headworks contributions of \$36,639.80. The fee of \$136,639.80 was properly set in accordance with the DSP, in accordance with the Developer Charges Guidelines managed by the then Department of Water, Energy, Utilities.

We question WHY this developer was given what amounts to a donation of \$36,639.80, as the majority of the annual \$157,000 for grants and donations has been allocated for 2014/15. The \$36,639.80 would have to be paid by the General Fund to Water and Sewer. This means that \$36,639.80 worth of other critical infrastructure would need to be sacrificed. As ratepayers, we very strongly object to the Broader Ratepayer Base being required to subsidise a developer with substantial assets of his own.

We also question the developer, Mr Williams', reasons given for the request for relief from Section 64 charges. According to his Internet profile, he's been in the Childcare Developing Business for some time, so he would know that water usage in a Childcare Centre cannot be dismissed as negligible, just because he states that staff and children do not shower on the premises – in fact, dealing with at least approximately 42 children aged 2 and under, quite often bathing, for both children and staff, is a necessity. Then of course there is floor washing, dish washing, utensil washing, hand washing, face washing, bottom washing, water play, toilet flushing, garden watering— and all for 92 children plus at least 18 staff! And this is repeated every day!

We take issue with the reason given that 50% of the children are in nappies, and there is no discharge into the sewer! Maybe not, but when you consider that each of the children in nappies (say 42-52) require changing 5 times per day (according to regulations) that's a 210-260 per day, every day, discharge into landfill-- also a part of critical servicing infrastructure.

We also question the figures given concerning the number of staff who would be on the premises. According to the plan and the numbers of children to be accommodated in each room, regulations would require 16 staff members in the five rooms, with a cook and an administrator, making a minimum of 18 staff members. At "Puggles" we have 13 members of staff, catering for only 46 children.

We see the assertion that there is a double up of charges because Section 64 has been already paid by the parents on their residences is a nonsense, and doesn't warrant comment.

In addition we believe that when fees are correctly set by Local Government, using official formula, they should be paid in full by EVERYONE presenting a development application. The DSP states the formula to be used for levying Section 64 contributions, so the developer would be aware of his expected commitment before submitting the DA. As the developer lives outside the Mid Western Regional Council area, he then has the option of developing in a Council area which has set cheaper fees, rather than asking Council for (and possibly getting) an amendment to suit him.

As we well remember, when we sought to develop our Child Care Centre, we consulted with Mid Western Regional Council during the whole of the process, and it was only the persistence of our family that saw us overcome the difficulties that were placed in our way. There was no financial assistance coming our way, and no other form of assistance for that matter, so it is understandable that we question Council's commitment to operate in a **consistent, equitable and transparent manner.**

Yours faithfully



Melissa Craze

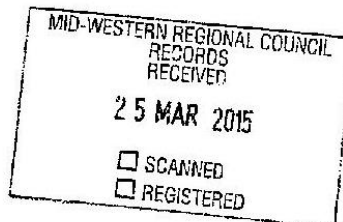


Belinda Roberts

## ATTACHMENT 2

Robert J Craze & Wendy A Craze  
 PO Box 1615  
 BATHURST NSW 2795  
 March 23 2015

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



Dear Sir

RE: SECTION 96 APPLICATION NO: M10011/2013- CHILd CARE CENTRE- LOT 2 DP844678-26  
 MELTON ROAD MUDGEE NSW 2850

We wish to register our objection to Council's approval in principle to provide financial assistance to Child care Specialists of Australia Pty Ltd representing Mr Lloyd Hinton Williams, in the form of a rebate on water and sewerage headworks contributions (Section 64 charges). Council has stated that this proposed rebate of an amount of \$36,639.80 would need to be treated as a donation to Mr Williams, and taken from General Fund.

We pay rates to Mid Western Regional Council on three properties in the amount of \$6,470.00, and we strongly object to our ever increasing rates being donated to a developer, who apparently has a business creating (according to his Internet profile) in the order of \$2,327,250.00 in annual revenue.

On reading the minutes of Council's meeting of February 18 2015, we noted that another developer had requested financial assistance from Council in the form of rebate of Section 64 charges. While both developers were developing for profit, one was rejected, and the other was favoured with an in principal acceptance. We believe that the reasons given for rejecting one proposal applies equally to the second that was approved in principle, and we quote, "As Council progresses through the development of its Fit for the Future Improvement Proposal, it must carefully consider the implications of waiving set fees and charges that contribute to the cost of critical servicing infrastructure. Reducing the amount of Developer Contributions shifts the burden from the Developer to the Broader Ratepayer Base."

Another reason given for rejecting the first request for financial assistance was... "The objective of Council's Financial Policy is to provide financial assistance to organisations, groups and individuals that offer a significant contribution to community outcomes and goals, as provided in the Towards 2030 Community Plan. Financial assistance should be provided in a consistent, equitable and transparent manner."

While childcare in an area does provide a significant contribution to community outcomes and goals, Mudgee, as a region of approximately 23,000, seems to be well endowed with childcare providers, Council even venturing into Child Care. While this service to young parents is admirable, other sections of the community also pay rates, and have the right to the provision of Local Government services, and this should not be forgotten in the overall scheme of things.

We believe that discretionary clauses should be removed from all Council Policies, and set fees should apply to ALL consistently, equitably, and in a transparent manner so that the perception of many in the general community that Local Government and its officers are prone to favouritism, nepotism, and self interest is not even contemplated. It should be immaterial whether a development is near the extremity of a catchment, or whether another Council's fees are less, if there are certain fees attached to that development, and applicable to its catchment area, they should be paid in their entirety, and not subsidised by Ratepayers.

Yours faithfully

Robert J Craze

Wendy A Craze

## ATTACHMENT 3



**Matthew Cover – Builder**  
Lic No. 182431C  
ABN | 44117627353

PO Box 257  
Mudgee NSW 2850  
Fax | 02 6372 7070  
Mob | 0412 660 360

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

RE: SECTION 96 APPLICATION NO: M10011/2013- CHILD CARE CENTRE- LOT 2 DP844678-26  
MELTON ROAD MUDGEE NSW 2850

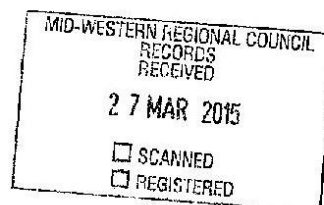
I am objecting to the Council approving in principle the rebate on water and sewerage headworks contributions of \$36,639.80 for the development above.

The Council did not approve my request for any rebates for my development in Rylstone so to keep all matters fair and equitable, I expect the same response for the developer above.

Yours sincerely



Matt Cover  
DIRECTOR



## 6.2.9 Request for Event Assistance – Mudgee Polo Club

REPORT BY THE EVENTS COORDINATOR TO 15 APRIL 2015 COUNCIL MEETING

Document2

GOV400043, A0410001, A0140201

### RECOMMENDATION

#### That:

1. **the report by the Events Co-ordinator on the Request for Event Assistance – Mudgee Polo Club be received;**
2. **Council provide Event Assistance of \$2,000 for the 2015 Mudgee Polo Club Tournament.**

---

### Executive summary

The newly re-formed Mudgee Polo Club will host their first tournament in May 2015 and are requesting \$2,000 in Events Assistance to assist in staging the tournament.

### Detailed report

Mudgee Polo Club has re-formed after 50 years and recently announced it will be hosting their first tournament in May 2015. The tournament will see teams (currently 12 committed) from across the state converge on Mudgee for a two-day tournament on May 2 and 3. An anticipated 1,500 to 2,000 people will be in attendance.

As this is a new event, the organisers were unable to apply for Events Assistance funding during the relevant application period last year. Mudgee Polo Club, the organisers of the event, are a not-for-profit organisation and are requesting \$2,000 to assist in staging the tournament. It is recommended that Council provides \$2,000 from the 2014/15 Events Assistance budget for this event.

### Financial and Operational Plan implications

If Council provides the requested events assistance of \$2,000, these funds will be allocated from the 2014/15 Events Assistance budget. The remaining available balance will be nil.

## Community Plan implications

*Link to Community Plan: Strategy 3.2.1. Promote the Region as a great place to live, work, invest and visit.*

ALAYNA GLEESON  
EVENTS COORDINATOR

CLARE PHELAN  
DIRECTOR, CORPORATE

11 March 2015

*Attachments:* 1. Application for Events Assistance

APPROVED FOR SUBMISSION:

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

BRAD CAM  
GENERAL MANAGER



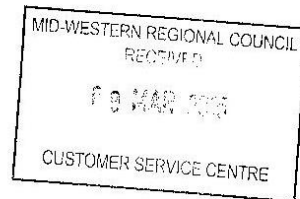
ATTACHMENT 1

Mudgee Polo Club  
PO Box 224  
Mudgee NSW 2850



9<sup>th</sup> March 2014

The General Manager  
Mid-Western Regional Council  
86 Market Street  
Mudgee NSW 2850



Dear Sir,

After 50 years the Mudgee Polo Club has reformed with its Polo Field located at Parklands Resort.

On 2<sup>nd</sup> and 3<sup>rd</sup> May, with the approval of the NSW Polo Association we will be conducting our first tournament.

Already 12 teams from around the state have indicated their attendance.

The main tournament day will be held on Saturday 2<sup>nd</sup> May, the day before the Mudgee Races and on the Saturday night a large function will be held at Parklands.

We anticipate between 1500 and 2000 people to attend.

Being a new fledging club we are seeking some support for this year's tournament, the only one allocated to us by the NSW Polo Association at this time.

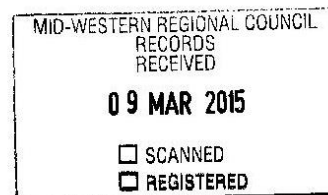
Is there some financial support we can obtain from Council or Councilor's discretionary allowances for the May tournament?

We also wish to apply for funding for next year for field boards and a scoreboard which we estimate will cost us in the vicinity of \$7000.

Could you please place us on your list for sports funding in the next round of funding.

Yours truly,

Hugh Bateman  
President  
Mudgee Polo Club



## 6.2.10 Request to Discount Glen Willow Hire Fees – Western Mariners

REPORT BY THE EVENTS COORDINATOR TO 15 APRIL 2015 COUNCIL MEETING

150325\_Request for financial assistance\_Western Mariners

GOV400043, A0140001, F0650099, A0140201

### RECOMMENDATION

#### That:

1. **the report by the Events Co-ordinator on the Request to Discount Glen Willow Hire Fees – Western Mariners be received;**
2. **Council provide a \$3,780 discount to the hire fees for the use of Glen Willow Regional Sports Stadium for the 2015 Western Mariners Football season.**

---

### Executive summary

Mudgee-Gulgong Wolves FC (on behalf of Western Mariners FC) is requesting a discount in the fees charged at Glen Willow Regional Sports Stadium for the 2015 Football season. The total discount amount requested is \$3,780.

### Detailed report

Mudgee-Gulgong Wolves FC (on behalf of Western Mariners FC) is requesting a discount in the fees charged at Glen Willow Regional Sports Stadium for the 2015 Football season. Historically, the Mariners played all of their home season matches in Bathurst. However, in 2013, they moved their home ground to Glen Willow Regional Sports Stadium in order to meet the stringent venue requirements Football NSW places of clubs, which other venues in the Mariners catchment area could not meet.

In season 2015, eight home rounds will be played at Glen Willow between May and August. This equates to 75 games and means 150 teams will travel to the Mudgee Region, with approximately 12 families per team. If each family consists of three members, that is a minimum of 5,400 visitors to the region across the season. The majority of players in each of the home teams are based outside of the Mudgee Region (i.e. Bathurst and Orange) and all away teams are Sydney-based teams.

Using Destination NSW's latest LGA Profiles, the associated tourism expenditure equates to an extra \$783,000 in economic activity in the region. If games were played at another facility in the Western Mariner's catchment area, this economic activity would be lost from our region.

The Mariners are requesting a discount in the fees payable for the use of Glen Willow. The stadium facility will be used for seven (7) weekends.

The cost of booking Glen Willow Regional Sports Stadium for 7 weekends is \$11,480 (incl GST). The proposal from Mudgee Gulgong Wolves FC (Western Mariners) is to pay \$7,700 (incl GST). Therefore the amount of financial assistance being requested is \$3,780 (incl GST).

