

PUBLIC COPY

2018

MID-WESTERN REGIONAL COUNCIL
COUNCIL BUSINESS PAPERS

ORDINARY MEETING
WEDNESDAY 18 JULY 2018



*A prosperous and progressive community,
we proudly call home*



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

11 July 2018

Dear Councillor

MEETING NOTICE
Ordinary Meeting

18 JULY 2018

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 five 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", with a horizontal line extending to the right.

BRAD CAM
GENERAL MANAGER

AGENDA

Item 1:	Apologies.....	7
Item 2:	Disclosure of Interest.....	7
Item 3:	Confirmation of Minutes.....	7
	3.1 Minutes of Ordinary Meeting held on 20 June 2018	7
Item 4:	Matters in Progress	8
Item 5:	Mayoral Minute.....	10
	Nil	
Item 6:	Notices of Motion or Rescission.....	11
	6.1 Drought Support for Farmers	11
	6.2 Establishment of a Water Committee	12
Item 7:	Office of the General Manager	13
	7.1 Fixing of Annual Fees for Councillors and the Mayor	13
	7.2 Orana Joint Organisation Inaugural Meeting	15
Item 8:	Development	35
	8.1 Regent Theatre - Demolition and Erection of Hotel (62 rooms), Function Centre & Food and Drink Premises - 5, 6 & 7 Church Street and 33 Short Street, Mudgee - DA0081/2018	35
	8.2 Resources for Regions Grant Funding	68
	8.3 Land & Housing Supply Monitor 1 January 2018 - 30 June 2018.....	71
	8.4 Monthly Development Applications Processing and Determined.....	73
	8.5 Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Policy	81
Item 9:	Finance	91
	9.1 Amendment to Mudgee Region Tourism Contract.....	91
	9.2 Budget Amendments to Road Improvement Projects.....	95
	9.3 Community Grant Program Application - Quarter 1	98

9.4	Monthly Statement of Investment and Bank Balances as at 30 June 2018.....	104
Item 10:	Operations.....	113
10.1	Lue and Goolma Upgrade works for Transfer Stations.....	113
10.2	Charbon Sewer Reticulation.....	115
Item 11:	Community	118
11.1	Library Services - Quarterly Report.....	118
11.2	Councillor Representative on NSW Public Libraries Association.....	121
Item 12:	Reports from Committees.....	126
12.1	Gulgong Memorial Hall Committee meeting 10 April 2018	126
12.2	Mudgee Sports Council Meeting 29 May 2018	130
12.3	Heritage Committee Meeting Minutes 5 June 2018	134
12.4	Local Traffic Committee Meeting - 15 June 2018	140
12.5	Mudgee Sports Council Meeting 26 June 2018	148
Item 13:	Urgent Business Without Notice	152
Item 14:	Confidential Session.....	154
14.1	General Manager's Contract of Employment.....	158
14.2	Proposed class action related to Council insurance	161
Item 15:	Urgent Confidential Business Without Notice	166
Item 16:	Open Council.....	166
Item 17:	Closure.....	166

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 20 June 2018

Council Decision:

That the Minutes of the Ordinary Meeting held on 20 June 2018 be taken as read and confirmed.

The Minutes of the Ordinary Meeting are separately attached.

Item 4: Matters in Progress

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
Solar Energy Options	Res. 127/17 Ordinary Meeting 17/05/17	That Council: 2. endorse the strategy of installing solar panels on appropriate Council buildings to reduce ongoing electricity costs and deliver this strategy for at least one further Council building during the 2017/18 financial year.	To be reported to Council at a future meeting.
Update on LEC Matter MA0030/2017	Res. 390/17 Ordinary Meeting 13/12/17	That Council staff review the current road standards for subdivisions and that a report be brought back to Council for considerations.	To be reported to Council at a future meeting.
RV Friendly Town	Res.04/18 Ordinary Meeting 21/02/2018	That Council staff: 1. identify potential sites in Gulgong and Rylstone to enable the status of an 'RV Friendly Town'; and provide costings as to what is required to provide the services required for this to happen.	To be reported at future Council meeting. RECOMMENDED FOR COMPLETION
Lue and Goolma tips	Res. 49/18 Ordinary Meeting 21/03/18	That Council implement a strategy to improve the efficiency and aesthetics of the Lue and Goolma tips by: 1. installing security cameras in safe and secure locations on the tip sites; 2. planning the sites to make more efficient use of tipping locations and waste categories; and 2. installing some 'sight barriers' to improve the impact upon entry into these villages.	To be reported to Council at a future meeting. Please refer to report 10.1 of this Council Meeting Agenda.
RFT 2017/21 Glen Willow Footbridge - Provision of Handrail Trusses and Piers	Res. 66/18 Ordinary Meeting 21/03/18	That Council: 3. investigate a more economical outcome and bring back a report when the cost of works are known.	To be reported to Council at a future meeting.
Rylstone Lawn Cemetery	Res. 108/18 Ordinary Meeting May 2018 16	4. That Council staff bring back a report on the costs and any grant opportunities, and that Council consider a lawn cemetery at Rylstone as part of a future	To be reported at a future meeting.

SUBJECT	RESOLUTION NO. & DATE	RESOLUTION	ACTION
		budget initiative.	
Bus Access to Red Hill	Res. 131/18 Ordinary Meeting 20 June 2018	That a report be brought back to Council on options for improving access for buses and coaches to the Red Hill Precinct.	To be reported at a future meeting.
Water Modelling	Res. 132/18 Ordinary Meeting 20 June 2018	Council obtain quotes with a view to engaging an independent consultant to provide a peer review of the modelling provided by WaterNSW on Windermere Dam, and provide assumptions on possible Blue Green Algae problems.	To be reported at a future meeting.
Council Representations at Funerals	Res. 133/18 Ordinary Meeting 20 June 2018	That Council develops a Policy in relation to Council representation at Funerals.	To be reported at a future meeting.
Ironbarks Road	Res. 143/18 Ordinary Meeting 20 June 2018	That the staff engage with the members of Ironbarks Road and bring back report on the best way to deal with their concerns regarding this road.	To be reported at a future meeting.

Item 5: Mayoral Minute

Nil

Item 6: Notices of Motion or Rescission

6.1 Drought Support for Farmers

NOTICE OF MOTION LISTED BY CR PERCY THOMPSON
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0230002

MOTION

That Council request the State Government to reintroduce the drought declared areas when needed in the state to give immediate assistance to farmers in crisis from drought and to relax the asset test on farm household allowances. That Council seek the support of the ORANA Joint Organisation and the Local Government Conference.

Background

The state government no longer declared drought a natural disaster event though it is as devastating as floods and fire.

Officer's comments

If Council approve this motion, we will write to the State Government.

6.2 Establishment of a Water Committee

NOTICE OF MOTION LISTED BY CR PERCY THOMPSON

TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0230002

MOTION

That Council set up a Water Committee under the legislation of the State Government which would include a council representative and water stakeholders. That Council invite State Water to an open session of council so that they can explain to the Council, the media and the community how water is managed from Windermere Dam.

Background

There is a number of stakeholders including Council, who have an interest in the water releases from Windermere Dam.

Officer's comments

The Cudgegong Valley water users have recently met and have reformed the committee called the 'Cudgegong Valley Water and Security Users Committee'.

This Committee already has a Councillor as the Chair. The General Manager also represents the Cudgegong Valley users as a voting member on the Customer Advisory Group at Water NSW and also sits on the Stakeholder Advisory Panel representing the Cudgegong Valley.

Item 7: Office of the General Manager

7.1 Fixing of Annual Fees for Councillors and the Mayor

REPORT BY THE DIRECTOR COMMUNITY

TO 18 JULY 2018 ORDINARY MEETING

GOV400066, GOV400010

RECOMMENDATION

That Council:

1. **receive the report by the Director Community on the Fixing of Annual Fees for Councillors and the Mayor; and**
2. **fix fees for Councillors and the Mayor for the period July 2018 to June 2019 at \$19,790 for Councillors and an additional \$43,170 for the Mayor;**
 - (a) **Council pay the Deputy Mayor a fee, to be deducted from the fee payable to the Mayor, for periods of 7 days or more, where the Mayor is unable to carry out the duties of Mayor, such fee to be for the period that the Deputy Mayor acts in the role of the Mayor;**
 - (b) **the calculation of this fee to be determined at a pro rata rate of the Mayor's annual fee.**

Executive summary

This report addresses the need for Council to fix the annual fees for Councillors and the Mayor for the period July 2018 to June 2019. The report recommends an increase from \$19,310 to \$19,790 for Councillors and an additional payment to the Mayor increasing from \$42,120 to \$43,170.

Disclosure of Interest

Nil.

Detailed report

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

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

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

The Act provides that the Remuneration Tribunal must make a determination in relation to fees, not later than 1 May each year. The 2018 determination of the Remuneration Tribunal is attached.

As a consequence of that determination, this Council has been categorised as rural; the fees applicable for the period July 2018 to June 2019 being:

	Minimum	Maximum
Councillor	\$8,970	\$19,790
Mayor (additional fee)	\$19,100	\$43,170

Community Plan implications

Theme	Good Governance
Goal	Strong civic leadership
Strategy	Provide clear strategic direction through the Community Plan, Delivery Program and Operational Plans

Strategic implications

Council Strategies

Community Strategic Plan

Council Policies

Payment of Expenses and Facilities to Councillors Policy

Legislation

Local Government Act NSW

Financial implications

These fees have already been included in Council's budget.

Associated Risks

Not applicable

SIMON JONES

DIRECTOR COMMUNITY

14 June 2018

Attachments: 1. 2018-Annual Determination-LGRT. (separately attached)
2. Council Circular Determination of the Local Government remuneration Tribunal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM

GENERAL MANAGER

7.2 Orana Joint Organisation Inaugural Meeting

REPORT BY THE DIRECTOR COMMUNITY
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, GOR500030

RECOMMENDATION

That Council:

1. **receive the report by the Director Community on the Orana Joint Organisation Inaugural Meeting;**
2. **note the minutes from the inaugural meeting of the Orana Joint Organisation;**
3. **endorse the Orana Joint Organisation Draft Charter; and**
4. **endorse the Orana Joint Organisation Expenses and Provision of Facilities to Board Members Policy.**

Executive summary

The Orana Joint Organisation has held its inaugural meeting and this report provides an update to Council on this meeting and the initial work of the Orana Joint Organisation.

Disclosure of Interest

Nil

Detailed report

Following the proclamation of the Orana Joint Organisation, the inaugural meeting was held on 13 June 2018 in Gilgandra. The minutes from the meeting are included with this report.

Representatives from Gilgandra, Warrumbungle, Narromine and Mid-Western were present. Mayor Doug Batten from Gilgandra Shire Council was elected unopposed as the Chair and Belinda Barlow was appointed as the interim Executive Officer. It was also resolved to support the inclusion of Bogan and Warren Shires.

A draft charter and a draft Payment of Expenses and Provision of Facilities to Board Members Policy were discussed and were referred to member Councils for consideration. Any comments from Council need to be provided within 42 days of the meeting (by 25 July 2018).

Community Plan implications

Theme	Good Governance
Goal	Strong civic leadership
Strategy	Provide strong representation for the community at Regional, State and Federal levels

Strategic implications

Council Strategies

Community Strategic Plan

Council Policies

Not applicable

Legislation

Local Government Act 1993

Local Government Regulations

Local Government (Regional Joint Organisations) Proclamation 2018.

Financial implications

Expenses related to the Orana Joint Organisation are covered through existing budgets or will be presented to Council for resolution.

Associated Risks

Membership of the Joint Organisation is seen as a prudent requirement of Council to assist in its engagement and leadership on regional and State issues.

SIMON JONES

DIRECTOR COMMUNITY

2 July 2018

- Attachments:*
1. 2018.06.13 Orana JO Minutes Inaugural Meeting.
 2. Orana Joint Organisation Charter 13 June 2018.
 3. Orana Joint Organisation - Payment of Expenses and Provision of Facilities Policy.
 4. 2018.07.04 Memo - Joint Organisation.

APPROVED FOR SUBMISSION:

BRAD CAM

GENERAL MANAGER

minutes



Orana
Joint
Organisation

MEETING OF: Orana Joint Organisation
DATE: 13 June 2018
TIME: 10.00 am
VENUE: Gilgandra Shire Council

ATTENDEES:

Members

Cr D Batten	Gilgandra Shire Council
Cr P Shinton	Warrumbungle Shire Council
Cr C Davies	Narromine Shire Council
Cr D Kennedy	Mid-Western Regional Council

Attending

Mr D Neeves	Gilgandra Shire Council
Mr R Bailey	Warrumbungle Shire Council
Mrs J Redden	Narromine Shire Council
Mr B Cam	Mid-Western Regional Council
Mr A Albury	NSW Premier and Cabinet
Mr D Arthur	Warren Shire Council
Mr D McCarthy	Office of Local Government
Ms J White	Office of the Regional Infrastructure Coordinator
Mr D Murray	Review of Regional Infrastructure
Mrs B Barlow	OROC Executive Officer
Mrs C Marchant	Narromine Shire Council (minute taker)

APOLOGIES: Nil

WELCOME: Jane Redden Returning Officer and General Manager Narromine Shire Council welcomed those present and declared the meeting open at 10.03am.

1. **Proclamation and Regulation effecting the Orana Joint Organisation**

2018/001 RESOLVED: Doug Batten/Peter Shinton that:

1. the Board note the Proclamation and Regulation effecting the Orana Joint Organisation
2. the board of the Orana Joint Organisation resolves to:
 1. Welcome and support the inclusion of Bogan Shire Council and Warren Shire Council as a member council of the Joint Organisation.
 2. Write to the Minister for Local Government in order to provide a copy of this resolution of the board of the joint organisation.