## Financial and Operational Plan implications

If Council provides the requested discount of \$3,780, these funds will be allocated from the 2014/15 budget for attracting and developing major events.

## Community Plan implications

*Link to Community Plan: Strategy 3.2.1. Promote the Region as a great place to live, work, invest and visit.*

ALAYNA GLEESON  
EVENTS COORDINATOR

CLARE PHELAN  
DIRECTOR, CORPORATE

25 March 2015

*Attachments:* 1. Application to discount Glen Willow Hire Fees – Western Mariners

APPROVED FOR SUBMISSION:

A handwritten signature in black ink, appearing to be 'BRAD CAM', with a horizontal line extending to the right.

BRAD CAM  
GENERAL MANAGER

**WESTERN MARINERS PLAYING GLEN WILLOW 2015**

The up and coming season is just about on us and we have the following games to be played at Glen Willow Sporting Complex for 2015 season.

Our season commences at Glen Willow on 9/5/15 and concludes on 15/8/15.

This will be 8 weekends and will have approx. 75 games in Mudgee this year. This will involve approx. 150 visiting teams with approx. 12 Families per team (1800 Families) say 3 members per Family average 5400 visitors approx. for these games.

A lot of teams that play early in the morning arrive the day before and stay overnight and the ones that play late of an afternoon stay and go home the following day. This brings economic benefit to our community in various ways Motels, Hotels & Restraunts benefit the most from this.

There is a spread over the season of our games and visitors.

There are 71 games and these will be split up as follows No. 1 Main Stadium 47 No 2 Training Field 24 and on No 3 Outer Field 4.

We have also applied for 2 age groups of State Titles being 14's Boys in July 9 teams for a week and the Ladies in September/October approx. 24 teams for a week. These games will be played on the outer grounds.

We also hope to host 2 rounds of the Western Youth League this year which brings visitors from all over the Western area Lithgow, Young, Parkes, Dubbo, Orange & Bathurst. These will be held on the outer fields.

We would like the council to consider a fee of \$1,100.00 including GST per weekend for the use of the main stadium being Canteen, Dressing Rooms, Public Toilets and Broadcast Box this would equate to \$7,700.00 in total as we are using it for 7 weekends. We will do all cleaning up and work with the grounds person very closely over the season.



Peter Mitchell  
President  
Mudgee Gulgong Wolves FC  
0406792599

## TOTAL LIST OF GAMES GLEN WILLOW MUDGEES 2015

DATE	Time	Grade	Home Team	Away Team
SATURDAY	12.00PM	16'S	MARINERS	DULWICH HILL
1.5.2015	1.30PM	18'S	MARINERS	DULWICH HILL
1	3.30PM	20'S	MARINERS	DULWICH HILL
10 1	5.30PM	1ST	MARINERS	DULWICH HILL
SUNDAY	8.30AM	13'S	MARINERS	PARRAMATTA
10.5.2015	9.55AM	15'S	MARINERS	PARRAMATTA
ADIES	11.30AM	17'S	MARINERS	PARRAMATTA
10 1	1.05PM	RES	MARINERS	PARRAMATTA
	3.00PM	1ST	MARINERS	PARRAMATTA
SUNDAY	8.30AM	13'S	MARINERS	BLACKTOWN
11.5.2015	9.55AM	15'S	MARINERS	BLACKTOWN
ADIES	11.30AM	17'S	MARINERS	BLACKTOWN
10 1	1.05PM	RES	MARINERS	BLACKTOWN
	3.00PM	1ST	MARINERS	BLACKTOWN
SATURDAY	8.30AM	12'S	MARINERS	HAWKESBURY
13.6.2015	9.40AM	13'S	MARINERS	HAWKESBURY
REGIONAL	11.05AM	14'S	MARINERS	HAWKESBURY
10 1	12.25PM	15'S	MARINERS	HAWKESBURY
11	2.00PM	16'S	MARINERS	HAWKESBURY
10 1	3.30PM	18'S	MARINERS	HAWKESBURY
	5.30PM	20'S	MARINERS	HAWKESBURY
	7.30 PM	1ST	MARINERS	HAWKESBURY
AP	10.30AM	8'S	MARINERS	SYDNEY OLYMPIC
10 2	10.30AM	8'S	MARINERS	SYDNEY OLYMPIC
	11.30AM	9'S	MARINERS	SYDNEY OLYMPIC
	11.30AM	9'S	MARINERS	SYDNEY OLYMPIC
	12.30PM	10'S	MARINERS	SYDNEY OLYMPIC
	2.30PM	11'S	MARINERS	SYDNEY OLYMPIC
SATURDAY	11.30AM	12'S	MARINERS	INTER LIONS
17.6.2015	12.40PM	13'S	MARINERS	INTER LIONS
REGIONAL	2.05PM	14'S	MARINERS	INTER LIONS
FORMAL NO 3	3.25PM	15'S	MARINERS	INTER LIONS
1	11.30AM	16'S	MARINERS	INTER LIONS
10 2	1.00PM	18'S	MARINERS	INTER LIONS
	3.00PM	20'S	MARINERS	INTER LIONS

	5.00PM	1ST	MARINERS	INTER LIONS
SUNDAY	10.30AM	8'S	MARINERS	PARRAMATTA
18.6.2015	10.30AM	8'S	MARINERS	PARRAMATTA
AP	11.30AM	9'S	MARINERS	PARRAMATTA
NO 2	11.30AM	9'S	MARINERS	PARRAMATTA
	12.30PM	10'S	MARINERS	PARRAMATTA
	1.30PM	11'S	MARINERS	PARRAMATTA
ATURDAY	8.30AM	12'S	MARINERS	NEPEAN
17.2015	9.40AM	13'S	MARINERS	NEPEAN
REGIONAL	11.05AM	14'S	MARINERS	NEPEAN
NO 2	12.25AM	15'S	MARINERS	NEPEAN
L1	2.00PM	16'S	MARINERS	NEPEAN
NO 1	3.30PM	18'S	MARINERS	NEPEAN
	5.30PM	20'S	MARINERS	NEPEAN
	7.30PM	1ST	MARINERS	NEPEAN
ATURDAY	12.30PM	16'S	MARINERS	DULWICH HILL
5.7.2015	2.00PM	18'S	MARINERS	DULWICH HILL
L1	4.00PM	20'S	MARINERS	DULWICH HILL
NO 1	6.00PM	1ST	MARINERS	DULWICH HILL
SUNDAY	8.30AM	13'S	MARINERS	LEICHARDT LIONS
5.7.2015	9.55AM	15'S	MARINERS	LEICHARDT LIONS
ADIES	11.30AM	17'S	MARINERS	LEICHARDT LIONS
NO 1	1.05PM	RES	MARINERS	LEICHARDT LIONS
	3.00PM	1ST	MARINERS	LEICHARDT LIONS
ATURDAY	10.30AM	8'S	MARINERS	CENTRAL COAST
8.2015	10.30AM	8'S	MARINERS	CENTRAL COAST
IP	11.30AM	9'S	MARINERS	CENTRAL COAST
NO 2	11.30AM	9'S	MARINERS	CENTRAL COAST
	12.30PM	10'S	MARINERS	CENTRAL COAST
	1.30PM	11'S	MARINERS	CENTRAL COAST
	8.30AM	12'S	MARINERS	RYDALMERE
NO 1	9.40AM	13'S	MARINERS	RYDALMERE
	11.05AM	14'S	MARINERS	RYDALMERE
	12.25PM	15'S	MARINERS	RYDALMERE
1	2.00PM	16'S	MARINERS	RYDALMERE
NO 1	3.30PM	18'S	MARNIERS	RYDALMERE



## 6.2.11 Policy Review – Credit Policy

REPORT BY THE REVENUE & PROPERTY MANAGER TO 15 APRIL 2015 COUNCIL MEETING  
Policy Review – Credit Policy  
GOV400043, A0140326

### RECOMMENDATION

#### That:

1. **the report by the Revenue & Property Manager on the Policy Review – Credit Policy be received;**
2. **Council adopt the revised Credit Policy.**

---

### Executive summary

The existing Credit Policy has been reviewed and proposed amendments are suggested as part of Council's ongoing policy review program.

### Detailed report

The proposed changes to the Credit Policy are consistent with the intent of the existing policy and are primarily wording changes and amendments to reflect the scope of Council's current business operations and current business practices.

All proposed changes are shown as "track changes" on the copy of the policy attached to this report.

### Financial and Operational Plan implications

Not applicable.

### Community Plan implications

This report meets Community Plan:

**Theme 5: Good Governance**

Goal 1: Strong Civic Leadership

Strategy 1.2: Provide accountable and transparent decision making for the community

DIANE SAWYERS  
REVENUE & PROPERTY MANAGER

CLARE PHELAN  
DIRECTOR, CORPORATE

31 March 2015

APPROVED FOR SUBMISSION:




BRAD CAM  
GENERAL MANAGER

*Attachments:* 1. Credit Policy with track changes



## ATTACHMENT 1

	<b>POLICY</b>	<b>ADOPTED</b> C/M <del>8/2/2013</del> Minute No. <del>15/13</del>
	<b>Credit</b>	<b>REV:</b> <del>February</del> <b>2016</b> <del>April 2015</del> <b>FILE No.</b> A0140326

**OBJECTIVE**

Each act of supply of goods and or services to an external individual, organisation or other party will give rise to a debt.

The objective of this policy is to set out Council's principles in relation to the provision of credit facilities for external parties. The primary objectives of this policy aim to ensure that:

- The provision of credit will be based upon equitable and consistent treatment of all prospective commercial debtors;
- That parties who incur sundry debts do so in full expectation of meeting the repayment terms prescribed; and
- That all accounts receivable are managed in such a way as to not jeopardise the funding or effective cash flow of Council's operations.

**RELEVANT LEGISLATION**

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Privacy and Personal Information Protection Act 1998

**RELATED POLICIES**

- Debt Recovery Policy
- Hardship Provision Policy

**POLICY****Accounts Receivable – Sundry Debtors**

Sundry debtor credit accounts will not be routinely established for the following services:

- Private Works
- Facilities Hire
- Cemetery Fees

The provision of these services requires payment in advance ~~and or upon delivery of the service,~~ except in limited circumstances where prior approval has been obtained from the ~~Group Manager-~~ Finance and Administration Director, Corporate.

Prior to credit being given and a service provided, an application for such credit must be submitted on the prescribed form. The *Application for Credit* form details the terms and conditions of credit with Council. If the applicant is a corporation (as defined in the Corporations Act 2001), the Council may require from all the directors of the applicant company personal guarantees in support of an application for such credit. The *Deed of Personal Guarantee and Indemnity* form details the terms and conditions of the personal guarantee.

Once submitted, the forms will be reviewed and assessed by the Manager Revenue & Property. The review and assessment of the application may include:

1. An evaluation of the applicant's previous payment history with Council; and

## CREDIT POLICY

---

2. The Council making enquiries as to the credit and financial status of the applicant. The applicant is required to provide its consent for the Council to use the information disclosed in the submitted forms to make such enquiries. The information may be disclosed, but not limited to:
  - a. a credit reporting agency;
  - b. a debt collector; or
  - c. a legal services provider.

Credit will be refused where an evaluation of an application is deemed to be unsatisfactory.

The service unit manager/supervisor requesting the creation of the sundry debtor and who provides the service, is responsible for ensuring that Council is legally entitled to collect the debt when the invoice is raised.

Where a sundry debtor does not make payment within the timeframe contained in the General Debtors and Other Debt Collection Considerations of Council's Debt Recovery Policy, ~~the Group Manager - Finance and Administration~~ Director, Corporate is authorised to suspend the debtor's credit with Council. The service unit manager/supervisor is to be advised immediately and must ensure that no further services are provided to the debtor until further notification.

Services may be provided, and credit extended, where debtors with suspended accounts repay the amount outstanding in full and subject to a further analysis of the credit that may be provided.

From time to time there will be instances where Council has to undertake immediate works that will require an *Application for Credit* form to be completed retrospectively. Where applicable an *Application for Credit* form will still be required to enable all sundry debtors to be treated consistently in accordance with this policy.

Procedures in relation to the recovery of overdue sundry debtor accounts are prescribed in the General Debtors and Other Debt Collection Considerations of Council's Debt Recovery Policy.