CARRIED

minutes

Orana
Joint
Organisation2. **Office of Local Government****2018/002 RESOLVED:** Craig Davies/Des Kennedy that the Board:

1. note the advice from the Office of Local Government providing guidance on the implementation on Joint Organisations "Joint Organisation Implementation Guidance; and
2. note that Mr Tim Hurst has delegated the calling of the meeting, the development of the Agenda and the role of Returning Office to Mrs Jane Redden, General Manager of Narromine Shire Council.

CARRIED

3. **Election of Chairperson****2018/003 RESOLVED:** Peter Shinton/Des Kennedy that the Board use open method of voting for the position of Chairperson.

CARRIED

There being one nomination received, Doug Batten was voted the Chairperson and assumed the chair.

4. **Disclosure of delegates - Designated persons (s:449 L.G. Act)****2018/004 RESOLVED:** Peter Shinton/Craig Davies that the Board:

1. note that all board members and the Interim Executive Officer are automatically designated persons for the purposes of s:449 of the Local Government Act;
2. note that as alternatives deputy mayors should also be treated as designated persons; and
3. note the responsibility of designated persons in returning disclosures of interest forms.

CARRIED

5. **Orana Joint Organisation Draft Charter****2018/005 RESOLVED:** Craig Davies/Des Kennedy that the

1. Draft Charter for the Orana Joint Organisation be referred to members for a period of 42 days seeking feedback
2. A further report come back to the Orana JO detailing members feedback for consideration by the Board.

CARRIED

6. **Appointment of interim Executive Officer**

At the request of Doug Batten, Belinda Barlow gave a brief presentation of her employment history and experience that would make her suitable for the role of Interim Executive Officer.

2018/006 RESOLVED: Craig Davies/Peter Shinton that Ms Belinda Barlow be appointed the interim Executive Officer of the Orana Joint Organisation of Councils for the period of 12 months.

CARRIED

7. **Delegations to the Interim Executive Officer****2018/007 RESOLVED:** Peter Shinton/Des Kennedy that Orana Organisation adopt the draft delegations register for the Interim Executive Officer as tabled.

CARRIED

minutes



Orana
Joint
Organisation

8. Code of Conduct and Panel of Conduct Reviewers

- 2018/008 RESOLVED:** Craig Davies/Des Kennedy that Orana Joint Organisation adopt:
- the Model Code of Conduct for Local Councils in NSW (the Model Code);
 - the Procedures for the Administration of the Model Code of Conduct for local Councils in NSW (the Procedures);
 - the panel of Conduct Reviewers as established by OROC in 2017.
 - The PUBLIC INTEREST DISCLOSURES (PROTECTED DISCLOSURES)

CARRIED

9. Payment of Expenses and the Provision of Facilities to Board Members Policy

- 2018/009 RESOLVED:** Peter Shinton/Des Kennedy that:
- the draft policy for the payment of expenses and the provision of facilities to Board members and the Chairperson be referred to member Councils for their comment for a period of 42 days.
 - the draft policy and comments from member councils be referred to a future meeting of the Board for consideration and adoption of the policy as amended (if required).

CARRIED

10. Code of Meeting Practice

- 2018/010 RESOLVED:** Des Kennedy/Craig Davies that:
- the draft Code of Meeting Practice for local councils in NSW be endorsed for consultation with member councils. (see below).
 - a report be submitted to the Board Meeting to be held on the next meeting date to consider the adoption of the Code of Meeting Practice for the Orana Joint Organisation.

CARRIED

11. Seal

- 2018/011 RESOLVED:** Peter Shinton/Craig Davies that the Orana Joint Organisation (JO):
- Adopt a Seal of the JO which contains the wording, "Orana Joint Organisation"
 - The seal be kept by the Interim Executive Officer.

CARRIED

12. Timeline, opening a bank account, recruitment and strategy

- 2018/012 RESOLVED:** Des Kennedy/Peter Shinton that the Board note the timeline for the implementation of the JO and
- with regard to opening of a bank account confirm the Interim Executive Officer, Belinda Barlow, has delegation to:
 - open a bank account in the name of the Orana Joint Organisation
 - obtain an ABN; and
 - nominate signatories
 - obtain appropriate Workers Compensation cover

CARRIED

There being no further business the meeting closed at 10.55am.

The Minutes (pages 1 to 3) were confirmed at a meeting held on the day of _____ 2018, and are a full and accurate record of proceedings of the meeting held on 13 June 2018.

Chair



Charter

ORANA JOINT ORGANISATION CHARTER

13 June 2018

Contact Details

Belinda Barlow

Email: mail@oranajointorganisation.nsw.gov.au



CONTENTS

Contents

INTRODUCTION.....	2
1.1 Preamble.....	2
1.2 Name and legal status	2
1.3 Interpretation	2
1.4 Definitions.....	2
1.5 Adopting the Charter	3
1.6 Amending the Charter	3
ESTABLISHMENT	4
2.1 Vision and principles	4
2.2 Principal functions	4
2.3 Other functions.....	4
MEMBERSHIP.....	5
3.1 Voting Members	5
3.2 Non-voting members.....	5
3.3 Changes in membership	5
3.4 Financial contributions	5
3.5 Decision resolution	5
3.6 Dispute resolution	6
THE BOARD	7
4.1 Governing board and role.....	7
4.2 Chairperson and role	7
4.3 Alternates	7
4.4 Advisory committees and working groups	7
MEETINGS.....	8
5.1 Meeting frequency	8
5.2 Participation and quorum.....	8
5.3 Voting and decision making.....	8
Decisions about principal functions:	8
5.4 Annual general meetings.....	8
PLANNING AND REPORTING.....	9
6.1 Consultation and publication.....	9
OTHER MATTERS.....	10
7.1 Records	10
7.2 Insurance	10
7.3 Indemnity.....	10
7.4 Policies.....	10
7.5 Transitional Arrangements	10

INTRODUCTION

1.1 Preamble

The operation of and governance principles for the Orana Joint Organisation is guided by this Charter, which has been adopted by resolution of the board.

1.2 Name and legal status

The name of the joint organisation is the Orana Joint Organisation.

Orana Joint Organisation is a body corporate proclaimed under the *Local Government Act 1993* (the Act) with the legal capacity and powers of an individual. See the proclamation forming this joint organisation at <http://www.legislation.nsw.gov.au/regulations/2018-192.pdf> for further information about the membership and functions of Orana Joint Organisation and other key matters.

While the principal functions of the joint organisation are provided for in the Act and through this Charter, powers are also conferred on the joint organisation as a statutory corporation under section 50 of the *Interpretation Act 1987*. Other functions may be conferred on a joint organisation by legislation and may be delegated to a joint organisation by one or more member councils.

1.3 Interpretation

This Charter is to be interpreted in accordance with the *Local Government Act 1993* and *Local Government (General) Regulation 2005* and the *Interpretation Act 1987*.

1.4 Definitions

In this Charter, the following terms are used as below. **Act** means the *Local Government Act 1993*.

Board means the joint organisation board, consisting of the mayors of each member council, any additional voting representatives of these member councils appointed under section 400T of the Act and any other non-voting representatives who may attend, but are not entitled to vote at, a meeting.

Charter means this document, outlining the operational and governance principles for the joint organisation and any other agreed matters, consistent with the Act and other laws.

Chairperson means the person, who is a mayor, elected to the office of chairperson by the voting representatives on the board from among the voting representatives who are mayor.

Councillor means a person elected or appointed to civic office and includes a mayor.

Executive officer means the person employed by the joint organisation to conduct the day-to-day management of the joint organisation in accordance with strategic regional priorities and other plans, programs, strategies and policies of the joint organisation and to implement without delay the lawful decisions of the joint organisation.

General Manager means the person employed by a council to conduct the day-to-day management of the council in accordance with strategic plans, programs, strategies and policies of the council and to implement without delay the lawful decisions of the council.

Joint organisation means an organisation established under Part 7 Chapter 12 of the *Local Government Act 1993*

Member council means those councils proclaimed under the Act to be part of the Orana Joint Organisation.

Mayor means a person elected or appointed to civic office, who is the leader of the council.

Non-voting member means those councils and other organisations or individuals that are members of the joint organisation but do not have the right to vote.

Non-voting representative means the chosen representative of a non-voting member of the board (sometimes called an 'associate member'). This includes:

- an employee of the public service nominated by the Secretary, Department of Premier and Cabinet
- any other individual or representative of a council or other organisation invited by the board to represent a non-voting member of the board
- any other person or a member of a class of persons prescribed by the Regulation.

Regulation means the *Local Government (General) Regulation 2005*.

Voting representative means a representative of a member council on the board.

1.5 Adopting the Charter

This Charter was formally adopted by the Orana Joint Organisation on 13 June 2018

This Charter will be made publicly available via the following website administered by the joint organisation within 30 days of adoption www.oranajointorganisation.nsw.gov.au.

1.6 Amending the Charter

This Charter will be reviewed every two (2) years at the time of the election of Chair. Other amendments may be made from time to time by resolution of the board.

ESTABLISHMENT

2.1 Vision and principles

The vision of Orana Joint Organisation for the Orana is:

To be a leading Joint Organisation known for a high level of achievement, collaborative excellence and strong commitment to the region's communities.

The Orana Joint Organisation will act in accordance with the following principles:

2.2 Principal functions

The principal functions of the Orana Joint Organisation will be to:

- establish strategic regional priorities for the joint organisation area and develop strategies and plans for delivering these priorities
- provide regional leadership for the joint organisation area and to be an advocate for strategic regional priorities
- identify and take up opportunities for intergovernmental cooperation on matters relating to the joint organisation area.

2.3 Other functions

The other services, functions or types of functions the Orana Joint Organisation will undertake are:

- to provide support for the operations of its Member Councils aimed at strengthening local government in its joint organisation area;

The board may, from time to time, determine whether and how to undertake any other functions.

MEMBERSHIP

3.1 Voting Members

The following are 'member councils' of the Orana Joint Organisation:

- Cobar
- Gilgandra
- Mid-Western Regional
- Narromine
- Warrumbungle

3.2 Non-voting members

The following organisations are non-voting members of the joint organisation:

- the NSW Government, as represented by a nominee of the Secretary of the Department of Premier and Cabinet, currently the Department of Premier and
- Cabinet, Director Western Region

3.3 Changes in membership

A proclamation is required for a joint organisation to change voting members.

Any voting member proposing to withdraw from the joint organisation must give 1 month written notice.

This Charter may be amended to change non-voting members of the board. In deciding whether to propose or support a change in membership, the [insert name] joint organisation will:

- at the request of a member, consider a draft resolution seeking membership change, and
- following a resolution in support, amend this Charter as set out section 1.6 to change membership as set out at section 3.2.

3.4 Financial contributions

Each member council is to contribute a monetary payment or equivalent contribution based on the following methodology:

- The annual financial contribution required to be made by each Member Council is to consist of:
- a base fee of the same amount for each Member Council; and
- a capitation fee (based on the most recent population data issued by Australian Bureau of Statistics Census data)
- The annual financial contribution required to be made by each Associate Member is to be based on a methodology adopted by the Board.
- The amount of the base fee, capitation fee and financial contribution by Associate Members for a financial year is to be determined prior to the start of that year by Resolution of the Board.

Member councils will be consulted about proposed contributions by correspondence.

3.5 Decision resolution

In the event of an equality of votes in relation to a critical matter to be determined by the board the resolution is lost. The mechanism for the board to move critical decisions forward is as follows:

Step 1a – internal resolution using one or more of the following:

- Take into account board member views and rework the proposal.
- Establish a specific sub-committee to review and rework the proposal.

Set aside time for the board to discuss the proposal prior

- to the next board meeting.
- Obtain and present to the board advice from an expert or an independent report.

Alternative Step 1b – refer decision to member councils to resolve in the following circumstances:

- Decisions in relation to member council financial contributions over \$1.00.

Step 2 – independent mediation (may include using any of the processes outlined in Step 1):

- Board resolves to work with an independent mediator to support board to resolve the decision.
- Where a mediator cannot be agreed, the board could ask Office of Local Government to appoint a mediator (as for a general manager contract).

Step 3 – appoint an independent arbitrator

- Board resolves to appoint an independent arbitrator to support board to resolve the decision.
- Where the arbitrator cannot be agreed, the board could ask Office of Local Government to appoint an arbitrator.

Critical matters to be determined by the board include:

- adoption of a Statement of Strategic Regional Priorities
- adoption of the Annual Performance Statement and Financial Statements
- decisions to commit financial contributions from member councils over \$1.00.

3.6 Dispute resolution

In the event of a dispute between board members that arises from or relates to the Orana Joint Organisation, the following steps will be taken to resolve that dispute:

- relevant members will advise the joint organisation prior to taking legal action
- relevant members will give notice to board members specifying the nature of the dispute
- on receipt of notice, member councils must endeavour in good faith to resolve the dispute promptly using informal dispute resolution techniques such as mediation, expert evaluation or determination or similar techniques, as agreed by those members
- members that are parties to the dispute will pay the mediator's costs.

THE BOARD

4.1 Governing board and role

The board of Orana Joint Organisation consists of:

- the mayors of each member council
- a representative of the NSW Government, nominated by the Secretary of the Department of Premier and Cabinet, who is Ashley Albury, Director Western, NSW Regional Co-ordination, Regional NSW Department Premier and Cabinet.
- the following other non-voting representatives General Manager Cobar, General Manager Gilgandra, General Manager Mid Wester Regional, General Manager Narromine, General Manager Warrumbungle.