~~The Group Manager - Finance and Administration~~ Director, Corporate is authorised to deal with all matters that may vary from the provisions of this Policy.

## PRIVACY

The Council is committed to protecting privacy. The personal information that Council is collecting is personal information for the purposes of the *Privacy and Personal Information Protection Act 1998*. The intended recipients of the personal information are Officers within Council.

The Council keeps this personal information to change and update records and for assessing Applications for Commercial Credit, managing accounts and, if necessary collecting debts. This information may be disclosed, whether or not an account is overdue, to the Council's risk insurers, debt collectors and its legal representatives.

Application may be made for access or amendment to information held by Council. A request can also be made that Council suppress personal information from a public register. Council will consider any such application in accordance with the Act. Enquiries concerning Privacy issues can be addressed to the General Manager, PO Box 156, Mudgee, NSW 2850.

## VARIATION

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.

## 6.2.12 Naming of unnamed road off Hill End Road

REPORT BY THE REVENUE & PROPERTY MANAGER TO 15 APRIL 2015 COUNCIL MEETING  
Report to Council (Prelim) Street Naming - off Hill End Road  
GOV400043, R0790041

### RECOMMENDATION

#### That:

1. **the report by the Revenue & Property Manager on the Naming of unnamed road off Hill End Road be received;**
2. **Council name this road Blain Road;**
3. **Council donate a second street blade to Mr Blain's family, funded from Financial Assistance.**

---

### Executive summary

Following the dedication of the road from Hill End Road to Council's Regional Waste Facility the need has arisen to name the road.

### Detailed report

Council, being the Roads Authority, is required to name new or unnamed streets and roads. The purpose of this report is to provide a list of names submitted by the public from which Council can choose names for these unnamed streets.

Council wrote to neighbours of the road reserve on 26/11/14 requesting their naming suggestions. Public consultation was also invited in an advertisement placed in the 6/2/15 issue of the Mudgee Guardian. Submissions closed on 27/2/15 and during this period 3 submissions were received with the following names suggested:

- Castaway Close – (would not be approved as sounds too similar to Castlereagh Highway)
- Tip Road – (would not be approved due to similarity with Kandos Tip Road)
- Blain Road

Street naming is legislated under the Roads Act 1993. This Act empowers the authority in charge of the road with the rights to name it. The naming of this road will allow the completion of addressing in this area. Section 162 of the Roads Act (1993) state that "a road authority may name and number all public roads for which it is the authority. A roads authority may not alter the name of a public road unless it has given the Geographical Names Board (GNB) at least two months' notice of the proposed name."

Please note that the Geographical Names Board has not yet responded to our letter in relation to these proposed road names but a response is expected well before the second, formal, report regarding this matter that will be presented to Council.

In accordance with Council's Road Naming Policy, the name that Council endorses for the unnamed road will be:

1. advertised in The Mudgee Guardian inviting submissions in writing from the public for a period of 21 days.
2. concurrently, notice of the proposed name will be sent to Australia Post, the Registrar General, the Surveyor General, the Chief Executive of the Ambulance Service of NSW, New South Wales Fire Brigades, the NSW Rural Fire Service, the NSW Police Force, the State Emergency Service, the New South Wales Volunteer Rescue Association Inc, and, in the case of a classified road – Roads & Maritime Services, inviting submissions in writing for a period of 21 days.

At the expiration time for the lodgement of submissions, a further report will be prepared for Council addressing any submissions received and recommending the formal adoption of the proposed street names, and Gazettal of the new road name.

### Financial and Operational Plan implications

Cost of Gazettal notice plus the placement of 1 street sign at an approximate cost of \$250. These costs are included in the 2014/2015 Operational Plan.

During a telephone conversation with the Property Support Officer, Mr Blain's wife requested a second street blade for the family. It would be a fitting tribute to Terry's many years of service to Council for Council to consider donating this blade to the Blain family. The cost of the additional is approximately \$100 and could be funded from Financial Assistance.

### Community Plan implications

This report meets Community Plan:

**Theme4: Connecting Our Region**

Goal 1: High quality road network that is safe and efficient

Strategy 1.1 Provide traffic management solutions that promote safer local roads and minimise traffic congestion

DIANE SAWYERS  
REVENUE & PROPERTY MANAGER

CLARE PHELAN  
DIRECTOR, CORPORATE

1 April 2015

*Attachments:* 1. Submissions  
2. Map of the unnamed road.

APPROVED FOR SUBMISSION:

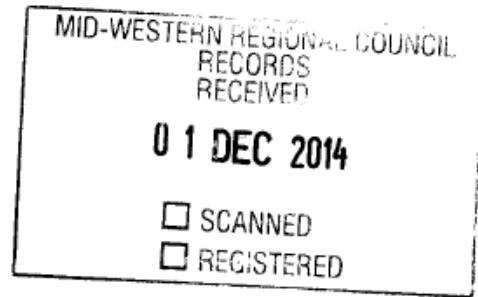


BRAD CAM  
GENERAL MANAGER

ATTACHMENT 1

27<sup>th</sup> November 2014

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



Dear Brad,

**Re: Naming of road off Hill End Road**

We would like to take this opportunity to put forward a name for the road off Hill End Road.

We suggest "Castaway Close" as it leads to the waste depot – castaway (thrown away objects) and Close as the road is not a flow through road.

Best wishes,

**Helen & Denis Woods**  
**PO Box 28**  
**Mudgee NSW 2850**

From: Kelly Barnes  
To: Carolyn Atkins  
Cc:  
Subject: Road Naming of Reserve Hill End Road

Sent: Mon 8/12/2014 :

Dear Carolyn,

I would like to suggest the following road name for the access road to Mid-Western Regional Council's Regional Waste Facility:

- Tip Road

This road reserve is already referred to as Tip Road locally and it would make sense and save on confusion by keeping the existing name already in use.


Kind Regards,

Kelly Barnes

You replied to this message on 19/02/2015 8:21 AM.

From: Vicki Ferguson < >  
To: Carolyn Atkins  
Cc:  
Subject: Terry Blain

Sent: Wed 18/02/2015

Message  TERRY'S BIO.docx (12 KB)

Hi Carolyn

So sorry it has taken me this long to send you the information you required concerning Terry Blain. You will find attached to this email all the information that you require and I hope it is enough. My mother has asked me to inquire as to whether there will be a ceremony for the naming of the street and if so when would it be held.

Mum has also asked if you have the costing on a second sign. Please do not hesitate to call me should you need anything further.

Kind regards

Vicki Ferguson

(On behalf of Eileen Blain)

Ph: 0800 000 000

Mob: 021 000 000

Email: [info@mid-western.govt.nz](mailto:info@mid-western.govt.nz)

## TERRANCE MICHEAL BLAIN

Terry was born on 28<sup>th</sup> of December 1948 in Kurri Kurri NSW the youngest of 4 children. His father was a coal miner and his father moved the family to live in a bigger house in Cessnock. Terry spent most of his teenage years growing up in Cessnock later on marrying a girl from a neighbouring town and settled down to married life in Weston. This marriage didn't last and after 14 years they decided to part ways.

Terry worked in a variety of jobs from working with the railroad as a teenager to becoming Lead Supervisor at Alcan, later to be renamed Hydro. Terry work hard and was very proud to be given the trusted job of Lead Supervisor. Terry was also heavily involved with the local Darts and Pool Associations in the local area becoming Captain of both the Dart Team and Pool Team for the local Pub. Everything Terry did he put his heart and soul into it and because of this Terry had many valued friends.

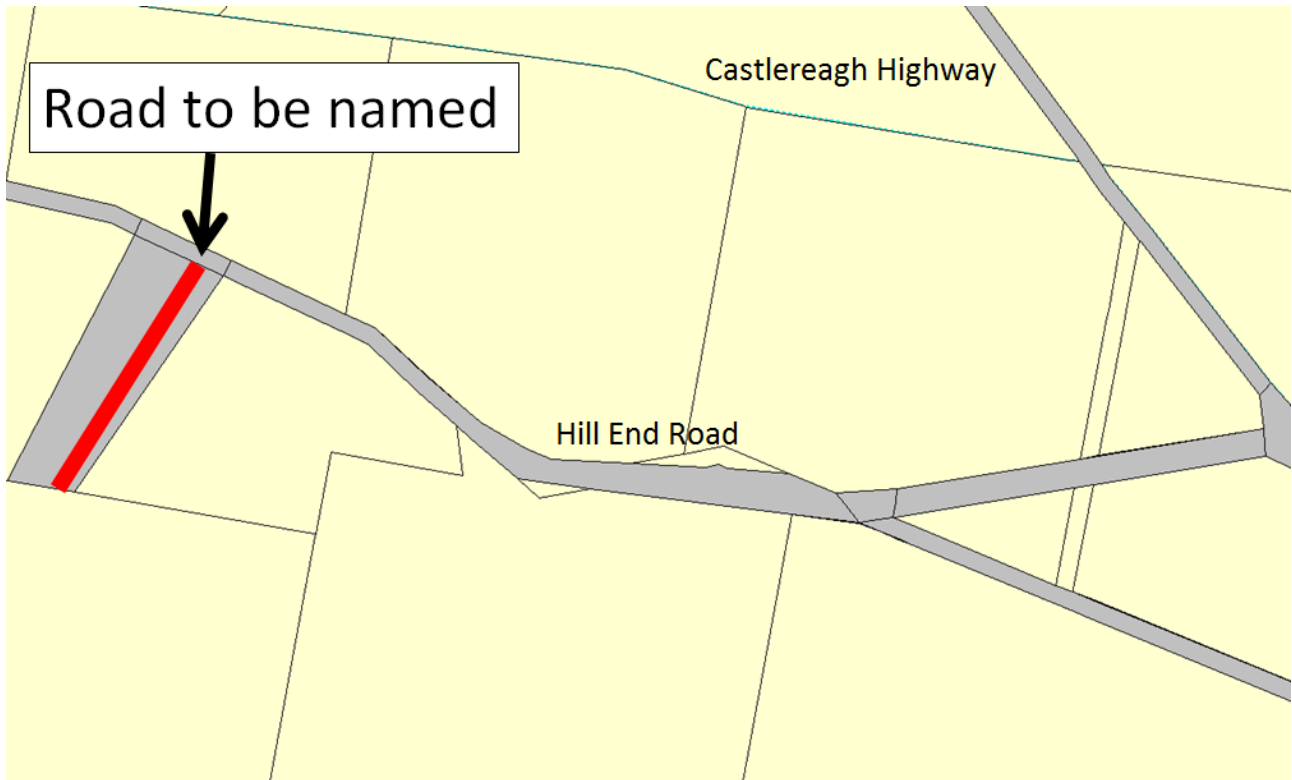
Terry later met and married his second wife Eileen and both decided to travel around Australia even though they had travel up and down the East Coast they knew there was more to see. They started on their journey and their first stop was Mudgee. Both Terry and Eileen fell in love with the town and its people so decided they may stay for a little while. That little while turned into 20 years.

Terry's first employment in Mudgee was with a parcel delivery firm with whom he stayed with for 5 years. While in this employment Terry made many friends and became well known in the business community. Terry later accepted a position with the Mudgee council in their work yard doing varies jobs but was later transferred to the waste disposal unit where he took on the role as Assistant Supervisor and remained there until his death in October 2009. In this position Terry became even better known amongst the wider community. Terry once again became heavily involved in the local darts club holding the position of President for 10 years. Terry also enjoyed his time playing lawn bowls at the Soldiers Club until sickness prevented him from playing.

Terry made many wonderful friends in Mudgee and talked about them often when he came home to visit. He accomplished many things in his life but to him his greatest accomplishments were his children and grandchildren. He was fiercely protective of his family and friends and remained that way until his untimely death.



ATTACHMENT 2



## 6.2.13 Policy Review – Business Use of the Footpath

REPORT BY THE DIRECTOR, COMMUNITY TO 15 APRIL 2015 COUNCIL MEETING

Business Use of Footpath – Policy Review

GOV400043, A0100021

### RECOMMENDATION

#### That Council:

1. **receive the report by the Director, Community on the Policy Review – Business Use of the Footpath;**
2. **place the draft Business Use of the Footpath Policy on public exhibition for 14 days to provide the opportunity for comment from the community.**

---

### Executive summary

At the meeting of March 18<sup>th</sup>, 2015, Council passed a resolution to review the Business Use of the Footpath Policy. A draft amended policy is provided to Council for their review.