The role of the board is to direct and control the affairs of the joint organisation. The board is to consult with the executive officer in directing and controlling the affairs of the joint organisation.

The joint organisation executive officer and general manager of each member council may also attend meetings of the board in an advisory capacity.

4.2 Chairperson and role

The chairperson is to be elected by the voting representatives of the board from one of the mayoral representatives. In the absence of the chairperson, a person elected by the voting representatives at the meeting of the board is to preside at the meeting. The chairperson does not have a casting vote.

The chairperson is the joint organisation's spokesperson on strategic matters and will represent the joint organisation at regional forums where possible.

They are responsible for the conduct of meetings.

The term of the chair person is for 2 years and shall align with the Mayoral elections.

4.3 Alternates

Member councils that choose to appoint an alternate representative (other than the Mayor) must notify the joint organisation of that person's name and position.

4.4 Advisory committees and working groups

The Orana Joint Organisation establishes the following committees and advisory groups, which are to report to the board as set out in their Terms of Reference: These may include but are not limited to:

- General Managers Advisory Committee
- Lower Macquarie Water Utilities Alliance
- Human Resources and Learning Development
- Economic Development
- Orana Risk and Safety Management Group
- Asset Management Group
- Finance and IT Group

Other committees and advisory groups may also be established from time to time by board resolution.

MEETINGS

5.1 Meeting frequency

The board will meet every at least once in each quarter on such date and at such place and time as the Board decides; and Meetings will be conducted in accordance with the Code of Meeting Practice adopted by the board from time to time.

Where necessary, the chair may call further meetings.

5.2 Participation and quorum

The quorum for a meeting of the board is a majority of voting representatives entitled to vote under this Charter being at the meeting. No business is to be transacted at a general meeting without a quorum.

5.3 Voting and decision making

Decisions about principal functions:

A decision of the board supported by a majority at which a quorum is present is a decision of Orana Joint Organisation.

Each voting member of the board has one vote each in relation decisions taken about principal functions.

A motion at a meeting of the board is taken to be defeated in the event of an equality of votes. The chairperson, or person presiding at a meeting of the board, does not have a casting vote.

5.4 Annual general meetings

The Orana Joint Organisation will hold an annual general meeting in December to present the annual report, Audited Financial Statements and review charter (if required).

PLANNING AND REPORTING

6.1 Consultation and publication

The Orana Joint Organisation will consult with all members in preparing the following documents required under the Act and will publish the adopted versions on the joint organisation website www.oranajointorganisation.nsw.gov.au

- statement of Strategic Regional Priorities
- annual revenue statement
- audited financial reports.

The Orana Joint Organisation will also publish an annual performance statement on its website.

www.oranajointorganisation.nsw.gov.au.

OTHER MATTERS

7.1 Records

The joint organisation will keep records and provide access to relevant information in accordance with the following legislation: <https://www.legislation.nsw.gov.au/#/view/act/1998/17>

The public officer of Orana Joint Organisation is the **Executive Officer** who may be contacted at mail@oranajointorganisation.nsw.gov.au.

7.2 Insurance

The Orana Joint Organisation has made the following insurance arrangements:

Advice received from Jardine Lloyd Thompson P/L states that cover is confirmed for the Orana Joint Organisation once it is established. The existing cover of the members will be extended to include the activities of the Orana Joint Organisation.

There will be no additional or separate charges applied for this policy extension to the Orana Joint Organisation.

Non-Members of State-wide are to advise their insurers of their participation in the Orana Joint Organisation and seek to have their interests noted.

7.3 Indemnity

Representatives of members of the board and staff of the Orana Joint Organisation are protected from liability for functions and duties carried out or omitted honestly, in good faith and with due care and diligence.

7.4 Policies

The Orana Joint Organisation has adopted the following policies:

- **Orana** expenses and facilities policy
- **Orana** Code of Meeting Practice,
- **Orana** Code of Conduct, and

Further policies may be adopted by the board from time to time and will be published on the Orana Joint Organisation's website at www.oranajointorganisation.nsw.gov.au.

7.5 Transitional Arrangements

There are no recorded transitional arrangements for the Orana Joint Organisation to date.

ORANA JOINT ORGANISATION

ORANA JOINT ORGANISATION Payment of Expenses and Provision of Facilities Policy

Preamble

The JO Expenses and Facilities policy is designed to cover any needs associated with the exercise by Board Members and the Chairperson of their joint organisation functions that are not otherwise covered under member Council's Expenses and Facilities policies.

Board Members and the Chairperson are not entitled to make a claim under a Joint Organisation's expenses and facilities policy where a claim has been covered under a member Council's policy and vice versa.

1. EXPENSES

(a) Conferences, Seminars and Inspections – Reimbursement of Costs

Subject to JO approval or approval by the Chairperson if insufficient time for JO approval.

(i) Registration: including official luncheons, dinners and tours relevant to the conference.

(ii) Accommodation:

Meal allowances (dinner and lunch) - \$150 (per day)

Accommodation (capital city) - \$400 (per day)

Accommodation (country areas) - \$ 200 (per day)

and reasonable telephone costs.

(iii) Accommodation for the night before or after the conference where necessary.

(iv) Delegates accompanied by spouse/partner.

Equivalent of single accommodation cost to be met by the JO with additional accommodation cost to be met by delegate/spouse. All additional costs to be met by spouse/partner unless such is related to the official capacity of the delegates partner (eg conference dinner).

(b) Travel Expenses

(i) Members cover their own costs for accommodation and travel to and from meetings of the Board and its Committees.

Expenses for use of a private motor vehicle to be based on the relevant kilometre rate in the staff award.

(ii) Attendance at meetings representing the JO in capacity of Chairperson of a JO Committee.

ORANA JOINT ORGANISATION

Expenses for use of a private motor vehicle to be based on the relevant kilometre rate in the staff award.

Expenses for representing the region will be considered by the Board if sufficient time allows or by the Chair where the request is made before the expense is incurred.

(iii) Conferences and Seminars.

Members using private vehicles to be reimbursed according to the relevant kilometre rate in the Local Government Award as was previously the case, where not already covered by the Member Council.

Subject to the total cost not exceeding the economy class airfare as applicable and appropriate.

Travel by air (when required) to be by economy class.

2. FACILITIES

(a) Members

The Members are to receive the benefit of the following JO facilities:

(i) Meeting Meals and Refreshments – provision of meals and refreshments associated with JO, Committee and Working Parties/Special Committee meetings.

(ii) Travel – provision of JO motor vehicle (when available) for travel to Conferences, Seminars, etc when on official JO business, where not already covered by a member Council.

(iii) Meeting Rooms – Provision of meeting facilities for the purpose of JO, Committee and Working Parties/Special Committee meetings (and for meeting with constituents), where available.

(iv) Photocopiers – provision of photocopying facilities at the JO's Office for official purposes.

(b) Chairperson

In addition to those facilities provided to the Members, the Chairperson is to receive the benefit of:

(i) Secretarial Services – word processing and administrative support provided by the Executive Officer;

(ii) Administrative Support – assistance with functions, organisation, meetings and the like for official purposes.

ORANA JOINT ORGANISATION

(c) Deputy Chairperson (if appointed)

In addition to those facilities provided to the Members, the Deputy Chairperson is to receive the benefits of the Chairperson when acting in the office of JO Chairperson.

(d) Arbitration of Claims

The Chairperson, (the Deputy Chairperson when the claim is made by the Chairperson) and the Executive Officer will be responsible for determining whether all claims are reasonable and within the guidelines as set by the policy adopted by Council. Any Council dissatisfied with the determination can request the matter be submitted to Council for consideration.

MEMO to Member Councils of Orana Joint Organisation

To: Orana Joint Organisation Board Members
From: Belinda Barlow Interim Executive Officer Orana JO
Date: 4 July 2018
Subject: Policies for consultation with Member Councils

The following policies considered at the Inaugural Orana Joint Organisation Board Meeting held on 13th June 2018 are to be considered with individual Member Councils.

These policies include:

1. Orana Joint Organisation Draft Charter
2. Payment of Expenses and Provision of Facilities to Board Members Policy

Please provide comments to Interim Executive Officer Orana Joint Organisation via email oroc@oroc.com.au or PO Box 115 NARROMINE NSW 2821.

Item 8: Development

8.1 Regent Theatre - Demolition and Erection of Hotel (62 rooms), Function Centre & Food and Drink Premises - 5, 6 & 7 Church Street and 33 Short Street, Mudgee - DA0081/2018

REPORT BY THE SENIOR TOWN PLANNER

TO 18 JULY 2018 ORDINARY MEETING

GOV400066, DA0081/2018

RECOMMENDATION

That Council:

- A. receive the report by the Senior Town Planner on the Regent Theatre - Demolition and Erection of Hotel (62 rooms), Function Centre & Food and Drink Premises - 5, 6 & 7 Church Street and 33 Short Street, Mudgee - DA0081/2018;**
- B. refuse the Regent Theatre - Demolition and Erection of Hotel (62 rooms), Function Centre & Food and Drink Premises - 5, 6 & 7 Church Street and 33 Short Street, Mudgee - DA0081/2018 for the following reasons:**
1. Insufficient parking provided to cater for the expected demand of the hotel and its guests.

Executive summary

OWNER/S	Seaview Links Pty Ltd, The Blue Douglas Pty Ltd, Hucks Holdings Pty Ltd & Anglican Property Trust
APPLICANT:	Mod Urban Pty Ltd
PROPERTY DESCRIPTION	1 – 3 and 5,6 & 7 Church Street & 33 Short Street
PROPOSED DEVELOPMENT	Partial demolition of Regent Theatre, demolition of dwelling and erection of 62 room hotel, function centre, food and drink premises and carparks.
ESTIMATED COST OF DEVELOPMENT:	\$13 million
REASON FOR REPORTING TO COUNCIL:	Public interest, cost of development and variation to development standard
PUBLIC SUBMISSIONS:	209 (from 160 people)

A Development Application was received by Council on 3 October 2017 and lodged 27 October 2017, seeking approval for the partial demolition of the Regent Theatre, erection of a 62 room hotel over 5 levels together with function space, rooftop bar, and café at ground level at 5-7 Church Street Mudgee.

The development also includes the demolition of the dwelling at 33 Short Street and construction of a carpark. An additional carpark is also proposed to be constructed off-site at the Anglican Church, with access onto Short Street.

The application was originally notified to adjoining landowners, and advertised in the local newspaper for two weeks starting 1 November 2017 and ending 17 November 2017, in accordance with *Mid-Western Regional Development Control Plan 2013*. The exhibition period was extended until 1 December 2017 owing to the high level of public interest. During the notification period a total of 99 submissions were received (1 in support), including a petition containing 35 signatures.



Figure 1: Location Plan

Following an initial review of the application, a further information request was made on 7 December 2017, with amended plans received 2 February 2018. Owing to the nature and extent of the changes the application was re-notified for a period of two weeks, starting 16 February 2018 and ending 2 March 2018. During the second notification period a total of 108 written submissions were received (6 in support) and a further petition containing 592 signatures, in addition to an electronic submission with 2125 electronic submissions objecting to the development.

Following on from the exhibition period, the applicant has provided an additional traffic study (dated June 2018) detailing the off peak parking availability in relation to the ancillary uses associated with the Hotel.

The application is referred to Council for consideration as the value of the construction works associated with the development exceeds staff delegations, and the number of submissions received exceeds 7.

The application is recommended for refusal.

Development Detail

The applicant is seeking consent for the adaptive reuse of the Regent Theatre for a new hotel development at 5-7 Church Street, Mudgee (Lot 1 DP 633977) and 33 Short Street, Mudgee. The application also seeks approval for the partial demolition of the Regent Theatre and dwelling house at 33 Short Street, with the construction of a new car park. An additional car park is also proposed off-site at the Anglican Church Site.

Specifically, the applicant seeks approval for:

- Demolition of existing dwelling and structures at 33 Short Street;
- Partial demolition of the Regent Theatre building;
- Change of use from a theatre to a 62-room hotel;
- Construction of a rear addition to the Regent Theatre over five (5) levels;
- Provision of a roof top bar and glass balustrade behind the existing building parapet;
- A pre-function area on level 4 (38.85m²) and a function space (136.2m²);
- Ancillary uses within the hotel including café (25.93m²), dining area, reception, and kitchen;
- Construction of associated landscaping;
- Provision and construction of a total of 58 car parking spaces as follows:
 - Construction of an at grade car park at 33 Short Street containing 38 spaces (including two disabled spaces)
 - 20 spaces in a leased area on the Anglican Church site
- Change the parallel parking configuration along Short Street, to 60 degrees* ⁽¹⁾;
- Indicative signage locations, with detail signage to be subject of future development applications.

***Note:**

(1) This was endorsed by the Local Traffic Committee, 20 April 2018, subject to approval of the DA (Attached). As the application is being recommended for refusal, the recommendation of the Traffic Committee is not being put forward as part of this application.

Further investigations have also revealed that there is insufficient pavement width to accommodate changes to parking on both sides of Short Street. Therefore, as per the A/Manager Development Engineer's report, the proposed changes should only be implemented along the northern side of Short Street.

The proposed development also includes separate waste storage locations and waste disposal is proposed to be undertaken by a private contractor. Staff will be responsible for taking waste bins out to the car park area for collection by a private waste contractor, and then bring bins back into the waste storage area. The waste vehicle will be a 10m waste truck.