### Detailed report

In June 2014, the Business Use of Footpath Policy was endorsed by Council. Fees and charges related to this policy were also determined by Council. This revised policy extended the application of the conditions from the Mudgee CBD to all townships within the region (Gulgong, Kandos, Mudgee and Rylstone).

Recently, Council staff began to implement the policy, including the associated fees, in the Rylstone and Kandos townships, leading to community concern about the impact of the costs involved. The matter was discussed at the Council meeting of March 18<sup>th</sup>, 2015 with the following resolution (Min. 52/15) being supported:

1. *Council review their business use of footpath policy specifically relating to the towns of Rylstone, Kandos and Gulgong; and*
2. *the fee for the business use of the footpath (as per Council policy dated 18 June 2014) not be applicable for business owners in Rylstone, Kandos and Gulgong.*

In examining the policy for review, a number of issues were determined to be relevant for consideration.

Firstly, the legislation related to this matter, namely the Roads Act 1993, provides the framework for the need for the policy. Ultimately, it is a requirement that if someone wants to use the footpath for a business use that they need to seek approval from the relevant consent authority. This means that Council must have in place a process for people to apply for and gain approval. Therefore, it is necessary for Council to have a policy. The point should also be made that there is a cost to Council in maintaining this policy, in negotiating with business owners, in undertaking an approval process and issuing permits and in monitoring and overseeing the approvals. However, it is ultimately Council's decision whether to charge a fee for these services or not.

Secondly, in developing processes by which Council provides approval for the Business Use of a Footpath, consideration needs to be given to the potential public liability risks of placing obstacles on footpaths. Council's insurers provide strong advice on the need for ensuring that these sorts of risks are managed both through clear processes and guidelines as well as the determination that applicants have appropriate levels of insurance to cover any claims that may arise as a result of the approvals given. The current policy requires business and organisations that apply for permits to hold public liability insurance cover of \$20 million.

One of the unintended consequences of the extension of the policy to areas outside the Mudgee CBD relates to the fact that small businesses may need to increase their insurance costs if they need to increase public liability cover to \$20 million. The amount of cover needed is really determined by risk. As an example, when Council facilities are booked for events, on rare occasions a higher level of public liability cover is required for activities that may be determined to be of higher risk. This is not expected to be the case with the small business activities generally associated with the business use of a footpath. While public liability cover of \$20 million is becoming more common, consideration in this policy is given to the nature of the small business climate, particularly in the smaller towns.

Thirdly, there is the issue of accessibility. In providing the framework by which approval is given, Council needs to consider aspects of *Australian Standard series 1428 - Design for access and mobility* particularly in relation to the capacity of persons to navigate footpaths and public spaces. For example, the current policy requires a best practice approach to the distance between the business and any footpath obstacle of 1.8 metres (in order for two persons to pass without interference on a footpath).

The final aspect of the policy review is whether the policy should treat the township of Mudgee differently to Gulgong, Kandos and Rylstone. While there may be some economic argument for this approach, this report is recommending that the all areas of the Council be treated the same (as with the current policy).

With these considerations in mind, a number of issues were discussed with business owners in relation to the policy and its enforcement and potential solutions have been provided in the amended draft policy which recommends the following amendments:

- References to specific fees have been removed from the policy (although a statement that Council reserves the right to introduce a fee has been included).
- In the absence of fees it is strongly recommended that the timeframe for approvals be extended from the current one year to five years, thus reducing part of the administrative burden on Council.
- References to the need for businesses to have public liability cover of \$20 million have been amended to require the need for public liability cover of a minimum of \$10 million.
- Statements within the policy related to the capacity for negotiation to take place where it is impossible for a clear path of 1.8 metres to be provided have been clarified with the intent that a more pragmatic approach can be found where narrow footpaths and heritage contexts exist. This may involve consultation with the relevant Access Committee.
- Some minor wording has been changed to overcome potential inconsistencies within the policy.

While the draft policy attached is provided to Council as an option, Council may determine any changes to the policy as it sees fit. Council also has the option of putting this policy out on public exhibition to seek any further comment.

## Financial and Operational Plan implications

If the approach outlined in this report and draft policy are accepted, future operational plans will remove reference to the approximately \$8,000 income that would have been received as part of the Business Use of the Footpath process.

## Community Plan implications

1.2.4 Maintain and promote the aesthetic appeal of the towns and villages within the Region

1.4.3 Provide equitable access to a range of places and spaces for all in the community

3.1.1 Support the attraction and retention of a diverse range of businesses and industries



SIMON JONES  
DIRECTOR, COMMUNITY

1 April 2015


### APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

- Attachments:*
1. Draft Business Use of Footpath Policy (April 2015) – *with track changes*
  2. Draft Business Use of Footpath Policy (April 2015) – *without track changes*
  3. DRAFT Business Use of Footpath Application Form (March 2015)

## ATTACHMENT 1

	<b>POLICY</b>	<b>ADOPTED</b> C/M 18 June 2014xx/xx/xxxx
	<b>Business Use of the Footpath</b>	REVIEW: June 2016xx/xxxx FILE No. A0100021

## 1. Purpose

The purpose of this policy is to facilitate business use of the footpath in areas adjacent to business premises to ensure a pleasant and safe environment for shoppers and patrons without compromising the safety or amenity of the public domain or pedestrians using the public footpath or adjoining public spaces.

The policy applies to a range of businesses including cafes, restaurants and sandwich shops which meet the definition of "restaurant" under the Roads Act, 1993. It also covers business use of the public footpath for the purpose of displaying or advertising businesses or goods.

This policy aims to permit the establishment of business opportunities and to enhance the vibrant atmosphere in the commercial centres of the Mid-Western Regional Council local government area (MWRC LGA). The policy will allow the approval of business use of footpath areas, which may include tables, chairs, display units, advertising structures, shade umbrellas, planter boxes and the like to be placed on footpaths within the MWRC LGA adjacent to businesses where there is adequate footpath width for pedestrian circulation.

### 112. What Legislative Provisions regulate the use of the footpath?

The Roads Act 1993 and the Local Government Act 1993 generally require that a person shall not carry out any activity on a public road or place without the approval of Council.

Sections 125, 126 and 127 and in some cases Sections 137A-139F of the Roads Act 1993 allow Council to approve the use of a footpath for restaurant purposes, as long as using the footpath for this purpose is not taken to constitute a public nuisance and does not give rise to an offence against the Roads Act or any other relevant legislation.

Section 68 of the Local Government Act 1993 allows Council to approve the placing of articles on or to overhang the footpath.

Sections 137A-139F of the Roads Act, 1993 address legislative requirements for Street Vending activities.

### 23. Areas to which this Policy applies

This policy applies to all footpath areas in the ~~towns of Mudgee, Gulgong, Rylstone and Kandos~~ Mid-Western Regional Council area.

### 34. How can I make an application to use the footpath?

Any businesses seeking to use a public footpath must obtain ~~Council's~~ approval prior to occupation. Permission will only be granted where the objectives of this policy have been achieved.

**Business Use of the Footpath**

Applications must be made on the Business Use of the Public Footpath Application form which is available on Council's website or is available at Council's offices. Applications must be accompanied by a diagram showing how the footpath is proposed to be used with particular reference to the area of the proposed use.

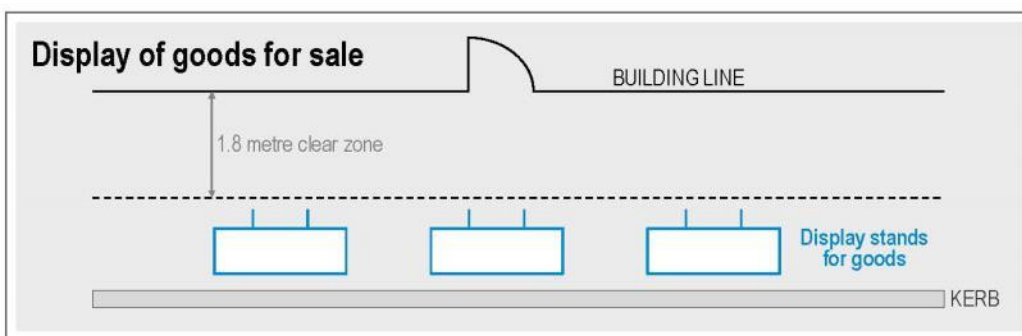
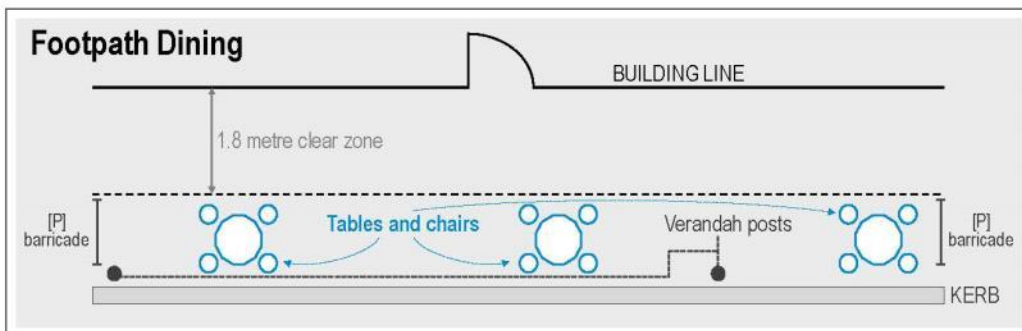
**45.** What areas of the footpath can I use or not use?

Business use of footpath areas is permitted, with the approval of Council, generally on footpaths immediately adjacent to the shop front in locations that do not cause an impediment to other footpath users.

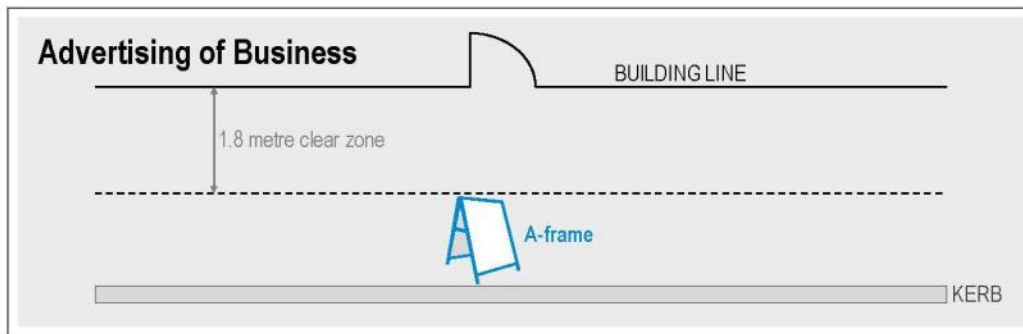
Business use of footpath areas may be either prohibited or restricted, in locations where they obstruct the clear view line of pedestrians or motorists. Clear view lines allow pedestrians to view on-coming traffic and motorists to observe pedestrian movements.

To ensure that access and equity objectives are met there will generally be a minimum width for pedestrian circulation of at least 1.8 metres continuously maintained, immediately adjacent to the property boundaries (generally the building line), for the clear passage of footpath users. Council may, on the merit of the a particular situation and application, consider variation to this standard where the applicant can show that the proposal is consistent with the surrounding environment, adequate pedestrian circulation is maintained or that agreement has been obtained from the relevant Access Committee.

Some examples of how footpaths may be used by businesses are set out diagrammatically below:



### Business Use of the Footpath



- 56.** Do I need to provide evidence of my Public Liability insurance to use the footpath?

Permission for business use of the footpath will only be valid where adequate insurance cover is provided by the business. This compliance is required to ensure meeting the objective of the policy, i.e. protecting Council, the community and the public interest while permitting effective use of the public footpath for business purposes. To ensure Council and community protection from claims that may arise as a result of business use of the footpath area the business operator must:

- Take out a public liability insurance policy for the sum of not less than \$2010,000,000 which is to be in force at all times during the term of the approval.
- Extend the policy to indemnify Mid-Western Regional Council against any public liability claims arising from trading activities on the footpath.
- Provide proof of this current policy to Council with the application for approval or when requested to do so. (This can be by way of a Certificate of Currency).
- Maintain this insurance policy during the term of the approval and provide updated Certificates of Currency each time the approval is renewed annually.