Site Characteristics

The primary site consists of two parts, being the Regent Theatre (Lot 1 P639917) and 33 Short Street (Lot 1 DP5432). Combined, these two lots have an area of 2,199m², with frontages of approximately 20m to both Church and Short Street.

The theatre site is relatively flat with vehicular access to the rear currently gained over a right-of-way across the 'Lawson Park Hotel' site. The theatre currently occupies approximately the front two thirds of the site on the western side of the lot, with the rear (eastern) portion of the site utilised as an informal car park. 33 Short Street contains an existing red brick house, in an art deco style, with associated infrastructure.

The surrounding uses comprise the adjoining hotel (pub) complex to the north and west; the Lawson Park Reserve to the north running along the back of the Cudgegong River; the residential dwelling which adjoins to the east; and the commercial uses along Market Street which adjoin the south of the site.

An off-site off street car park is also proposed at the Anglican Church (part Lot 1 DP1043650), containing St John the Baptist Anglican Church, being a listed heritage item. The car park area is currently fenced along the northern and eastern side (approximately 1.8m high colour bond), with the Church and Church Hall adjoining to the south and east respectively.

Site History

Despite the age of the Regent Theatre, there are a limited number of development applications, namely:

DA0460/2008 Re-painting the exterior of the building, granted consent by Council 16 September 2008

Seaview Links Pty Ltd v Mid-Western Regional Council Land and Environment Court Proceedings 10994 of 2015, was granted development consent 18 February 2016, *for development application DA0228/2015, which consists of demolition of the rear portion of the existing theatre and adaptive reuse of the facade and front section in association with redevelopment for the purpose of shop top housing and ground floor retail comprising 2 street level retail tenancies, 20 x 1 bedroom, 14 x 2 bedroom over 4 levels and parking over ground and basement levels for 37 vehicles at 5-7 Church Street, Mudgee.*

Of note, the above consent is still valid, and does not lapse until 18 February 2021, and pursuant to Sec 4.53 of the *Environmental Planning & Assessment Act 1979*, will not lapse provided physical commencement of the development occurs. Furthermore, the subject application approved a height limit of 15.54m, representing a variation of 83% to Council's 8.5m height limit. It should also be noted that the subject application was approved with a car parking shortfall of 1 space (44 required, 43 provided).

Detailed report

The application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

SECTION 4.15(1)(A)(I): ANY ENVIRONMENTAL PLANNING INSTRUMENTS

Mid-Western Regional Local Environmental Plan 2012

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is B3 Commercial Core and R3 Medium Density Residential.

Clause 2.3 Zone objectives and Land Use Table

The objectives of the B3 Commercial Core zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

Comment: The proposal provides for a variety of land uses that are permissible in the zone.

- To encourage appropriate employment opportunities in accessible locations.

Comment: The proposal will create a variety of employment opportunities in a downtown location.

- To maximise public transport patronage and encourage walking and cycling.

Comment: The proposal will provide for tourist accommodation and other commercial uses in a downtown location. This will encourage walking and cycling to gain access to the necessary facilities required by the patrons.

- To promote the Central Business District of Mudgee as the major focus for retail and commercial activity in the Mid-Western Region.

Comment: The Central Business District of Mudgee will still be the focus for retail and commercial activity as a result of the proposed development.

- To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.

Comment: The proposal will add to the commercial uses within the Mudgee town centre.

The proposal does include an ancillary carpark that extends into the adjacent R3 zone. This is discussed further in this report.

- To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.

Comment: The proposal will retain the front façade of the theatre, which is considered to be a dominant feature of the architectural historic character of the Mudgee commercial streetscape. This retention is in line with the Heritage Impact Statement provided with the application, which was reviewed by Graham Hall, Council's Heritage Advisor, who has recommended approval of the application, subject to conditions.

- To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity within the commercial core.

Comment: The proposal will not significantly hinder pedestrian movement and connectivity along Church Street, or Short Street.

The proposal also includes the construction of a carpark within the R3 Medium Density Residential zone. This is discussed later in this report.

The proposal includes the following defined uses, under the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012), all of which are permissible in the B3 zone with development consent*:

hotel or Hotel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

* Note: A car park is also proposed in the R3 zone, made permissible with consent by virtue of clause 5.3, see below.

Clause 2.7 Demolition Requires Development Consent

In satisfaction of this clause, the development application seeks approval for the partial demolition of the Regent Theatre, and the dwelling located at 33 Short Street.

Clause 4.3 Height of Buildings

In accordance with the *Height of Buildings Map*, the height of a building on the subject land is not to exceed 8.5m. The proposed development exceeds this standard by proposing additions with a maximum building height of 16.7m to the top of the lift overrun, with the majority of the building at a height of 16.28m. This represents a variation of 96% and 91.5% respectively.

As the proposal contravenes the 8.5m building height the applicant has sought an exemption to vary the development standard, in accordance with Clause 4.6 Exceptions to Development Standards, see below.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 allows the consent authority to vary a development standard where a written request from the applicant has been received demonstrating:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has included a written statement with the application based on the revised plans. The justification provided by the applicant addressing clause 4.6(3) and (4) is summarised (where relevant) below:

- The building already exceeds the 8.5m height limit for a significant portion of the site.
- The proposed height does not significantly exceed the existing height of the building façade.
- The provision of a carpark at 33 Short Street provides a further buffer between the proposal and the residential land to the east.
- The front façade and side walls will be retained to ensure there is only minimal impact of the external appearance of the building, in a heritage context.
- The proposal provides a mix of façade treatments and articulations.
- The scale and bulk of the proposal is similar to surrounding commercial developments in the area.

- The Statement of Heritage Impact lodged with the application demonstrates there will be no adverse impact on the heritage significance of the item or the Mudgee Heritage Conservation Area.
- The proposal still achieves the objectives of the B3 Commercial Core zone.
- Any overshadowing impacts on properties to the south are warranted given the 0m setback controls for development in the B3 Commercial Core zone.
- Landscaping opportunities exist along the eastern property boundary to soften the bulk of the building when viewed from Lawson Park and the residences to the east.
- The proposed development is not offensive, jarring or unsympathetic in a streetscape context with the majority of the works not readily discernible as viewed from Church Street.
- Viewing of the site from Lawson Park will be highly articulated and a visually interesting hotel façade compared to the existing large, unarticulated and bland northern masonry wall.
- There is significant heritage conservation value in the proposal as it allows the retention of the heritage façade and adaptive reuse of a building that has remained vacant.

Comment: It is considered that the justification provided adequately demonstrates that compliance with the development standard is unreasonable and unnecessary in this particular instance.

The building for a significant portion of the site already exceeds the 8.5m height limit (approximately 15m), the proposal will not significantly exceed this height (16.28 for the general roof line with an additional 0.42 for the lift overruns, which form a minor portion of the roof line) and will now include an inserted façade behind the northern concrete wall, which extends above the wall to assist in providing articulation and a backdrop to the current view from Short Street.

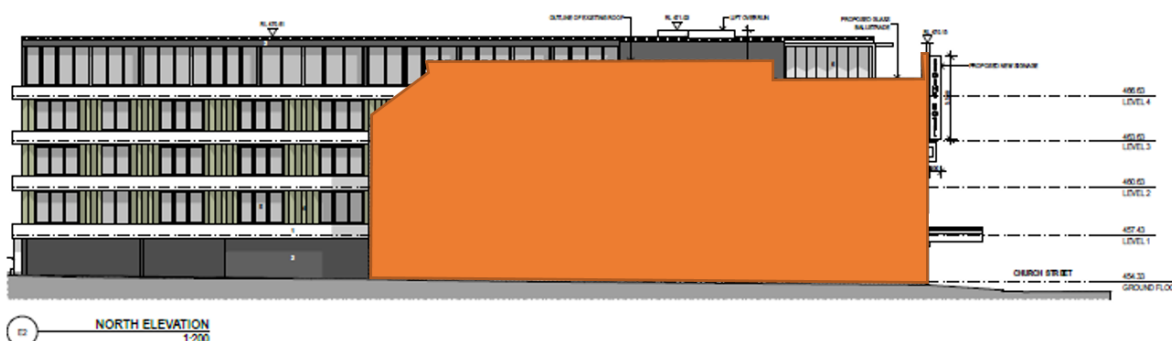


Figure 2: North elevation (Orange fill depicts existing building)

In addition, the objectives contained within clause 4.3 of MWRLEP 2012 will still be met in that the proposal is infill development of a similar height to the existing building on the site and would sit comfortably within the heritage fabric of the Mudgee streetscape assisting with the preservation of the character of Mudgee. Furthermore, Council's Heritage Advisor has commented that the extension...*is slightly higher and considerably longer, but in scale - in the sense of the relationship of the size of building elements to the human body – it is normal, contrasting with the large, almost monumental scale of the facade.*

As the application is to be considered by Council (not a delegate of Council), assumed concurrence can be given by the Secretary of the Department of Planning, pursuant to Clause 4.6(5) of MWRLEP 2012, in accordance with Planning Circular PS 18-003.

Clause 5.3 Development near zone boundaries

The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and

land uses for the adjoining zone. By subclause (2) the clause applies to so much of any land that is within the relevant distance of a boundary between any two zones, the relevant distance being 50m.

In this instance the proposed carpark, which is considered an ancillary aspect to the Hotel, function centre and food and drink premises, is located in the R3 zone and is prohibited. However, the location of the carpark is wholly within 50m of the zone boundary with the adjacent B3 zone and therefore can be considered under this clause.

Clause 5.3(4) prescribes a precondition to Council exercising its power to grant development consent. Council must be satisfied that:

- a) *the development is not inconsistent with the objectives for development in both zones, **and***
- b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

Both (a) and (b) must be satisfied.

In considering a) it is considered that the term 'not inconsistent with' should be given a similar interpretation to the phrase 'consistent with'. The phrase 'consistent with' has generally been interpreted by the Court as meaning not antipathetic, nor incompatible or inconsistent with (*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21 ('Schaffer') and *Hospital Action Group Association Inc v Hastings Municipal Council* (1993) 80 LGERA 190).

Kirby P in *Coffs Harbour Environment Centre Inc v Minister for Planning & Anor* (1994) 84 LGERA 324 at 331 observed that the term "inconsistency" in s 36 (now sec 3.28) of the EPA Act was to be construed having regard to the ordinary meaning of that word. On that basis he held "...*there will be an inconsistency if, in the provisions of one environmental planning instrument, there is 'want of consistency or congruity'; 'lack of accordance or harmony' or 'incompatibility, contrariety, or opposition' with another environmental planning instrument.*". This approach was adopted by the Court of Appeal in *Castle Constructions Pty Ltd v North Sydney Council* [2007] BC 06010.

As such, for Council to be satisfied that the development is not inconsistent with the zone objectives, it is not necessary for the Applicant to demonstrate that the development promotes or is ancillary to the objectives of both zones, nor even that it is compatible: Schaffer.

When applying the test of compatibility, on balance, it is considered that the development is not inconsistent with the zone objectives, which generally indicate the need for residential development in a medium density environment. While the Development may not meet or promote the R3 Medium Density zone objectives, this is not the test. It is not antipathetic to the zone objectives

In considering b), having reviewed applicable case law, it is difficult to ascertain a clear meaning of clause 5.3(4)(b). It is considered that it should be interpreted broadly and essentially involves a test of whether the use of the land as a Hotel and function centre with a rooftop bar is desirable having regard to the planning merits of the Development as a whole.

In *Gales-Kingscliff Pty Ltd v Tweed Shire Council* (2007) 156 LGERA 389 held at [33] that "*compatibility of uses refers to the capability of the uses to exist in harmony.*" On balance, it is considered that the development, with the parking arrangements proposed, is desirable as it will provide more car parking on site for the use of the Development and will not restrict development of adjoining land, and accordingly concludes that clause 5.3(4)(b) is satisfied.

Following on from the above, considering the zone objectives, the objectives of this clause and the general expected impact of the proposal it considered warranted to allow the permissibility of the carpark utilising clause 5.3.

Clause 5.10 Heritage Conservation

The existing theatre is listed as a local heritage item pursuant to Schedule 5 of MWRLEP 2012 and is located within the Heritage Conservation Area of Mudgee. Accordingly, Clause 5.10 applies. The relevant sections have been addressed below.

Clause 5.10(1) Objectives

The relevant Objectives of clause 5.10 are as follows:

- (a) to conserve the environmental heritage of Mid-Western Regional,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

Comment: Council's Heritage Advisor has concluded that, on balance, the proposal is acceptable as the alternative to leave the building vacant will inevitably lead to further deterioration, and has consequently recommended the application be approved, subject to conditions. Accordingly, the proposal will contribute to the conservation of parts of the building.

Clause 5.10(2) Requirement for consent

Development consent is required when *(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance) of (i) a heritage item.*

Development consent is being sought, in satisfaction of this clause.

Clause 5.10(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

In addressing this clause the application was referred to Council's Heritage Advisor, Graham Hall who provided comments on the final proposal, in his report dated 29 June 2018 (Attachment 4). In the report, it was concluded that the proposal is acceptable on balance, subject to conditions.

The conclusion of the report is as follows:

It has been shown above that none of the alterations will have a positive impact and that the proposal will have a seriously adverse impact on the historical, historical association, aesthetic and social significance of the item. It would no longer be a rare intact example of a country inter-war Art Deco cinema. Accordingly, it might be argued that the application should simply be refused.