- 67.** What documentation will I get from Council to prove that I can use the footpath?

Council will issue a Permit to those who receive approval to use the footpath for business purposes.

The issue of Permits to use the footpath for business purposes will be at the sole discretion of the General Manager, ~~and will be subject to the payment of certain fees as prescribed by Council's Schedule of Fees and Charges.~~

This Permit must be prominently displayed in the front window of the business to which the Permit refers.

- 78.** What Conditions must I comply with to use the footpath?

All persons being issued with a Permit shall be required to comply with the following general conditions:

**78.1** Term

- Approvals shall ~~only be for a period of 12 months~~ be for a maximum period of 5 years.

## Business Use of the Footpath

---

### 78.2 Fees

- ~~The fees payable are reviewed and set by Council each year as part of its Schedule of Fees and Charges. Applicants should enquire at Council's offices or on Council's website as to current fees applicable or on Council's web site~~ Council reserves the right to charge a fee for the administrative process of determining, approving and issuing permits.

### 78.3 Hours of Operation

- The hours of operation for any approved area must be the same as or less than the approved hours of operation of the associated business. The hours of operation for the approved area may be limited if it is considered that the amenity of the surrounding area or the safety of pedestrians or footpath diners may be adversely affected.

### 78.4 Maintenance of Approved Area

- The approved area and area between the shop premises shall be kept clean at all times and any spilt food, liquid or other material likely to cause injury or accident shall be removed immediately by the applicant/operator.

### 78.5 Outdoor Furniture

- Outdoor furniture includes umbrellas, tables, chairs, display stands, advertising structures, A-frames, heaters, planter boxes and perimeter barricades.
  - Outdoor furniture must not contain parts that are likely to cause damage to the pavement, or sharp edges, hinges and other moving parts that may present a hazard to patrons or pedestrians.
  - Each business should adopt a single colour and style for tables and chairs in its particular area to provide consistency and identity.
  - Outdoor furniture should be strong, durable, waterproof and weather resistant designed for commercial outdoor use. Tables and chairs should fold or stack for storage.
  - All outdoor furniture must be temporary and must be able to be removed in extreme weather conditions.
  - Outdoor furniture may be powder coated or polished aluminium, powder coated, brushed or stainless steel, natural or painted timber, or canvass. Under no circumstances shall outdoor furniture consist of "cheap" bulk manufactured plastic chairs. Surfaces such as table tops should be non-reflective. All outdoor furniture will be subject to the approval of Council.
  - Planters should be terra cotta, concrete or reconstituted stone in natural, sandstone or terra cotta colour, or powder coated, brushed stainless steel or timber.
  - Outdoor furniture is not to be placed outside the approved area under any circumstances.
  - Display stands must be stable or firmly secured. Display stands should be a minimum height of 1,000mm and a maximum height of 1,200mm and width of 750mm. All display stands should be of high quality design.
  - No part of the footpath is to be used for storage.
  - Where the use of a heating device is proposed, details of the type, location and design must be included in the application. Heating devices must be designed in a manner which minimises risk and as such shall turn off automatically if overturned to prevent injury to patrons and property. Heating devices must be removed when not in use and suitably screened from public view. All outdoor heaters must comply with the relevant Australian Standards.
-



## Business Use of the Footpath

---

### 78.6 Perimeter Barricades

- Outdoor dining areas must be easily accessible from the public footway and ~~must~~ should present an open and inviting image to entice participation. Planter boxes may be used to physically define the perimeters of the outdoor dining area. Enclosures should be kept to a minimum.
- The use of framed fabric or any other style of low-height barriers, including planter boxes within public domain must be carefully designed and selected to ensure minimal impact on the use, enjoyment and safety of pedestrians and patrons. Barriers may be considered between adjoining cafe/areas to have clear demarcation between business activities. Barriers which are not fixed on site must be removed from the footpath when the business is not open. Barrier screens ~~must not be used as an opportunity~~ may be used for advertising insituations where the advertising is provided as an integral part of the barrier. ~~Products, specials or sales may not be displayed on the screens.~~
- Pedestrians should not be forced onto the road carriageway by outdoor dining activities or other non-permanent items/structures on the footpath.
- Planter boxes may be considered in open areas, where there is sufficient room and pedestrian movement is not impeded. The planter boxes must be well-maintained by the applicant. Council reserves the right to order the removal of planter boxes that are not properly maintained including the consistent provision of approved high-quality flowers or vegetation. Permanent planter boxes will only be considered on footpath areas where the footpath has been widened for specific business use.
- The height of any solid barrier should be between 900 mm and 1,200 mm in height.
- Solid barriers may be in the form of planter boxes containing vegetation to a total height between 900 mm and 1,200 mm.
- Any proposed transparent solid barrier (such as Perspex) should comply with AS 1428.1 Access and Mobility, and should be clearly marked for the full width with a highly visible contrasting line.

### 78.7 Food and Drink

- Food and drink must be served on non-disposable crockery and cutlery. Food and drink must not be prepared in the area approved for outdoor eating.
- Paper, foam or plastic plates, cups and cutlery shall not be used for footpath outdoor dining areas.
- Appropriate footpath service shall be provided which includes as a minimum the removal of any dirty plates, cups, cutlery, footpath staining, and rubbish on a regular basis during each operating day.

### 78.8 Smoking

- Smoking is NOT permitted in any area used for dining or any other area as provided under the Smoke-free Environment Act 2000.

### 78.9 Alcohol

- The selling and consumption of any alcoholic or intoxicating liquor is prohibited.

### 78.10 Noise

- Amplified music is not permitted.
-

### Business Use of the Footpath

---

#### 78.11 Business or Financial Transactions

- No business or financial transactions shall be carried out on the approved area. Such activities shall be carried out wholly within the confines of the premise. This does not include the giving and taking of bills, and associated tips and change.

#### 78.12 Lighting

- Any proposed lighting must be included in the application for approval by Council and be in accordance with the relevant Australian Standards.

#### 78.13 Signage/Advertising

- The following controls apply to all signage/advertising to be displayed on the approved area:
  - Signage/advertising is permitted only on A-frames, barriers and umbrellas.
  - Umbrellas must be of non-reflective material.
  - Signage on each umbrella must be consistent with all other umbrellas on the approved area.
  - No other signage will be permitted on any other structure on the footpath.

#### 78.14 Safety

- The approved area shall not in any form reduce the safe egress of people from the business premises.

#### 78.15 Access

- The applicant must-should provide access in accordance with AS1428 for people with disabilities.
- No business use of the footpath will be permitted where the use would create access problems for people with disabilities.
- In heritage areas with narrower footpaths, consideration will still be given to applications which take account of the needs of all persons who require clear lines of access past footpath obstacles.

#### 78.16 Public Assets

- The removal/relocation of any Council assets, such as rubbish bins and existing street furniture, shall be subject to Council approval and will be at the applicant's cost.
- The removal/relocation of any public utilities/infrastructure shall not be permitted unless justification on public benefit can be made to Council and approvals have been obtained from the relevant authorities. Works will be carried out at the applicant's cost.

#### 89. If I sell my business, can I transfer my approval to use the footpath to the new owner?

No. The Permit cannot be transferred from one user to another. Should a business be sold the new business operator must make a new application to Council for permission to use the footpath.

#### 910. Under what circumstances will a Permit to use the footpath be terminated?

A Permit can be terminated at any time by either party with one week's notice.

---

### Business Use of the Footpath

---

The Council may re-enter the approved area and terminate the approval, without notice, if:

- ~~Any part of the Fee is in arrears for 14 days (whether or not the Council has demanded payment);~~
- The operator breaches the approval and does not remedy the breach within 14 days of receipt of written notice from the Council;
- In the Council's opinion, the road safety or traffic-pedestrian circumstances in regard to the approved area substantially change; or
- Council's approval granted pursuant to section 68 of the Local Government Act 1993 and section 125 of the Roads Act 1993 is either revoked by Council, or lapses.

#### ~~4011.~~ What are the Objectives of this policy?

The objectives of this policy are as follows:

##### ~~4011.1~~ Access and Equity

- To ensure safety and convenient passage of all pedestrians when using public footpaths;
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections; and
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

##### ~~4011.2~~ Council and Community Protection

- To protect Council, the community and the public interest from potential insurance and liability claims, while permitting effective use of public footpaths for business purposes;
- To effectively address risk management and insurance liability issues for Council;
- To ensure that business use of public footpaths will not cost the public purse; and
- To ensure that public amenities the amenity of the general public will not be compromised by the provision of business use of footpath areas.

##### ~~4011.3~~ Economic

- To enhance the economic viability of our local businesses by offering permits to use public footpaths for business purposes;
- To encourage trading and enhance our neighbourhood centres by providing a more vibrant and colourful atmosphere for shoppers;
- To provide for an active and integrated street front; and
- To maintain visibility and exposure of shopfronts.

#### ~~41. What Legislative Provisions regulate the use of the footpath?~~

~~The Roads Act 1993 and the Local Government Act 1993 generally require that a person shall not carry out any activity on a public road or place without the approval of Council.~~

~~Sections 125, 126 and 127 and in some cases Sections 137A-139F of the Roads Act 1993 allow Council to approve the use of a footpath for restaurant purposes, as long as using the footpath for this purpose is not taken to constitute a public nuisance and does not give rise to an offence against the Roads Act or any other relevant legislation.~~

~~Section 68 of the Local Government Act 1993 allows Council to approve the placing of articles on or to overhang the footpath.~~

---

### **Business Use of the Footpath**


---

~~Sections 137A-139F of the Roads Act, 1993 address legislative requirements for Street Vending activities.~~

12. What Enforcement and Compliance action can Council take against those who do not abide by this policy?

Enforcement can be taken under the Roads (General) Regulation 2000 in relation the placement of obstructions on the footpath, or Section 125(1) and 121B of the Environmental Planning and Assessment Act 1979. Failure to comply with the conduct of business set out herein or with the enforcement order may result in receiving a fine or cancellation of the Permit. These offences incur set penalties set by State legislation.

---

	<b>POLICY</b>	C/M xxx/xx/xxxx Minute No. xxx / xx
	<b>Business Use of the Footpath</b>	REVIEW: xx/xxxx FILE No. A0100021

**1. Purpose**

The purpose of this policy is to facilitate business use of the footpath in areas adjacent to business premises to ensure a pleasant and safe environment for shoppers and patrons without compromising the safety or amenity of the public domain or pedestrians using the public footpath or adjoining public spaces.

The policy applies to a range of businesses including cafes, restaurants and sandwich shops which meet the definition of “restaurant” under the Roads Act, 1993. It also covers business use of the public footpath for the purpose of displaying or advertising businesses or goods.

This policy aims to permit the establishment of business opportunities and to enhance the vibrant atmosphere in the commercial centres of the Mid-Western Regional Council local government area (MWRC LGA). The policy will allow the approval of business use of footpath areas, which may include tables, chairs, display units, advertising structures, shade umbrellas, planter boxes and the like to be placed on footpaths within the MWRC LGA adjacent to businesses where there is adequate footpath width for pedestrian circulation.

**2. What Legislative Provisions regulate the use of the footpath?**

The Roads Act 1993 and the Local Government Act 1993 generally require that a person shall not carry out any activity on a public road or place without the approval of Council.

Sections 125, 126 and 127 and in some cases Sections 137A-139F of the Roads Act 1993 allow Council to approve the use of a footpath for restaurant purposes, as long as using the footpath for this purpose is not taken to constitute a public nuisance and does not give rise to an offence against the Roads Act or any other relevant legislation.

Section 68 of the Local Government Act 1993 allows Council to approve the placing of articles on or to overhang the footpath.

Sections 137A-139F of the Roads Act, 1993 address legislative requirements for Street Vending activities.

**3. Areas to which this Policy applies**

This policy applies to all footpath areas in the Mid-Western Regional Council area.

**4. How can I make an application to use the footpath?**

Any businesses seeking to use a public footpath must obtain approval prior to occupation. Permission will only be granted where the objectives of this policy have been achieved.

Applications must be made on the Business Use of the Public Footpath Application form which is available on Council's website or is available at Council's offices. Applications must be

**Business Use of the Footpath**

accompanied by a diagram showing how the footpath is proposed to be used with particular reference to the area of the proposed use.