However, it must be accepted that the theatre's closure has meant that since 2007 the public have not been able to appreciate much of the item's significance. Over time, its social significance, which derives from people's feelings and memories, will mutate into general historical significance. The building is structurally sound, basically weathertight, and made of durable materials externally, so refusal would not trigger rapid deterioration. But roof leaks

have already caused damage to the fragile Caneite decorative features. In time, it will not be viable to maintain the building while it remains unused.

For this reason a proposal of this nature, which will see the remaining part of the theatre conserved and accessible once more to the public, must be contemplated.

Several aspects of the proposal will have only minor impacts and some could be mitigated. Crucially the proposal is superior to that of 2015, for which consent was granted, in that the side walls of the auditorium will be retained.

On balance, the proposal is preferable in heritage terms to the only apparent alternative, which is to continue to allow it to stand empty.

Clause 5.10(5) *Heritage assessment*

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The applicant submitted a Statement of Significance and Statement of Heritage Impact in satisfaction of this clause. Council's Heritage Advisor in assessing the development application, has reviewed these documents, and recommends the application be approved, subject to conditions.

Clause 5.10(6) *Heritage conservation management plans*

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

It was not considered necessary to request a Heritage Conservation Management Plan, given that the Heritage Report submitted by the applicant, details recommended measures to preserve those spaces of significance that could be retained. In addition, a suitable condition could be included should the application be approved, requiring the preparation of a Schedule of Conservation Works to be submitted to and approved by Council, prior to works.

Clause 5.10(9) *Demolition of nominated State heritage items*

This subclause is not applicable to the subject application. The Regent Theatre is not a *nominated State heritage item*, in accordance with the MWRLEP 2012, as Council has not:

- publicly exhibited a heritage study identifying the building as an item of State significance, and
- notified the Heritage Council, nominating the building as being of potential State significance.

Clause 6.3 Earthworks

Excavation works are expected for footings and to prepare the proposed carparks. No broad excavation is expected and impacts would reasonably be expected to be minor in regards to those matters listed in clause 6.3(3).

Notwithstanding this, standard conditions could be included, should the application be approved, to ensure no structural damage is caused to adjoining properties during construction works.

Clause 6.4 Groundwater Vulnerability

No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.7 Active Street Frontages

The proposal satisfies the provisions of this clause as all those parts facing Church Street on the ground floor are to be utilised for the purposes of a retail premises. This excludes the lobby area servicing the rest of the development as provided for under subclause 6.7(4).

Clause 6.8 Airspace operations – Mudgee Airport

The proposal will not protrude the relevant height limits for safe operation of the Mudgee airport.

Clause 6.9 Essential Services

The site is expected to be able to be serviced by all of the relevant services as discussed throughout this report.

MWRLEP 2012 Conclusion

As discussed above the proposal has been assessed against the relevant provisions of the MWRLEP 2012. Accordingly, the proposal is considered to generally achieve the overall aims of the plan as prescribed under clause 1.2. However, the proposal will lead to a decrease in amenity with a deficiency in off street parking ultimately leading to additional pressures to on street parking in the immediate surrounding area.

State Environmental Planning Policy No. 55 – Remediation of Land

There is no substantive evidence on site that the land is of a contaminated nature and the land use history of the site does not suggest a contaminating activity has ever taken place. Accordingly, no further consideration of this SEPP is warranted.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposal includes the following signage:

- Additional wording to the existing awning fascia sign to state 'Regent Theatre Hotel'
- A long vertical sign protruding from the front façade to state 'Regent Theatre Hotel'
- A freestanding sign in the Short Street carpark identifying the site

The signage is considered to satisfy the objectives of the SEPP (clause 3) as it provides logical identification of the site with high quality finishes.

Furthermore, the signage is considered to satisfy the following criteria as listed in Schedule 1 of the SEPP:

- ***Character of the area*** – Complies - the proposed signs will have minimal impact on the character of the area. The signs will generally sit well within their respective localities.

- **Special areas** – Complies - the proposed signs are not considered to detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.
- **Views and vistas** – Complies - the proposed signs will not obscure important views, will not dominate the skyline, will not impact on any vistas and will not obscure the views of other signs in the vicinity.
- **Streetscape, setting or landscape** – Complies - the proposed signs will have minimal impact on the streetscape and setting as the signs will sit comfortably in the streetscape and provide for logical identification of the building.
- **Site and building** – Complies - the proposed signs are compatible with the site and building and are not considered to negatively impact upon the Art Deco dominance of the Regent facade.
- **Associated devices and logos with advertisements and advertising structures** – N/A
- **Illumination** – Complies – the signage is not proposed to be illuminated.
- **Safety** – Complies – the proposed signs will not reduce the safety of the public road and will not reduce the safety of pedestrians or cyclists, and will not obscure sightlines from public areas that will have an impact on the safety of pedestrians.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 requires that Council give consideration to the following issues as stipulated in the clause:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

Comment: The location of the proposed Anglican Church carpark can only reasonably utilise Short Street for access.

- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

- (i) the design of the vehicular access to the land, or
- (ii) the emission of smoke or dust from the development, or
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

Comment: There is not expected to be any significant adverse effect upon the classified road as a result of the proposed car park at the Anglican Church site.

- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment: The proposal only involves an additional carpark access to the classified road. The rest of the development does not have a frontage to a classified road.

Clause 104 requires that Council refer the development application to the NSW Road & Maritime Services for comment should the proposal trigger the thresholds as traffic generating development (Schedule 3). As the proposal involves a tourist facility providing greater than 50 car spaces within 90m of a classified road (Short Street) it was necessary to refer the application to the NSW RMS as traffic generating development.

It should be noted that the development as originally submitted only proposed 33 car parking spaces, and consequently did not require consultation with the RMS. The revised proposal submitted by the applicant triggered the referral requirements.

The application was referred on 22 March 2018. A response was received 4 May 2018 giving support to the proposal subject to standard requirements concerning vehicles entering and exiting the car park (Attachment 2).

No other SEPP's are considered applicable to the proposal.

SECTION 4.15 (1)(A)(II): ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

Nil

SECTION 4.15 (1)(A)(III): ANY DEVELOPMENT CONTROL PLAN

Mid-Western Regional Development Control Plan 2013 (MWRDCP 2013)

The relevant sections of the MWRDCP 2013 as applicable to this site are addressed below.

Part 4.4 Signs

Heritage Conservation Area consideration

The signs include a freestanding sign within the Short Street carpark, a slim above awning sign attached to the front façade and the updating of the existing fascia signage to reflect the new use.

Council's Heritage Advisor has not raised any objection to the proposal with all signs considered logical and appropriate in providing identification of the building without compromising the heritage façade.

Business Areas

This section prescribes two relevant controls as addressed below.

A maximum of 25% of the frontage of the building is allowed for signage. The proposal will retain existing window signage and will generally not increase the current frontage signage as expected for standard commercial buildings.

Additional above awning signs are not permitted in the Mudgee business area. The proposal includes an above awning sign, **which is a variation to the DCP**. The Facade of the Regent Theatre above the awning is extensive in size when compared to the majority of buildings within the CBD. Subsequently, the sign is not considered to have a significant impact upon the Heritage Conservation Area as it would not protrude above any parapet and the slim vertical design would sit comfortably at the southern end of the facade. Council's Heritage Advisor has not raised any objection to the signage.

No other controls in this part are considered relevant to the proposal.

Part 4.5 Commercial Development**BUILDING SETBACKS****COMMENT/COMPLIES**

Building setback from the street o No minimum	Yes
Side and rear setbacks must comply with BCA	Can be conditioned.

SIGNAGE

Signage complies with relevant provisions in section 4.4 DCP 2013	Yes. Addressed elsewhere.
---	---------------------------

DESIGN

Buildings interact with the street	Yes. No change in ground level Church Street interaction, minimal alteration to facade.
Building facades are articulated by o use of colour o arrangement of elements or o varying materials	Yes. Facade facing Short Street incorporates articulation were possible.
Heritage inclusions	Yes. Heritage impact assessment provided.
External plant to be screened from public	Yes. Can form a condition of consent.
Development on a corner o Includes architectural features to address both streets.	Generally not applicable.
Landscape buffers to other zones	Yes. Landscaping proposed to eastern boundary in R3 zone.

SCALE FORM AND HEIGHT

Complies with LEP height controls o 8.5m maximum height	NO. Justified through 4.6 Variation.
Consistent with existing heritage character of the town centres of Gulgong, Mudgee and Rylstone	Yes. See heritage comments provided.

MORTIMER & CHURCH STREET MUDGEE

Maintain the streetscape established in Church Street between Market and Mortimer Streets o Zero front and side setbacks o Double storey pattern	Generally no change to frontage.
Provides variance particularly on upper floor levels, every 20-25m.	Generally no change to frontage.

ARTICULATION AND FACADE COMPOSITION

Breaks visual bulk with fenestration or change in materials etc.	Extensive fenestration and elements used in the Short Street elevation.
No excessive blank walls in front facade	Generally no change to frontage.
Where blank walls are proposed (side or rear) minimise impacts with: o Landscaping o Patterning of facade o Signage o Public art	Articulation provided where possible.

RESIDENTIAL-COMMERCIAL INTERFACE

Landscape buffer to residential boundaries	A landscape buffer is provided along the eastern boundary of 33 Short Street.
Ground and first floor do not overlook residential properties	The first floor of the Hotel is orientated to the north to Short Street and Lawson Park beyond. It is expected that passive observation of this view will be utilised by hotel patrons and not across to any residential properties to the east.
Maintain acoustic privacy through the use of acoustic fencing where vehicles movements adjoin property boundaries	Acoustic fencing proposed to eastern boundary. Refer to acoustic assessment.
Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings are located along residential boundaries ensure sufficient landscaping is provided.	The proposal includes the construction of the Short Street car park, which will provide additional distance/relief to the next dwelling at 31 Short Street.
Development does not reduce sunlight available to north facing windows of living areas, private open space or clothes drying areas of adjoining properties to less than 3 hours between 9am and 3pm at winter solstice.	Yes. Shadow diagrams indicate minimal overshadowing.

UTILITIES AND SERVICES

Building and structures located clear of infrastructure	NO. The proposal includes a retaining wall over a sewer line in the south-eastern corner of the Regent Theatre lot. The applicant has provided some details around the retaining wall design to ensure maintenance of the sewer line can readily be achieved. Council's Manager Development Engineering has raised no objection to the proposal.
Able to be serviced by <ul style="list-style-type: none"> o Water o Sewer o Waste disposal 	Yes. No changes to waste arrangements. Section 64 charges can be applicable should the application be approved.
Trade waste application required?	Yes. Condition of consent can be applied.

TRAFFIC AND ACCESS

All vehicles must be able to enter and exit the site in a forward direction	Yes.
All vehicle movement paths are sealed	Yes. Condition can be imposed if application approved.
Driveways comply with Australian Standard AS 2890.1 Parking Facilities	Yes. Appropriate conditions can be imposed.
All loading facilities located within the site	Yes.
All loading facilities designed to comply with Australian Standards	Yes. Plans provided.
Application addresses traffic flow and safety issues e.g. pedestrian, car and truck movements.	Yes. These matters have been satisfactorily addressed by the applicant in the submitted traffic study.

PEDESTRIAN ACCESS

Maintain existing covered pedestrian access within town centres	No reduction in covered area as a result of the proposal.
Convenient and safe access through parking areas	Provided.
Convenient and safe disabled access through parking areas, focus on improving links with existing retail.	Links to other sites not altered.

PARKING

Discussed elsewhere in report	
-------------------------------	--

LANDSCAPING

Landscaped areas in car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries.	Landscape plan provided.
Landscaping to comprise low maintenance, drought and frost resistant species.	Can form condition of consent if application approved.

Part 5.1 Car Parking

Council's A/Manager Development Engineering has addressed car parking in his referral, received 3 July 2018 (Attachment 1) and recommends that the application be refused on the grounds of insufficient parking. The report concludes:

Based on information supplied the applicant has failed to satisfactorily demonstrate that adequate on site car parking can be provided in accordance with DCP requirements.

The discussion put forward as regards occupancy rates are not considered relevant or applicable. References are made to similar developments in other regions having totally different development and infrastructure constraints.

The shortfall in required on site car parking, the loss of existing on-street parking and the proposed changes to on-street car parking compliant with relevant Standards are not considered appropriate or achievable.

It is recommended that this application be considered for Refusal based on the deficiency of on-site car parking being provided as required by LEP and DCP requirements

The referral finds that in accordance with the DCP, the hotel / accommodation component only requires 1 space per room and 6 spaces for staff parking. This is calculated in Table 1 below.

Use	Provision	Measure/Gross	PARKING
Rooms	1 space / 1 room	62 rooms	62
Staff	2 spaces / 3 staff	8 staff	5.2 (say 6)
			68

Table 1 – DCP Parking Provision Calculation

The applicant has provided a total of 64 spaces, comprising 20 spaces on the Church Site, 38 spaces on the Hotel Site (Short Street car park) and is allocated 6 frontage credits, in accordance with the DCP. **This results in a shortfall of 4 spaces.**

The referral finds that the ancillary uses (function room and bar areas) requires 16 off-street spaces (refer to referral for method of calculation). In this regard the applicant submitted a parking study, dated June 2018, of nearby areas, which suggests that there is adequate on-street parking to accommodate these requirements, as per the DCP allowances for developments carried out in off-peak periods.

It should also be noted, that the development will result in the loss of 3 on-street parking spaces, owing to the widening of the existing access/crossover to the Church Site car park.

Car Parking Credits

The DCP allows for historic parking credits for lawfully established uses to be recognised. In this regard the applicant contends that the site is benefited by 240 car parking credits, determined by deducting the 6 spaces currently available on site, from the 246 spaces required to accommodate the 986 seat theatre, based on the DCP parking requirement for *entertainment facilities – cinema* (1 space per 4 seats).

Contrary to the above, it is Council's position that the site does not benefit from car parking credits. This position is based on the fact that at the time of the theatre's construction in 1935 no car parking spaces would have been required, or provided, with most patrons walking to this site. It is therefore considered that credits cannot be applied to the site as they were never provided or required in the first place.

Furthermore, and more importantly, the site at present does not benefit from an existing consent that would allow the site to be lawfully used for the purposes of a theatre, and therefore could only be undertaken as a "continuous lawful use" pursuant to Section 4.68 of the *Environmental Planning and Assessment Act 1979*. However, as the theatre has not been used for the purpose of a theatre for the last 12 months, the use is presumed to have been abandoned – and no credits can be given. That is, any use of the site for the purpose of a theatre would be subject to a new DA, where matters relating to parking, heritage etc. would need to be re-assessed.

Off-Site Parking – Church Site

Concern surrounds the legality and practicality of the applicant's proposal to include 20 spaces in a leased area on the Anglican Church property on the western side of Church Street ('**Church Site**'). Council's investigations conclude that the car park can be legally provided through an easement and facilitated through a plan of management, and it is a matter for determining what is practical and if the proposal has planning merit.

The applicant has advised, that they have negotiated an in principle arrangement with the Anglican Church adjacent to the proposed hotel development to take a lease of the property from the Church for the purpose of 20 car parking spaces, for the exclusive use of the Hotel. It should be noted that the Anglican Church has co-signed the development application, under owner's consent, as their land is now part of the development site. It is proposed for the lease to be for an initial 10 year term with 3 x 10 year option terms (potentially a 40 year lease in total).

In addressing the above, it is considered that a lease for the purpose of car parking on the Church Site is not sufficient, nor would restrictions on title. Both would be subject to clause 1.9A of MWRLEP 2012. This enables (in certain circumstances) development in accordance with an Environmental Planning Instrument, despite a regulatory instrument, such as an agreement (i.e. license), covenant or other similar instrument, that restricts the carrying out of that development.

In light of the above, an easement is considered more appropriate. In *Cracknell & Lonergan Pty Ltd v Council of the City of Sydney* (2007) 155 LGERA 291, Preston J held that an easement which did not expressly or necessarily imply a restriction on development was not subject to a clause in the relevant LEP suspending the covenants and agreements. While Cracknell may be authority that instruments creating easements are not regulatory instruments, the case more relevantly demonstrates that much will depend on how the easement is drafted having regard to the terms of clause 1.9A. However, an easement would not be without risk, it all depends on how it is drafted. Council would need to carefully review any easement terms before it determined that it was satisfactory.

A plan of management would be necessary so as to demonstrate how the operator of the Development would encourage patrons to use the car park. The plan of management would need to include provisions for its review and audit by Council. Any development consent would need to include a condition requiring compliance with the plan of management.

Following on from the above, it is recommended that should Council decide to approve the application that a deferred commencement condition be imposed on the DA, requiring:

- a) that the developer provide evidence to Council's satisfaction that an easement exists in favour of the developer over the Church Site. The easement would need to list Council as a prescribed authority, empowered to vary or release the easement, as well as to permit the car park to be built and then subsequently used at no charge by patrons of the Development.
- b) that the developer prepare a plan of management to Council's satisfaction demonstrating how it will encourage use of the Church Site for car parking for use by patrons.

Note: the car park would need to be reserved for the sole use of the Hotel's guests, at all times, and no other. This will require that the car park be fenced on all sides, with the provision of a security fob, or access code, limiting access to Hotel patrons only. Appropriate conditions have been included, should the application be approved.

In deciding the merits of the off-site parking, the car park is located approximately 110m walking distance, from the entry to the Church Site to the entrance doors of the Hotel. The pedestrian links/paths are in good order and accessible for a range of users, the pedestrian path is well lit with street lighting above, and the grades are relatively flat. Appropriate kerb ramps and traffic calming devices are in place to facilitate crossing of Church Street.

Although less preferable to on-site parking, it is considered that off-site car parking spaces at the Church Site has some merit. The reserved status of the car park, the relative security provided by the fenced area, the close proximity to the Hotel mean that patrons will likely avail themselves of

the parking at the Church Site, as a matter of convenience, rather than park on-street - where parking availability is unreliable.

It should be noted that that even if the Church Site is available for car parking and the operator of the Hotel complies with the plan of management, this does not guarantee that third parties will use it. A condition of consent can mandate the provision of parking at the Church Site, however, there is no realistic way, through conditions of consent, that the use of the Church Site can be mandated so as to bind patrons of the Hotel. That is, Council will have no enforcement options available, should guests park on the street. However, it is considered that the risk is no different compared to other on-site parking spaces, where patrons can park at their discretion.

In considering car parking, it should also be noted that, further to the A/Manager Development Engineering's conditions of approval, should consent be granted, it is a requirement that all car parking as shown on approved plans is to be provided with an all-weather sealed surface constructed and maintained at all times to an acceptable standard – not loose gravel as proposed by the applicant at the Church Site.

Furthermore, off-site car parking at the Church Site would need to be fenced and provided with security / boom gates to ensure no un-authorized parking. Security / boom gates must be set back sufficiently to ensure no queueing across footpaths. No access control panels or fixtures will be permitted to be installed in the road reserve. This requirement may necessitate the extension of the car park towards the Church, in order to maintain the required 20 spaces.

Some concern is also expressed regarding the practicality of off-site parking on the Church Site. Although legally valid, and with some planning merit, concern is expressed should the situation arise where Council is required to take enforcement action against the Hotel, for failing to comply with the conditions of consent, to provide and utilise 20 spaces at the Church Site. If the spaces are not being used because access is being restricted by the Church, for whatever reason, then the Hotel will be required to take action against the Church, to enforce the terms of the easement. This means, that Council's enforcement avenues/action, will be wholly dependent on legal action undertaken by another, for which it has no control. There is no evidence to suggest that such a situation will arise, and the example is completely hypothetical, which is why little weight can be given to such a scenario. Albeit hypothetical, it is important that Council understand the practical issues of enforcement, when making its decision.

Part 5.3 Stormwater Management

The application was referred to Council's A/Manager Development Engineer who advised that stormwater will need to be directed to Council's piped system, and has recommended that a condition be placed on the consent, should Council approve the application, requiring the preparation of a stormwater management plan in accordance with the MWRDCP 2013 prior to the issue of a construction certificate.

Mid-Western Regional Section 94 Contributions Plan 2005 – 2021

The proposal is subject to the payment of contributions pursuant to Council's S94 Contributions Plan and Section 7.12 of the *Environmental Planning & Assessment Act 1979*.

As the development is Commercial (as defined in the S.94 Plan) and located in Catchment 1 (Mudgee Town Centre), a contribution per additional metre square would be payable prior to the issue of a construction certificate. Utilising figures provided by the applicant, the additional floor area is 2,453.39sqm (Proposed Development 3,725.39sqm - Existing theatre 1,272sqm), requiring a contribution of \$495,506, based on the 2018-2019 contribution amount of \$202/m.

A condition of consent to this effect should be imposed should Council approve the application.

Development Servicing Plan for Water & Sewer (Section 64 Contributions)

The application will require the payment of Section 64 contributions prior to the issue of a construction certificate. These are upfront payments levied by Mid-Western Regional Council to recover part of the infrastructure costs incurred in servicing new developments or additions/changes to existing developments which impose a loading on Council's water supply and/or sewerage infrastructure. Appropriate condition can be imposed, should consent be granted.

SECTION 4.15 (1)(A)(IIIA): ANY PLANNING AGREEMENTS

No Planning Agreements are applicable.

SECTION 4.15 (1)(A)(IV): THE REGULATIONS

No matters prescribed by the Regulations impact determination of the Development Application.

SECTION 4.15 (1)(B): IMPACT OF DEVELOPMENT**Context and Setting**

The scale, bulk and mass of the building have been considered by Council's Heritage Advisor, and deemed appropriate in the context and setting of the site.

The impact upon adjacent properties is acceptable, with minimal overlooking and with appropriate conditions imposed could ensure the proposal sits well within the context of the surrounding area.

Access, Transport and Traffic

The proposal was referred to Council's A/ Manager Development Engineer for comment, who in accordance with the Development Control Plan (DCP), recommends that Council refuse the application. Refer to comments above, and attached referral comments.

Public Domain

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

The nearby Lawson Park to the north is the most relevant public domain area visible to the subject site. The proposal will be highly visible from the park, however it will sit comfortably in the context and setting of the area given the scale of the existing theatre building, and the PCYC building at the rear.

Utilities

Water and wastewater services for the development will need to be connected to existing Council mains in Church Street (water) and rear of the property (wastewater). Standard conditions could be imposed.

All other utilities are expected to be available.

Heritage

Refer to previous discussion in this report, and Heritage Advisor's comments attached.

Other Land Resources

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

Water

No significant impact on water resources expected.

Soils

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

Air and Microclimate

The development is not expected to impact air quality or microclimatic conditions.

Flora and Fauna

Some vegetation is proposed to be removed to facilitate the carpark, at 33 Short Street. The Landscape Site Analysis, submitted by ARCADIA Landscape Architecture, dated January 2018, indicates that 4 trees are to be removed. One in the front setback, one in the south east rear corner of the site, and 2 smaller trees located along the common boundary adjoining 31 Short Street. None of the trees to be removed are listed as significant in Council's DCP Section 4.7 Tree Preservation Order, and therefore are acceptable for removal, should approval be granted.

Some additional vegetation will also need to be removed at the Church Site in order to accommodate the car park, including one street tree. This vegetation is not listed as being significant in Council's DCP Section 4.7 Tree Preservation Order, and is acceptable for removal, should approval be granted.

Additional formal landscaping is proposed, as shown in the ACARDIA Illustrative Plan, which will on balance provide additional beneficial screening and softening of the area, than that which exists currently.

Waste

As per the applicants SEE, waste disposal is proposed to be undertaken by a private contractor. Staff will be responsible for taking waste bins out to the car park area for collection by private waste contractor, and then bring bins back into the waste storage area. The waste vehicle will be a 10m waste truck.

This can be facilitated through a 3m³ front lift bin on wheels, where staff can wheel/manoeuvre the bins to an accessible location for collection, by a private contractor. There will likely be some conflicts with the service truck and patron parking, but this can easily be managed by the applicant. A condition of consent can be included, should the application be approved, requiring the applicant to enter into a commercial agreement for the collection of waste. The waste will be required to be collected without using the footpath area or result in the parking of any vehicles upon the ROW.

The option of placing multiple 240L wheelie bins on Short Street has not been proposed, or considered as part of the application.

A condition of consent can also be included requiring a construction/demolition waste plan be prepared encouraging the recycling of waste materials.

Energy

Electricity to be connected, with the energy needs of the development is not expected to place significant demands on the local infrastructure capacity/operation.

Noise and Vibration

Two acoustic assessments were lodged with the proposal for the rooftop bar and the carpark respectively. Each are addressed below:

Rooftop bar

A Rooftop Bar – Noise Impact Assessment was submitted with the application, prepared by Acoustic Logic, dated 10 October 2017. The report found that the late-night period between 10pm – midnight has the lowest background noise level measured at the residential area, east of the site, fronting Short Street of 36 dB(A)L₉₀. The Office of Liquor, Gaming and Racing (OLGR) acoustic criteria identifies that a 5dB(A)L exceedance of the background noise level is acceptable. Accordingly, the rooftop bar needs to ensure that the noise levels received at the residential properties to the east do not exceed 41dB(A)L for this period.

The consultant concludes, having assessed noise emissions against typical guidelines imposed by the Office of Liquor, Gaming and Racing, that *noise emissions from the operation of the rooftop bar will comply with noise emission criteria provided that the building and management controls set out in section 6 of this report are adopted*. Those recommendations include -

- Rooftop is to cease operation at 12am.
- Patron numbers are to be limited to 100.
- Only background music is to be reproduced within the venue, and is to generate a noise level of no more than 65dB(A)L₁₀ within the balcony area.
- Noise absorptive lining is required to 80% of the underside of the ceiling over the terrace. This may consist of perforated sheeting or timber battens or similar with acoustic blanket (50mm thick, 24kg/m³ insulation) laid over. Any noise absorptive ceiling system is to have a noise reduction coefficient (NRC) of at least 0.75.
- Balustrade to the terrace is to be solid glass, minimum 1.5m high. Screen to be minimum 6mm glass or Perspex or material of equivalent surface density.

All of the above recommendations can be included as conditions of consent, should the application be granted approval.

Carpark at 33 Short Street

A Car Park Acoustic Assessment was submitted with the application, prepared by Acoustic Logic, dated 24 January 2018 (Revision 2). The report found that the night period (10pm – 7am) has the lowest background noise level, measured at the nearest affected residence being 31 Short Street, of 36 dB(A)L_{eq (15min)}. In order to comply with the EPA Noise Policy for Industry, the Intrusiveness Criteria is 41 dB(A)L_{eq (15min)} (Background + 5dB) and the Amenity Criteria is 38 dB(A)L_{eq (15min)}.