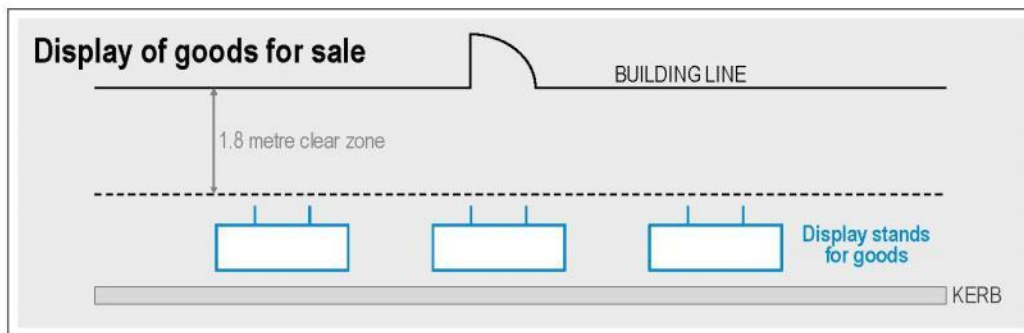
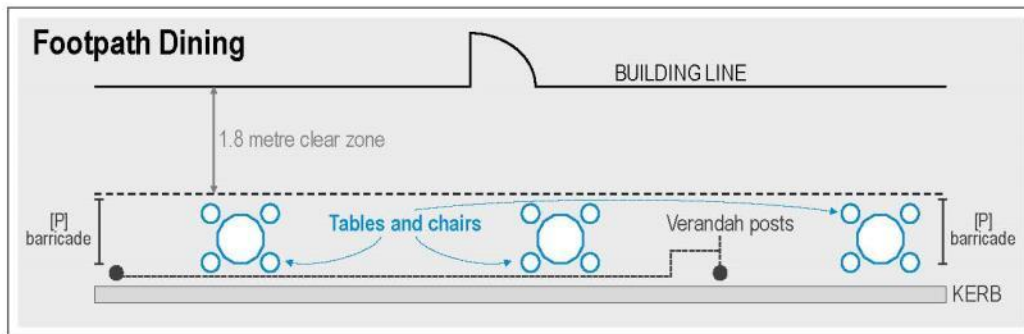
5. What areas of the footpath can I use or not use?

Business use of footpath areas is permitted, with the approval of Council, generally on footpaths immediately adjacent to the shop front in locations that do not cause an impediment to other footpath users.

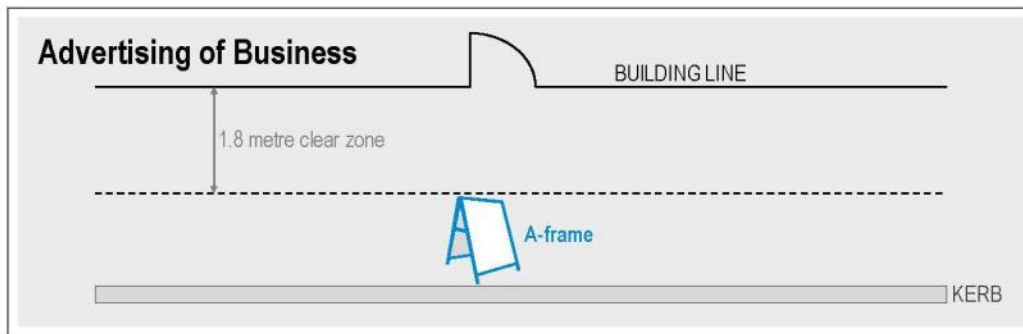
Business use of footpath areas may be either prohibited or restricted, in locations where they obstruct the clear view line of pedestrians or motorists. Clear view lines allow pedestrians to view on-coming traffic and motorists to observe pedestrian movements.

To ensure that access and equity objectives are met there will generally be a minimum width for pedestrian circulation of at least 1.8 metres continuously maintained, immediately adjacent to the property boundaries (generally the building line), for the clear passage of footpath users. Council may, on the merit of a particular situation and application, consider variation to this standard where the applicant can show that the proposal is consistent with the surrounding environment, adequate pedestrian circulation is maintained or that agreement has been obtained from the relevant Access Committee.

Some examples of how footpaths may be used by businesses are set out diagrammatically below:



### Business Use of the Footpath



#### 6. Do I need to provide evidence of my Public Liability insurance to use the footpath?

Permission for business use of the footpath will only be valid where adequate insurance cover is provided by the business. This compliance is required to ensure meeting the objective of the policy, i.e. protecting Council, the community and the public interest while permitting effective use of the public footpath for business purposes. To ensure Council and community protection from claims that may arise as a result of business use of the footpath area the business operator must:

- Take out a public liability insurance policy for the sum of not less than \$10,000,000 which is to be in force at all times during the term of the approval.
- Extend the policy to indemnify Mid-Western Regional Council against any public liability claims arising from trading activities on the footpath.
- Provide proof of this current policy to Council with the application for approval or when requested to do so (This can be by way of a Certificate of Currency).
- Maintain this insurance policy during the term of the approval and provide updated Certificates of Currency each time the approval is renewed.

#### 7. What documentation will I get from Council to prove that I can use the footpath?

Council will issue a Permit to those who receive approval to use the footpath for business purposes.

The issue of Permits to use the footpath for business purposes will be at the sole discretion of the General Manager.

This Permit must be prominently displayed in the front window of the business to which the Permit refers.

#### 8. What Conditions must I comply with to use the footpath?

All persons being issued with a Permit shall be required to comply with the following general conditions:

##### 8.1 Term

- Approvals shall be for a maximum period of 5 years.

## Business Use of the Footpath

---

### 8.2 Fees

- Council reserves the right to charge a fee for the administrative process of determining, approving and issuing permits.

### 8.3 Hours of Operation

- The hours of operation for any approved area must be the same as or less than the approved hours of operation of the associated business. The hours of operation for the approved area may be limited if it is considered that the amenity of the surrounding area or the safety of pedestrians or footpath diners may be adversely affected.

### 8.4 Maintenance of Approved Area

- The approved area and area between the shop premises shall be kept clean at all times and any spilt food, liquid or other material likely to cause injury or accident shall be removed immediately by the applicant/operator.

### 8.5 Outdoor Furniture

- Outdoor furniture includes umbrellas, tables, chairs, display stands, advertising structures, A-frames, heaters, planter boxes and perimeter barricades.
  - Outdoor furniture must not contain parts that are likely to cause damage to the pavement, or sharp edges, hinges and other moving parts that may present a hazard to patrons or pedestrians.
  - Each business should adopt a single colour and style for tables and chairs in its particular area to provide consistency and identity.
  - Outdoor furniture should be strong, durable, waterproof and weather resistant designed for commercial outdoor use. Tables and chairs should fold or stack for storage.
  - All outdoor furniture must be temporary and must be able to be removed in extreme weather conditions.
  - Outdoor furniture may be powder coated or polished aluminium, powder coated, brushed or stainless steel, natural or painted timber, or canvass. Under no circumstances shall outdoor furniture consist of "cheap" bulk manufactured plastic chairs. Surfaces such as table tops should be non-reflective. All outdoor furniture will be subject to the approval of Council.
  - Planters should be terra cotta, concrete or reconstituted stone in natural, sandstone or terra cotta colour, or powder coated, brushed stainless steel or timber.
  - Outdoor furniture is not to be placed outside the approved area under any circumstances.
  - Display stands must be stable or firmly secured. Display stands should be a minimum height of 1,000mm and a maximum height of 1,200mm and width of 750mm. All display stands should be of high quality design.
  - No part of the footpath is to be used for storage.
  - Where the use of a heating device is proposed, details of the type, location and design must be included in the application. Heating devices must be designed in a manner which minimises risk and as such shall turn off automatically if overturned to prevent injury to patrons and property. Heating devices must be removed when not in use and suitably screened from public view. All outdoor heaters must comply with the relevant Australian Standards.
-



## Business Use of the Footpath

---

### 8.6 Perimeter Barricades

- Outdoor dining areas must be easily accessible from the public footway and should present an open and inviting image to entice participation. Planter boxes may be used to physically define the perimeters of the outdoor dining area. Enclosures should be kept to a minimum.
- The use of framed fabric or any other style of low-height barriers, including planter boxes within public domain must be carefully designed and selected to ensure minimal impact on the use, enjoyment and safety of pedestrians and patrons. Barriers may be considered between adjoining cafe/areas to have clear demarcation between business activities. Barriers which are not fixed on site must be removed from the footpath when the business is not open. Barrier screens may be used for advertising insituations where the advertising is provided as an integral part of the barrier.
- Pedestrians should not be forced onto the road carriageway by outdoor dining activities or other non-permanent items/structures on the footpath.
- Planter boxes may be considered in open areas, where there is sufficient room and pedestrian movement is not impeded. The planter boxes must be well-maintained by the applicant. Council reserves the right to order the removal of planter boxes that are not properly maintained including the consistent provision of approved high-quality flowers or vegetation. Permanent planter boxes will only be considered on footpath areas where the footpath has been widened for specific business use.
- The height of any solid barrier should be between 900 mm and 1,200 mm in height.
- Solid barriers may be in the form of planter boxes containing vegetation to a total height between 900 mm and 1,200 mm.
- Any proposed transparent solid barrier (such as Perspex) should comply with AS 1428.1 Access and Mobility, and should be clearly marked for the full width with a highly visible contrasting line.

### 8.7 Food and Drink

- Food and drink must be served on non-disposable crockery and cutlery. Food and drink must not be prepared in the area approved for outdoor eating.
- Paper, foam or plastic plates, cups and cutlery shall not be used for footpath outdoor dining areas.
- Appropriate footpath service shall be provided which includes as a minimum the removal of any dirty plates, cups, cutlery, footpath staining, and rubbish on a regular basis during each operating day.

### 8.8 Smoking

- Smoking is NOT permitted in any area used for dining or any other area as provided under the Smoke-free Environment Act 2000.

### 8.9 Alcohol

- The selling and consumption of any alcoholic or intoxicating liquor is prohibited.

### 8.10 Noise

- Amplified music is not permitted.
-

## **Business Use of the Footpath**

---

### 8.11 Business or Financial Transactions

- No business or financial transactions shall be carried out on the approved area. Such activities shall be carried out wholly within the confines of the premise. This does not include the giving and taking of bills, and associated tips and change.

### 8.12 Lighting

- Any proposed lighting must be included in the application for approval by Council and be in accordance with the relevant Australian Standards.

### 8.13 Signage/Advertising

- The following controls apply to all signage/advertising to be displayed on the approved area:
  - Signage/advertising is permitted only on A-frames, barriers and umbrellas.
  - Umbrellas must be of non-reflective material.
  - Signage on each umbrella must be consistent with all other umbrellas on the approved area.
  - No other signage will be permitted on any other structure on the footpath.

### 8.14 Safety

- The approved area shall not in any form reduce the safe egress of people from the business premises.

### 8.15 Access

- The applicant should provide access in accordance with AS1428 for people with disabilities.
- No business use of the footpath will be permitted where the use would create access problems for people with disabilities.
- In heritage areas with narrower footpaths, consideration will still be given to applications which take account of the needs of all persons who require clear lines of access past footpath obstacles.

### 8.16 Public Assets

- The removal/relocation of any Council assets, such as rubbish bins and existing street furniture, shall be subject to Council approval and will be at the applicant's cost.
- The removal/relocation of any public utilities/infrastructure shall not be permitted unless justification on public benefit can be made to Council and approvals have been obtained from the relevant authorities. Works will be carried out at the applicant's cost.

## 9. If I sell my business, can I transfer my approval to use the footpath to the new owner?

No. The Permit cannot be transferred from one user to another. Should a business be sold the new business operator must make a new application to Council for permission to use the footpath.

## 10. Under what circumstances will a Permit to use the footpath be terminated?

A Permit can be terminated at any time by either party with one week's notice.

The Council may re-enter the approved area and terminate the approval, without notice, if:

---

### Business Use of the Footpath

---

- The operator breaches the approval and does not remedy the breach within 14 days of receipt of written notice from the Council;
- In the Council's opinion, the road safety or pedestrian circumstances in regard to the approved area substantially change; or
- Council's approval granted pursuant to section 68 of the Local Government Act 1993 and section 125 of the Roads Act 1993 is either revoked by Council, or lapses.