The report finds that all operational noise associated with the use of the car park will comply with the Intrusiveness and Amenity Criteria at nearby properties. The report further recommends a number of development controls, including:

- The car park pavement shall be smooth and level to ensure minimal vertical displacement and potential for noise generated by wheel to concrete impacts. The surface finish shall be of a type that minimises squealing of car tyres (i.e. broom finish, not polished concrete)
- The 2.4m solid lapped and capped timber fence is to be constructed along the eastern and southern boundary of the site.
- No speed humps are to be installed within the car park.
- Any grates and any cover plates are to be fixed flush and tight.

All of the above recommendations should be included as conditions of consent, if the application is granted approval.

Natural Hazards

The development site is not identified as bushfire prone or flood prone, there are no known subsidence, slip or mass movement issues.

Technological Hazards

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

Safety, Security and Crime Prevention

The proposal will generally provide for increased passive surveillance over public domain areas compared to the existing development on the site.

Social Impact in the Locality

The social costs associated with re-purposing the Regent Theatre into a Hotel has been discussed throughout the report.

Economic Impact in the Locality

The proposal will facilitate additional commercial uses on a site that is currently not operational.

With regards to impacts on the Hotel market and licensed premises market within Mudgee specifically, the competition that may occur is considered to be at the influence of conventional market demand and is not a planning matter. This is consistent with the judgement handed down by Senior Commissioner Tim Moore in *Australian Turf Club v Liverpool City Council (No 2) [2014] NSWLEC 1099*.

Point 12 of the judgement states the following:

The position that arose in (and has been conventionally understood to arise from) Kentucky Fried Chicken is that, in circumstances where a business is proposed to be established that is similar to a business that is operating with existing approval in a local area it is not to be inhibited merely because there is a generally like-for-like competition being introduced into that area. The competition is the operation of conventional market forces and is not a proper planning matter. Proper planning matters, however, can arise, as I have always understood Kentucky Fried Chicken, when a business or an activity is proposed to be approved and it has unacceptable economic impacts on other activities of an entirely different nature.

There is not considered to be any significant economic impact upon other unrelated businesses in Mudgee or impediment to their ongoing operation as a result of the proposal.

Site Design and Internal Design

These aspects of the proposal have been discussed in depth previously in this report and are considered suitable in this instance.

Construction

The proposal was referred to Council's Manager Building Control who has provided recommended conditions associated with the construction, and should be included in the consent, should approval be granted.

Additional conditions would be necessary to ensure the structure remains uncompromised during the partial demolition should the application be approved.

Cumulative Impacts

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

SECTION 4.15 (1)(C): SUITABILITY OF SITE FOR DEVELOPMENT**Does the proposal fit in the locality**

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

The proposed development sits comfortably within the site when taking into consideration existing development. The design and orientation has inevitably resulted in a significant amount of spatial interaction between the proposal and the adjacent Lawson Park Hotel. However, with the imposition of conditions (if required), most notably acoustic treatment, means the proposal could assimilate well into its surroundings.

Are the site attributes conducive to development

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

SECTION 4.15 (1)(D): SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS**PUBLIC SUBMISSIONS**

The application was originally notified to adjoining landowners, and advertised in the local newspaper for two weeks starting 1 November 2017 and ending 17 November 2017, in accordance with *Mid-Western Regional Development Control Plan 2013*. The exhibition period was extended until 1 December 2017 owing to the high level of public interest. During the notification period a total of 99 submissions were received (1 in support), including a petition* containing 35 signatures in opposition.

Following an initial review of the application a further information request was made 7 December 2017, with amended plans received 2 February 2018. Owing to the nature and extent of the changes the application was re-notified for a period of two weeks, starting 16 February 2018 and ending 2 March 2018. During the second notification period a total of 107 written submissions were received (6 in support) and a further petition* containing 592 signatures, and an electronic petition* containing 2125 electronic submissions, all objecting to the development. Additional submissions were received post the notification period, with each of the general concerns raised, discussed below.

*Note – In accordance with the NSW Planning and Environments Best Practice Guide for Development Assessment, published March 2017, petitions and pro-forma documents are counted as one objection.

Further details were lodged by the applicant in support of the application at the request of Council staff. The details did not present any significant changes to the proposal that were deemed to require further exhibition for public comment and were primarily required to assist staff in undertaking a final review of the proposal as a whole.

It should be noted that many submissions also included a request for Council to purchase the property for the purpose of a cultural centre/theatre or similar. Those specific requests are not a matter for consideration under Section 4.15 of the EP&A Act 1979, and accordingly are not discussed/addressed further.

Loss of heritage fabric and the use of the site as a theatre

The majority of objections to the proposal raised concerns regarding the loss of the physical theatre as a whole and loss of the use of the site as a theatre (including loss of sense of place). Included in these concerns was the revealing of the architect for the theatre, George Newton Kenworthy as opposed to the original evidence, which suggested the architect was Douglas Smith.

The application was referred to Council's Heritage Advisor for comment concerning the loss of the auditorium and public space. The conclusion of the key issues are as below:

It has been shown above that none of the alterations will have a positive impact and that the proposal will have a seriously adverse impact on the historical, historical association, aesthetic and social significance of the item. It would no longer be a rare intact example of a country inter-war Art Deco cinema. Accordingly, it might be argued that the application should simply be refused.

However, it must be accepted that the theatre's closure has meant that since 2007 the public have not been able to appreciate much of the item's significance. Over time, its social significance, which derives from people's feelings and memories, will mutate into general historical significance. The building is structurally sound, basically weathertight, and made of durable materials externally, so refusal would not trigger rapid deterioration. But roof leaks have already caused damage to the fragile Caneite decorative features. In time, it will not be viable to maintain the building while it remains unused.

For this reason a proposal of this nature, which will see the remaining part of the theatre conserved and accessible once more to the public, must be contemplated.

Several aspects of the proposal will have only minor impacts and some could be mitigated. Crucially, the proposal is superior to that of 2015, for which consent was granted, in that the side walls of the auditorium will be retained.

On balance, the proposal is preferable in heritage terms to the only apparent alternative, which is to continue to allow it to stand empty.

Impact upon the Heritage Conservation Area and height

The majority of the submissions also raised concern with the proposals impact upon the heritage conservation area due to design, bulk, scale and height.

The concern regarding height is addressed elsewhere in this report, however it is important to consider the impacts coherently with the other concerns regarding bulk, scale and design.

Council's Heritage Consultant has also provided comment regarding these elements and the subsequent impacts upon the heritage conservation area, which were deemed appropriate.

Traffic & Parking

The majority of objections also raised numerous concerns regarding a shortfall in parking provided, the location of any overflow parking in the vicinity and the traffic generation impacts in the immediate vicinity. The concerns also included the inappropriateness of valet parking.

Council's A/Manager Development Engineering has undertaken a review of the final proposal and concluded that whilst the off-peak parking demand generated from the ancillary uses may be able to be absorbed in the vacant on street spaces in the immediate vicinity (as per the DCP

allowances), the proposal does not meet the required parking for the hotel use, including staff parking.

Accordingly, the objections in relation to insufficient parking provided are considered valid, which has been identified as a reason for refusal.

Further to this, the application was referred to the RMS for the issue of concurrence as traffic generating development pursuant to the ISEPP. A response was received

Leased area unreliable

It is acknowledged, and addressed previously, that a lease for the purpose of car park on the Church Site would be insufficient. Nor would restrictions on title work. Both would be subject to clause 1.9A of MWR LEP 2012.

More appropriate is an easement which does not expressly or necessarily imply a restriction on development. Such an instrument could not be suspended by clause 1.9A of MWRLEP 2012.

An appropriate condition (deferred commencement) is recommended, should approval be granted. Council would need to carefully review any easement before it determined that it was satisfactory, having regard to the terms of the clause 1.9A.

An appropriate condition also imposed, should approval be granted, requiring the preparation of, and compliance with, a plan of management. This would need to demonstrate how the operator of the Development would encourage patrons to use the car park. The plan of management would need to include provisions for its review and audit by Council.

Economic impacts

Concerns were raised around the negative economic impacts that could arise from the proposal, in particular on existing accommodation providers in Mudgee and the surrounding area.

As discussed earlier in this report the competition that may occur is considered to be at the influence of conventional market demand and is not a planning matter. Furthermore, there is not considered to be any significant economic impact upon other unrelated businesses in Mudgee or impediment to their ongoing operation as a result of the proposal.

Noise

Concerns were raised regarding the impacts of noise from the rooftop bar and the carpark area.

The application included acoustic assessments dealing specifically with these aspects of the proposal. These have been discussed in detail previously and the impacts have been deemed as non-intrusive and appropriate, suitable conditions can be applied, should consent be granted.

Lighting

Concern was raised regarding the additional lighting from within the development that would impact upon the heritage backdrop of Mudgee.

Council's Heritage Advisor has not raised any concerns with the proposal on balance in relation to impacts upon the heritage conservation area.

Compliance with clause 5.3

Concern was raised as to the compliance of the development with clause 5.3 *Development near zone boundaries* of MWRLEP 2012.

This has been discussed earlier in this report and concluded that clause 5.3 can be utilised and the proposal is generally compliant with the considerations of that clause.

Privacy

Concern was raised as to the impacts of the proposal upon the privacy of the residences further to the east along Short Street.

The proposal has been orientated to the north. It is acknowledged that an obscure view to the east over dwelling rooftops could be obtained from elevated rooms (at an acute angle), however given the northern orientation it is expected that passive views would be sought by hotel guests over the Lawson Park and the scenery beyond that.

Accordingly, no changes to the proposal are considered warranted.

Alcohol

Concerns were raised concerning additional licenced premises in the Mudgee CBD and additional antisocial behaviour.

No evidence was submitted to demonstrate that an additional licensed premises would result in unacceptable antisocial impacts. The rooftop bar is permissible with consent in the zone and a suitable land use generally. The sale and consumption of alcohol will require the issue of a liquor licence from OLGR, who will impose appropriate management conditions on any license granted.

Overshadowing

Concern was raised regarding the overshadowing of several north facing windows of the PCYC. The windows service a variety of uses including a gymnasium and child care area. The proposed structure will be located with a 3m setback to these windows, however, the northern PCYC elevation has been erected approximately 900mm (slightly variable) from the northern boundary.

The level of overshadowing is considered acceptable. Any development boundary to boundary within the commercial core of Mudgee is permissible and resultant overshadowing is not totally unexpected. A proposal complying with the 8.5m height limit built to the boundary would still overshadow a significant portion of the windows. Furthermore, the upper floor child care area has alternative windows to the east and west, being alternative sources of natural light, albeit indirect.

Colour scheme

Concern was raised regarding the colour scheme of the proposed new building and the appropriateness within the heritage conservation area.

The proposal was referred to Council's Heritage Advisor for review. No concerns were raised from the Heritage Advisor as to the colour scheme.

Poem

Some concerns were raised regarding the protection of the artwork within the proposed café area, in particular the artwork titled *ten little niggers*.

It is considered important to protect the mural for future reference of its context. However, in keeping with current standards and expectations a condition could be included, should approval be granted, requiring the covering up of the mural in a way that is reversible and protects the paintwork.

3D model

Several submissions requested that a 3D model be made available for the public to view.

There is no statutory requirement for the applicant to provide a 3D model under the current application as it does not trigger the need for an assessment against the provisions of SEPP 65.

A 3D model was provided with the previous development application for shop top housing (DA0228/2015), however this was a statutory requirement pursuant to *State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development* as the proposal was considered a residential flat building.

Construction impacts/noise

Concerns were raised regarding construction impacts upon the water table, adjoining buildings and amenity of adjoining properties.

No broad excavation is expected to an extent that would significantly impact upon the groundwater table. A condition could be included, should Council grant consent, to ensure that footings are designed appropriately not to cause impacts upon ground water movement and the like.

Likewise, standard conditions could be imposed, should approval be granted, to ensure adjoining structures are protected during construction with appropriate engineer detailing as standard.

Standard conditions could also be imposed, prescribing that excavation, demolition, or construction work shall only be permitted during certain hours. In addition, noise arising from the works can be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* should 'offensive noise' be generated.

Appropriate conditions could also be imposed, requiring that a final Waste Management Plan to be prepared and submitted to Council prior to the commencement of demolition / construction. The plan shall detail the storage of, and amount of waste material and the destination of all materials, recyclable and non-recyclable.

Security

Concern was raised regarding additional crime in the area due to further on street parking and off street parking.

On street parking is the responsibility of Council and the Police, and outside the control of the applicant/developer.

Off street/onsite parking, as proposed, is not expected to result in additional crime. No evidence was supplied to support such a claim. Notwithstanding this, these car parking areas adopt design principles of the NSW Car Park Guide for Crime Prevention, including vehicular access control, which will help to reduce the opportunity for unauthorised entry; the areas have clear boundaries and perimeters providing ownership cues, which means an area is less likely to be used improperly. Natural surveillance will be promoted through the layout, orientation, and lighting of the car parks.

Structural adequacy of remaining building during demolition

Standard practise allows that the Certifier assessing the Construction Certificate is responsible for checking that suitable design and documentation has been issued for the structural aspects. This should also include any applicable shoring measures during construction.

It should be noted, that MPC Consulting Engineers, engaged on behalf of the applicant, conducted preliminary structural engineering investigations of the existing heritage masonry façade of the "Regent Theatre". A report was prepared, dated 12 December 2017, and found that a system of temporary propping is required to maintain the front façade and side walls of the building in a stable condition whilst the demolition and construction activities for the project are undertaken. A concept design for a temporary bracing system has been designed, and submitted by MPC as part of the development application. Such details can be confirmed at the Construction Certificate stage and approved by the Certifier, should the application be approved.