## 11. What are the Objectives of this policy?

The objectives of this policy are as follows:

### 11.1 Access and Equity

- To ensure safety and convenient passage of all pedestrians when using public footpaths;
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections; and
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

### 11.2 Council and Community Protection

- To protect Council, the community and the public interest from potential insurance and liability claims, while permitting effective use of public footpaths for business purposes;
- To effectively address risk management and insurance liability issues for Council;
- To ensure that business use of public footpaths will not cost the public purse; and
- To ensure that the amenity of the general public will not be compromised by the provision of business use of footpath areas.

### 11.3 Economic

- To enhance the economic viability of our local businesses by offering permits to use public footpaths for business purposes;
- To encourage trading and enhance our neighbourhood centres by providing a more vibrant and colourful atmosphere for shoppers;
- To provide for an active and integrated street front; and
- To maintain visibility and exposure of shopfronts.

## 12. What Enforcement and Compliance action can Council take against those who do not abide by this policy?

Enforcement can be taken under the Roads (General) Regulation 2000 in relation the placement of obstructions on the footpath, or Section 125(1) and 121B of the Environmental Planning and Assessment Act 1979. Failure to comply with the conduct of business set out herein or with the

---

**Business Use of the Footpath**

---

enforcement order may result in receiving a fine or cancellation of the Permit. These offences incur set penalties set by State legislation.

---

ATTACHMENT 3



PO BOX 156  
MUDGEES NSW 2850

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

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

**BUSINESS USE OF FOOTPATH**  
Application Form

**Applicant Details**

Surname:  First Name:

Mailing Address:

Suburb:  Postcode:

Phone (h):  Phone (w):

Phone (m):  Fax:

Email:

Registered Company Name:

Business Name:

Business Address:

Suburb:  Postcode:

ABN Number:  ACN Number:

Business Type:

**Property Owners Consent** (all owners)

Name (s):

Address:

Signature:

**Company Seal:**  
(if applicable)

Where owner is a company or owner's corp, a seal/ABN & ACN must be provided

ABN:  ACN:

**Proposal (PART 1)**

Location:

Area Proposed for outdoor display of goods/dining:  Area:  m<sup>2</sup>

No. Of Displays:  No. Of chairs:  No. Of tables:

Date you prefer your footpath dining licence to start:   
 (If approved) (Once approved you will be charged from this date)

Description of proposed Activity (please tick):

Outdoor Display of Goods  Other please specify below (e.g A-frames signs etc)

Outdoor Dining

Both of the Above

Hours of Operation:

**Proposal (PART 2)**

The following items must be submitted with this application:

- A site plan of the proposed business use of the footpath area drawn to scale indicating:
  - Location of side and front boundaries of the applicant’s property;
  - Dimensions and boundaries of the proposed outdoor seating/display area;
  - Area (in square meters) of the outdoor occupation’
  - Number and location of proposed tables, chairs, umbrellas, gas heaters, planter boxes and lighting features in the outdoor area;
  - Kerb line of the street where the shop is located
  - Width of the footpath adjacent to the subject premises and its remaining width after the encroachment by the proposed outdoor occupation;
  - Width of shop front and entrances;
  - Location of all doorways and service openings;
  - Location and details of any parking restrictions applying at the kerb
  - Proximity of pedestrian or vehicular entrances serving the adjoining buildings; and
  - Location of all existing free-standing items on the street such as post office boxes, power poles, street furniture, rubbish bins, parking/streetsigns or other similar items, that are adjacent to the site
- A copy of the applicant’s current drivers licence or proof of identification
- Photograph of furniture that is being placed on the footpath
- Copy of current Public Liability Insurance (Certificate of Currency of at least \$10 million)

**Business Use of Footpath Checklist**

Have you (please tick):

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Completed the application form?
<input type="checkbox"/>	<input type="checkbox"/>	Provided a dimensional plan of the proposed area of footpath dining /use?
<input type="checkbox"/>	<input type="checkbox"/>	Provided a photograph of furniture?
<input type="checkbox"/>	<input type="checkbox"/>	Provided a written description of the type and means of securing street furniture and hours of operation?
<input type="checkbox"/>	<input type="checkbox"/>	Provided a copy of your current Public Liability Insurance (Certificate of Currency)

**Applicant Declaration**

I have read and fully completed the checklist provided above. I comply with all of Council’s requirements and verify that the above information is true and correct.

Signature:  Date:

## 6.2.14 Quarry Road - Kandos

REPORT BY THE DIRECTOR, OPERATIONS TO 15 APRIL 2015 COUNCIL MEETING

Quarry Road Report  
GOV400043, P1683311

### RECOMMENDATION

**That:**

1. **the report by the Director, Operations on the Quarry Road - Kandos be received;**
2. **Council does not proceed with the obtaining ownership and legalising Quarry Road as the cost of legalising, ongoing maintenance and operation exceed the benefits;**
4. **Council request that Cement Australia close and remediate all section of Quarry Road that traverse its property.**

### Executive summary

A report was presented to Council on the 15 February 2012 regarding the future of Quarry Road and Council resolved to defer pending further discussions with Cement Australia. Although Cement Australia have continued with preparation for decommissioning the works the situation regarding the road has not been clarified. The road provides a shortcut between the Cudgegong Rd and the Bylong Valley Way but time savings are considered negligible due to the Quarry Rd being a gravel surface as opposed to the alternate sealed route.

The addition of 4.6km of unsealed road to Council's network is considered unnecessary from an asset management perspective, particularly as the advantages it provides to the community are minimal. It is therefore recommended that Council not proceed with acquisition of the road.

### Detailed report

In December 2011, Council received a letter from Cement Australia advising that in the surrender of mining lease related to the limestone mine (CML12) and the rehabilitation of that land, the portion of Quarry Road affected will be closed.

Quarry Road extends from Cudgegong Road to Bylong Valley Way providing a shortcut to Cudgegong Road from Kandos. From Kandos to the intersection to Cudgegong Road via Quarry Road is 9.3 km whereas to go via Rylstone is 13.5km. The short cut provides a saving of approximately 4 km in distance but no time saving as Quarry Road is a gravel road whereas the route via Rylstone is sealed.

Quarry Road does not follow a road reserve for its full extent but extends over private land as indicated in the table below.

Map Reference	Description	Owner	Approximate Length
1.	Lot 1 DP 716324	Mountain Mill Pty Ltd	260 metres
2.	Lot 1 DP 716324	Roberts Coggins	54 metres

Map Reference	Description	Owner	Approximate Length
3.	Lot 2 DP 1128801 Lots 100, 101 and 107 DP 755802 Lot 73031137494	Cement Australia	2.3 km
4.		Clandulla State Forest	1.475km

*Note: approximate length 4.6km*

Council has received advice from the Crown Lands Department confirming that the Quarry Rd was constructed over a mix of Crown Road reserve, private land and through parts of the Clandulla State Forest (Attachment 1). Further, Crown Lands have advised that upon closure, it will be seeking full rehabilitation of the roadway. This responsibility presently rests with the proponent (Cement Australia Pty Ltd). However, should Council wish to acquire the land the Department expects Council to investigate Native Title extinguishment together with any Aboriginal Land Claims that may be presently lodged.

From an asset management perspective there appears little justification for Council to add another 4.6km to its unsealed network. This is particularly relevant as retention of the road offers little in the way of benefits to the community in terms of time savings per trip, albeit over a shorter distance. It is therefore recommended that Council not proceed with any acquisition of the Quarry Road.

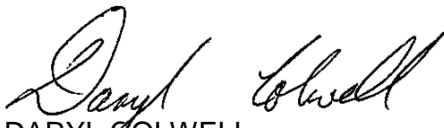
### Financial and Operational Plan implications

An inspection of Quarry Road revealed that the road is in reasonable condition with good material but requires a small amount of re-sheeting on the section through the State Forest. A grade of the road is estimated to cost \$8,000 with the re-sheeting estimated at \$20,000. Should the Council decide to acquire the road it will be necessary for inclusion on the Maintained Road Register.

Acquisition of land to create a road reserve would incur legal costs related to subdivision and also fencing. It is estimated fencing alone would be around \$80,000 with road works in the vicinity of \$30,000.

### Community Plan implications

Asset management forms is the third component of the Resourcing Strategy within the Community Plan.

  
DARYL COLWELL  
DIRECTOR, OPERATIONS

11 March 2015

*Attachments:* 1. Letter from Crown Lands regarding status of Quarry Rd, Kandos

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER



## ATTACHMENT 1



Tel: 02 6391 4334  
Mobile: 0427 544 103  
Email: [kay.oxley@crowland.nsw.gov.au](mailto:kay.oxley@crowland.nsw.gov.au)

Ms Catherine Van Laeren  
Mid Western Regional Council  
PO Box 156  
MUDGEE NSW 2850

Email: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

Date: 19 November 2014  
Our Ref: DOC14/195374

Dear Catherine

**Status of Crown Land within Quarry Road Kandos**

Please accept my late response to our discussions regarding the status of Crown land within Quarry Road Kandos.

As you are aware, Cement Australia, has commenced decommissioning of the Carwell Creek Quarries located approximately 10kms west of the township of Kandos. As a result of the pending final closure of the quarry, the matter of control, care and maintenance of Quarry Road which was formed by Cement Australia for access to the quarries is pending.

Following a review of our records we can inform you that part of Quarry Road does intercept Crown road / land as follows (see **Figure 1**).

- Northern section of Quarry Road partially follows Crown Road
- Middle section of Quarry Road follows part of Crown Reserve 755802

If following consultation with the community, the Council deems it necessary to maintain the current roadway then Council can apply to transfer / compulsory acquire the relevant sections of Crown road/ reserve. At this time, Native Title extinguishment would need to be investigated by Council together with any Aboriginal Land Claims that may be present at that time.

If the road is to be closed Crown Lands will be seeking rehabilitation of the roadway prior to the final closure of the quarries.

If you have any queries or wish to progress any transfer or acquisition, please contact Kay Oxley, Senior Natural Resource Management Officer on (02) 6391 4334.

Yours faithfully

Kay Oxley  
Senior Natural Resource Management Officer

Figure 1



## 6.2.15 Review of Policy on Asset Management

REPORT BY THE MANAGER PLANT & FACILITIES TO 15 APRIL 2015 COUNCIL MEETING  
Asset Management Policy Review  
GOV400043, A0020003

### RECOMMENDATION

**That:**

- 1. the report by the Manager Plant & Facilities on the Review of Policy on Asset Management be received;**
- 2. Council formally adopt the amendments to the Asset Management Policy.**

---

### Executive summary

The purpose of this report is to present to Council amendments to the Asset Management Policy for consideration by Council.

### Detailed report

The purpose of the Asset Management Policy is to provide guidance to Councillors and employees regarding the management and treatment of Council assets. Council is responsible for assets of around \$820 million and this policy is to ensure assets are planned, created, operated and maintained at the lowest life cycle cost whilst meeting Council's service delivery obligations.

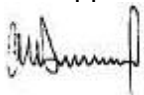
Apart from minor drafting amendments the recommended amendments seek to ensure that the policy is meeting Council's requirements for "fit for the future" and meets all Legislative requirements.

### Financial and Operational Plan implications

Not applicable.

### Community Plan implications

Not applicable.



**ANDREW DRUMMOND**  
**MANAGER PLANT & FACILITIES**



**DARYL COLWELL**  
**DIRECTOR, OPERATIONS**

5 March 2015

### APPROVED FOR SUBMISSION:



**BRAD CAM**  
**GENERAL MANAGER**

*Attachments:* 1. Amended Policy

**AMENDED POLICY**

**ASSET MANAGEMENT POLICY**

	<b>POLICY</b>	ADOPTED
	<b>Asset Management</b>	C/M Minute No REV: 10/02/2015 FILE No. A0010002

**OBJECTIVE**

To set the broad framework for undertaking asset management in a structured, consistent and coordinated manner, and to set asset management processes throughout Mid-Western Regional Council by;

- Ensuring Councils services and infrastructure are provided in a sustainable manner, with the appropriate levels of service to residents, visitors and the environment;
- Safeguarding Council assets by implementing appropriate asset management strategies and appropriate financial resources for those assets;
- Creating an environment where all Council employees have an integral role in overall management of Council assets by creating and sustaining a culture asset management awareness throughout the Council;
- Meeting legislative requirements for asset management; and
- To manage and operate the appropriate mix of sustainable community infrastructure at the lowest life cycle cost.



## **ASSET MANAGEMENT POLICY**

---

### **RELEVANT LEGISLATION**

Local Government Act 1993  
Integrated Planning and Reporting Guidelines and Manual

### **SCOPE**

This policy applies to all Council activities

### **POLICY**

#### **Background**

Council is committed to a systematic asset management methodology to ensure appropriate asset management practices are applied across infrastructure managed by Council. This includes ensuring assets are planned, created, operated, maintained, renewed and disposed of in accordance with Council's priority of service delivery at the lowest life cycle cost.

Council is responsible for a significant portfolio of community infrastructure, valued at approximately \$820 million at June 2014 (gross book value), to support its core business of delivering services to the community.

The current Asset Management Plans (AMP) relies on data that is in its infancy and both the data and related AMP's will develop further over the next few years to provide a framework that:

1. Ensures Council's services and infrastructure are provided reliably, with the appropriate quality levels of service to residents, visitors and the environment.
2. Safeguards Council assets including physical assets and employees by implementing appropriate asset management strategies and appropriate financial treatment of those assets.
3. Creates an environment where all Council employees take an integral part in overall management of Council assets.
4. Meets and surpasses legislative requirements for asset management.
5. Ensures resources and operational capabilities are identified, and responsibility for asset management is allocated.
6. Demonstrates transparent and responsible asset management processes that align with best practice.

#### **Principles**

- A consistent framework must exist for implementing systematic asset management and appropriate asset management best practice across all departments of Council.
- The asset management framework shall incorporate an overriding Asset Management Strategy (AMS), and Asset Management Plans (AMP's) for each class of Council assets.
- The AMP's shall cover a minimum period of 10 years and have a focus on long term sustainability for the benefit of current and future generations.
- The asset management framework must rely on an up to date Asset Management System which shall incorporate the following information:
  - Asset registers;
  - Asset condition assessments;
  - Asset maintenance and management systems;
  - Strategic planning capabilities;

**ASSET MANAGEMENT POLICY**

---

- Predictive modelling;
- Deterioration modelling; and
- Lifecycle costing.
- Relevant legislative requirements and political, social and economic environments are to be taken into consideration in asset management.
- Asset management is to be integrated with existing planning and operational processes.
- Asset renewal plans will be prioritised and implemented progressively based on the level of service, as determined by the Council after consultation with the community, required and the effectiveness of the current assets to provide that level of service.
- Systematic and cyclic renewal reviews will be applied to all asset classes to ensure that the assets are managed, valued and depreciated in accordance with appropriate best practice, applicable Australian Standards and legislative requirements.
- Council's financial asset information shall be audited annually as a part of the external financial audit, and Councils Asset Management Systems shall be reviewed and internally audited.

**ROLES AND RESPONSIBILITIES**

**Councilors** adopt the policy and ensure sufficient resources are applied to manage the assets.

The **General Manager** has overall responsibility for developing asset management systems, policies and procedures and reporting on the status and effectiveness of asset management within Council.

**Directors and Managers** are responsible for implementing asset management systems, policies and procedures.

**Employees with management or supervisory responsibility** are responsible for the management of assets within the area of responsibility as determined under asset management plans.

**Employees** will be tasked under implementation plans, and will be responsible for the timely completion of those activities contained within those plans, and shall be familiar with asset management and how it is applied within the Mid-Western Regional Council.

## 6.2.16 Appointment of Acting General Manager

REPORT BY THE GENERAL MANAGER TO 15 APRIL 2015 COUNCIL MEETING

Acting General Manager

GOV400043, GOV400025

### RECOMMENDATION

#### That Council:

1. receive the report by the General Manager on the appointment of an Acting General Manager;
2. appoint Clare Phelan, Director Corporate, as Acting General Manager for the period 4 May 2015 to 18 May 2015; and
3. delegate to the Acting General Manager, Clare Phelan, the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the Local Government Act, 1993, and also excluding any specific functions which Council has, by resolution, reserved to Council.

---

### Detailed report

Council's General Manager, Mr Brad Cam, will be on annual leave from 4 May 2015 to 18 May 2015. In accordance with Section 344 of the Local Government Act 1993, Council must now appoint an Acting General Manager for the period the General Manager is on leave.

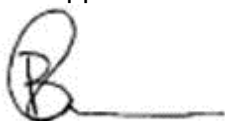
This report recommends the appointment of Clare Phelan, the current Director Corporate, into the role of Acting General Manager.

### Financial and Operational Plan implications

Not applicable.

### Community Plan implications

Not applicable.



BRAD CAM  
GENERAL MANAGER

1 April 2015

*Attachments:* Nil

## 6.2.17 Mudgee & Gulgong Access Committee Minutes

REPORT BY THE ACTING MANAGER, COMMUNITY SERVICES TO 15 APRIL 2015 COUNCIL MEETING

Mudgee Gulgong Access Committee Report to Council April 2015  
GOV400043, A0060008

### RECOMMENDATION

#### That:

1. the report by the Acting Manager, Community Services on the Mudgee & Gulgong Access Committee Minutes be received;
2. Council note the minutes of the Mudgee & Gulgong Access Committee meeting held on 3 March 2015;
3. Council endorse the appointment of Renee Lamshed of CareWest to the Committee.

---

### Executive summary

The Mudgee & Gulgong Access Committee meetings monthly to highlight and promote accessibility issues in the region. The next meeting is to be held on Tuesday, 7 April 2015.

### Detailed report

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

The Committee have considered the appointment of Renee Lamshed, and now request the endorsement of Council for her appointment.

### Financial and Operational Plan implications

Not applicable.

### Community Plan implications

Not applicable.

FIONA TURNER  
ACTING MANAGER, COMMUNITY SERVICES

SIMON JONES  
DIRECTOR, COMMUNITY

1 April 2015

APPROVED FOR SUBMISSION:



BRAD CAM  
GENERAL MANAGER

*Attachments:* 1. Access Committee Minutes 3 March 2015.



## ATTACHMENT 1

**MINUTES OF THE ORDINARY MEETING OF THE MUDGEES AND GULGONG ACCESS  
COMMITTEE HELD ON TUESDAY 3 MARCH 2015  
COMMENCING 3.00PM IN THE COUNCIL COMMITTEE ROOM, MUDGEES.**

**PRESENT:** Access Committee members: Councillor Percy Thompson, Les Leighton, Victoria Barrett, Stephen Waller, Pamela Morris, Mary Lovett

**COUNCIL STAFF:** Simon Jones, Fiona Turner

**ALSO PRESENT:** Renee Lamshed

**1. APOLOGIES:** Nil

**2. CONFIRMATION OF PREVIOUS MINUTES – 02/12/2014**

The minutes were confirmed.

**Moved:** V Barrett

**Seconded:** Pamela Morris

**3. MATTERS ARISING FROM MINUTES:**

1.	Kate Power to email Tracey Kane and ask that they be removed – done 04/12/2014. Tracey has requested Council's Roads Crew undertake this task but they currently have a backlog of work.
2.	Kate Power to email Tracey Kane to ask if there are any plans to install a ramp at the Gulgong Pool – done 04/12/2014. Tracey has submitted a Community Plan Proposal for Council to consider. There may also be the possibility of seeking grant monies, however, any successful applications would only be likely to cover a small portion of the total cost (approximately \$180,000). Pamela noted a trip hazard at the pool which should be investigated.

**4. CORRESPONDENCE**

- **Inward:** Nil.

- **Outward:** Nil.

**5. DEVELOPMENT APPLICATIONS - Nil, but see general discussion following.**

The Development Application for the Oriental Hotel has passed through Council.

No development application has been received by Council regarding proposed construction of apartments in the Regent Theatre. If shops are planned for the ground level, a development application will come to the Committee for consideration.

**6. GENERAL BUSINESS**

- 6.1 Renee Lamshed introduced herself. She is an Ability Links Linker with CareWest and works at networking for her clients, who include people with disabilities and their carers.

Her jurisdiction includes Mudgee and Gulgong and there is a further Ability Linker for Rylstone and Kandos.

A motion was put that Renee be accepted as a member of the Committee.

Moved: Pamela Morris                      Seconded: Victoria Barrett

- 6.2 Fiona spoke on the *Disability Inclusion Act 2014* which requires Council to implement a Disability Inclusion Action Plan by 1 July 2017. Fact sheets will be circulated with these minutes and consultation undertaken.
- 6.3 Simon advised Carrie Hooper is currently working on the draft Pedestrian Access and Mobility Plan. Site visits have been finalised and she is now addressing all of the individual projects to identify a series of projects to include in the PAMP. Once the draft report is completed, she will present it to the PAMP Group.
- 6.4 Les questioned access to Church Street shops. Only if a Change of Use Development Application is received would it be possible for Council to require these businesses to remove the steps and replace them with ramps similar to Mudgee Takeaway (formerly Charcoal Chicken) in Market Street.
- 6.5 Simon noted that Harvey Norman have replaced their heavy front doors with automatic ones.
- 6.6 Pamela advised that A-Frame shop advertising is causing footpath obstacles in Gulgong (particularly near McDonalds Bakery and Raine & Horne).

Action item: Fiona to lodge a works request to arrange an inspection by Council Rangers. Fiona also to lodge a works request to inspect unstable street sign on the corner of Mayne and Herbert Streets.

Concern was also raised regarding access to Coronation Park from Mayne Street. Councillor Thompson has lodged a Notice of Motion for the March 2015 Council meeting in respect of obstruction of pram ramps in Gulgong. No further action by the Committee necessary.

- 6.7 Mary asked whether there would be further disability parking at the Mudgee Airport. If the total number of car park spaces is increased, the disability parking will be increased proportionally also.

*Subsequent to the meeting it was confirmed that the ratio for disability parking at Mudgee Airport is 1:50 (or part thereof).*

- 6.8 Simon advised that a new Mudgee Hospital is likely to go ahead and that it will be on the same grounds.
- 6.9 Simon confirmed that works are due to commence in Council's Gulgong office in April to make the front counter lower and more accessible.

**Next Meeting Date – Tuesday 7<sup>th</sup> April 2015 at 3.00pm**

#### **Agreed Actions**

1.	Lodge works request to arrange an inspection of business footpath advertising in Gulgong by Council Rangers.	Fiona
2.	Lodge works request to inspect the unstable street sign on the corner of Mayne and Herbert Streets, Gulgong.	Fiona

Meeting closed 4.05pm

## URGENT BUSINESS WITHOUT NOTICE

As provided by Clauses 19 & 20 of Council's Code of Meeting Practice (Clause 14 LGMR).

## GIVING NOTICE OF BUSINESS

19. (1) The Council must not transact business at a meeting of the Council:
- (a) unless a Councillor has given notice of the business in writing at least two (2) days prior to the day on which the agenda and business paper is prepared and delivered to Councillors; and
  - (b) unless notice of the business has been sent to the Councillors in accordance with Clause 6 of this Code. (see Section 367 LGA & Clause 14(1) LGMR)
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before the Council (see Clause 14(2)(a) LGMR); or
  - (b) is the election of a chairperson to preside at the meeting as provided by Clause 12(1) (see Clause 14(2)(b) LGMR); or
  - (c) is a matter or topic put to the meeting by the chairperson in accordance with Clause 21 (see Clause 14(2)(c) LGMR); or
  - (d) is a motion for the adoption of recommendations of a committee of the Council; (see Clause 14(2)(d) LGMR); or
  - (e) relates to reports from officers, which in the opinion of the Chairperson or the General Manager are urgent;
  - (f) relates to reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the Committee; and
  - (g) relates to urgent administrative or procedural matters that are raised by the Mayor or General Manager.

## BUSINESS WITHOUT NOTICE

20. (1) Despite Clause 19 of this Code, business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting; and
  - (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. Such a motion can be moved without notice. (see Clause 14(3) LGMR)
- (2) Despite Clause 30 of this Code, only the mover of a motion referred to in subclause (1) can speak to the motion before it is put. (see Clause 14(4) LGMR)

## Item 7: Urgent Business Without Notice