In regards to Building Code design, additional reports and details would need to be submitted prior to the issue of the Construction Certificate (CC). The structural resistance of materials and forms of construction must be determined in accordance with the relevant Australian Standards as called up by the Building Code of Australia (BCA) Volume 1.

Additional conditions could also be included, should approval be granted, to ensure the structure remains uncompromised during the partial demolition. Any damage caused by the developer on adjoining properties is generally considered a civil matter between the owners of the properties.

The structural adequacy of the internal canite walls have been previously addressed by the Heritage Architects comments, with appropriate conditions recommended, should approval be granted.

Heat from carparks

Concerns were raised regarding additional heat generated from the sealed carparks and the impact upon the surrounding areas.

There is not expected to be a significant increase in heat when compared to the existing built environment in the Mudgee CBD. Notwithstanding this both carparks have been proposed with additional landscaping. This is expected to inherently assist with supressing any microclimate impacts that may occur.

Sewer capacity

Council's Manager Development Engineering has indicated that the system can handle the potential additional load. Furthermore, a certificate of compliance pursuant to the Water Management Act 2000 will be required to be obtained by the applicant prior to issue of a construction certificate for the proposal, should it be approved. This will necessitate the payment of a contribution towards future maintenance of Council's water and sewer networks.

SUBMISSIONS FROM PUBLIC AUTHORITIES

The application was referred to the RMS on the 22 March 2018, as a result of the additional parking being included at the Regent theatre site and the Anglican Church site. Concurrence is required for a Sec.138 approval under the Roads Act 1993 (Short Street being a Classified Road) and as the proposal is defined as traffic generating development pursuant to State Environment Planning Policy (Infrastructure) 2007 (more than 50 car spaces in relation to a tourist development within 90m of a classified road).

The RMS have reviewed the proposal and indicated support subject to standard requirements concerning the Short Street access to the Church carpark site. See letter dated, 4 May 2018, Attached.

SECTION 4.15 (1)(E): THE PUBLIC INTEREST

Federal, State and local government interests and community interests

The Regent Theatre is of importance to the community with regards to heritage. In this regard, the Office of Environment and Heritage received a request from a member of the public, to have the building State listed. Following the necessary investigations for Interim Heritage Orders, the State Heritage Register committee, on the 4 April, 2018, resolved that:

- The Regent Theatre is not likely to be of state heritage significance
- The SHRC would not allocate further resources to researching the item unless a nomination was provided with strong evidence of the theatre's state heritage significance
- As local heritage item the responsibility for protecting the theatre sits with the local council
- The SHRC support the conservation of the Regent Theatre

Most recently, Council has been advised by the Office of Environment and Heritage in an email dated 19 June 2018, that a new nomination for State Heritage Register listing for the theatre has been made. The new nomination makes *a stronger case for listing than the previous nomination but it is always difficult to predict the outcome...The Heritage Council will not be addressing the new nomination before September.*

Notwithstanding the above, as no Interim Heritage Order applies, and the building is not currently State listed, the Regent Theatre remains a locally listed heritage item, the responsibility for which sits with Council. Accordingly, no input or referral to the Office of Environment and Heritage is necessary/required, and the application will be considered using Council's local controls, under clause 5.10 of the MWRLEP 2012.

Note - Council has sought advice from the Office of Environment and Heritage regarding the impact of a new State listing, or Interim Heritage Order on an existing development consent, should approval be granted to the subject application. At the date of preparing and printing the report, no response had been received.

The public interest of the proposal has been addressed throughout the report, with appropriate mitigation measures recommended, should approval be granted.

CONSULTATIONS

Access Committee

The proposal was referred to Council's Access Committee for comment with several recommendations received, such as:

- Provided it doesn't contradict any safety/fire regulations, sliding doors in accessible rooms.
- Provide a lower counter space in the reception area.
- If floor surfaces are to be carpeted, be low pile.
- Include an accessible bathroom and room features in the Regent Suite.
- The fourth level accessible bathroom include sliding door cavities.

In addressing these comments, it should be noted that in NSW applications requiring a Construction Certificate are to comply with both the National Construction Code (NCC), AS1428 and the Disability (Access to Premises – Building) Standards 2010. These documents prescribe

the minimum standards to which new and existing parts of a building are required to satisfy. On this basis, in relations to the above recommendations:

1. Buildings have an option to install either sliding, or swinging doors to the entrance of accessible rooms. Both options are required to maintain a minimum 850mm clearance from the face of the door to the door jam. Swinging doors have a greater circulation space to account for the swing of the door and it is the role of the certifying authority to assess this detail under the construction certificate application.
2. There is no requirement within the NCC, or Premises standards specifying the requirement to provide lower counter levels.
3. Part D3.3(g) of NCC BCA Vol 1 overrides the Premises Standard in regards to carpet floor coverings. The NCC states 'the pile height or pile thickness shall not exceed 11mm and the carpet backing thickness shall not exceed 4mm'.
4. The NCC requires this building to provide for 4 accessible sole occupancy units to which the plans indicate compliance.
5. Doors have been addressed in point 1.

In regards to the abovementioned points, it is the Principal Certifiers responsibility to ensure compliance is achieved through both the Construction Certificate application and certification role.

Health & Building

A referral was received from the Manager Building Control who considered clause 94 of the *Environmental Planning and Assessment Regulations, 2000*, and determined that no upgrade was required. The Construction Certificate will confirm compliance and provision of *National Construction Code* (NCC) especially the Relevant Fire Safety Systems applicable within the building.

In addition, the building will need to comply with the Performance Requirements of NCC BCA Vol 1. There is a BCA report submitted with the application, pointing out numerous departures from the BCA Deemed To Satisfy provisions. These will require alternative solutions to be developed and assessed by the certifier. Notable departures are access at the front of the building as this will be considered an 'Affected Part' under the Premises Standards and distance to the fire isolated stairs seem to exceed maximum distance. If these cannot be considered through the alternative solution process then the location of the stairs may need to be amended which will require floorplan changes and could cause impacts to the external appearance. If significant enough then this could require a future s96 modification.

The proposed application will trigger access performance requirements called upon by the National Construction Code (NCC) and the Disability (Access to Premises – Buildings) Standards 2010. It is also highly probable that any future use of the building would trigger the same controls based on the expectation that there would be some level of building upgrade requiring a subsequent Construction Certificate (CC). Therefore strong consideration should be given acknowledging the façade of the building would need to be altered, impacted on or modified in some way to facilitate a compliant accessible entrance from the property boundary, through the principle pedestrian entrance.

Deemed to Satisfy (DTS) standards would most likely require changes to sections of the front steps including, but not limited to, hand and kerb rails along the accessway to the nominated entrance door. There is the possibility that such measures could be formulated out through a performance solution process however the extent or granting of such a process cannot be guaranteed either way.

Conditions have been recommended, should consent be granted.

Development Engineer

Referral comments from Council's A/Manager Development Engineering have previously been addressed in the report, with complete referral comments attached. The application is recommended for refusal.

Heritage Advisor

The application was referred to Council's heritage advisor, Graham Hall, of *Graham Hall Architect* to prepare advice around the heritage aspects of the proposal. Referral comments have previously been addressed in the report, with complete referral comments attached. The application is recommended for approval, subject to conditions.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Maintain and promote the aesthetic appeal of the towns and villages within the Region

Strategic implications

Council Strategies

Mid-Western Regional Local Environmental Plan 2012
 Mid-Western Regional Development Control Plan 2013
 Mid-Western Regional Development Contributions Plan 2005-2021
 Mid-Western Regional Development Servicing Plan

Council Policies

None Applicable.

Legislation

Environmental Planning and Assessment Act 1979

Financial implications

None Applicable

Associated Risks

Should Council refuse the development application, the applicant may seek a further review of this decision or appeal through the Land and Environment Court.

DREW ROBERTS
SENIOR TOWN PLANNER

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

LINDSAY DUNSTAN
MANAGER, STATUTORY PLANNING

19 March 2018

- Attachments:*
1. RMS Concurrence Response. (separately attached)
 2. Traffic Committee Recommendation (to change parking on Short Street). (separately attached)
 3. Heritage Advisor Referral Comments June 2018. (separately attached)
 4. Compilation of Final Architectural Plans. (separately attached)
 5. Internal Referral Development Engineering. (separately attached)
 6. Regent theatre submissions DA0081-2018. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.2 Resources for Regions Grant Funding

REPORT BY THE DIRECTOR DEVELOPMENT

TO 18 JULY 2018 ORDINARY MEETING
GOV400066, GRA600002

RECOMMENDATION

That Council:

1. **receive the report by the Director Development on the Resources for Regions Grant Funding;**
2. **accept grant funding from the NSW State Government under the Resources for Regions program for the Bylong Valley Way Road Upgrade and the Wollar Road (Munghorn) Upgrade projects;**
3. **authorise the Mayor and General Manager to finalise and sign funding agreements with the NSW Government for the Bylong Valley Way Road Upgrade and the Wollar Road (Munghorn) Upgrade projects; and**
4. **amend the 2018/19 Operational Plan and 2017-2021 Delivery Program as follows:**
 - **in 2018/19 increase grant funding for the Bylong Valley Way Road upgrade by \$1,042,500, and increase the total expenditure budget by \$1,042,500;**
 - **in 2019/20 allocate \$524,500 from the rural sealed regional road capital works program to the Bylong Valley Way Road upgrade;**
 - **in 2018/19 increase grant funding for the Wollar Road (Munghorn) Upgrade project by \$3,410,000 and increase the total expenditure budget by \$3,410,000;**
 - **in 2019/20 increase the Black Spot Program grant funding for the Wollar Road (Munghorn) upgrade project by \$160,000 and increase the total expenditure budget by \$160,000.**

Executive summary

The purpose of this report is to amend Council's Operational Plan and Delivery Program for the 2018-19 financial year, as a result of successful grant applications for the Bylong Valley Way Road Upgrade and the Wollar Road (Munghorn) Upgrade projects. Council is required to have adequate budgets in place to accept the funding and sign the funding agreement and other relevant documentation.

Disclosure of Interest

Nil

Detailed report

Council applied for grant funding from the NSW Government's Resources for Regions Fund. The applications for funding included Bylong Valley Way Road Upgrade and Wollar Road (Munghorn) Upgrade.

The Bylong Valley Way Upgrade is broken down into two road segments, including a 2.6km length (Seg 1030 and 1035) and a 1.57km length (Seg 1050 and 1055). The project incorporates pavement strengthening and widening, and construction of required drainage and batters. The proposed funding for the Bylong Valley Way Road Upgrade is provided in the following table.

Funding Source	Amount
Restart NSW (Resources for Regions Program)	\$1,042,500
Council (Sealed Rural Roads - Regional)	\$1,042,500
Total	\$2,085,000

The Council contribution for this project is budgeted across two financial years with \$518,000 already allocated in 2018/19 and \$524,500 proposed for 2019/20.

The Wollar Road (Munghorn) Upgrade is for a 15.225km section of the Wollar Road in the Munghorn area. It includes pavement strengthening and widening, widening of bends and required drainage and batters. KEPCO has already agreed to contribute \$2,254,113 towards this project (as previously reported to Council in November 2017). The proposed funding for the Wollar Road (Munghorn) Upgrade is provided in the following table.

Funding Source	Amount
Restart NSW (Resources for Regions Program)	\$3,410,000
Federal Government (Black Spot Program)	\$1,160,000
KEPCO Road Contribution	\$2,254,113
Total	\$6,824,113

The Black Spot Program application submitted is for the 2019/20 year. As Council's current budget is set at \$1,000,000, it is recommended to increase this by \$160,000.

Details of the KEPCO road contribution funding is addressed in a separate report.

This report also requests Council to authorise the Mayor and General Manager to accept and sign funding agreements with Restart NSW for both the Bylong Valley Way Road Upgrade and Wollar Road (Munghorn) Upgrade projects.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Council's Towards 2030 Community Plan has a range of strategies supported by the projects proposed to be funded including providing infrastructure and services to cater for the current and future needs of the community.

Council Policies

Not Applicable

Legislation

Not Applicable

Financial implications

If Council accepts grant funding from the NSW Government for the Bylong Valley Way Upgrade and Wollar Road (Munghorn) Upgrade projects, the 2018-19 Operational Plan and Delivery Program will need to be amended as follows:

- in 2018/19 increase grant funding for the Bylong Valley Way Road upgrade by \$1,042,500, increase the total expenditure budget by \$1,042,500;
- in 2019/20 allocate \$524,000 from the 2019/20 rural sealed regional road capital works program to the Bylong Valley Way Road upgrade;
- in 2018/19 increase grant funding for the Wollar Road (Munghorn) Upgrade project by \$3,410,000 and increase the total expenditure budget by \$3,410,000; and
- in 2019/20 increase the Black Spot Program grant funding for the Wollar Road (Munghorn) upgrade project by \$160,000 and increase the total expenditure budget by \$160,000.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2018/19	-	✘	✔
Future Years	✘	✘	✘

Associated Risks

The Black Spot Program and KEPCO funding is not yet secured for the Wollar Road (Munghorn) Upgrade project. Therefore a risk of changes to the project or the funding source exists.

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

5 June 2018

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.3 Land & Housing Supply Monitor 1 January 2018 - 30 June 2018

REPORT BY THE MANAGER, STRATEGIC PLANNING

TO 18 JULY 2018 ORDINARY MEETING

GOV400066, LAN900042

RECOMMENDATION

That Council receive the report by the Manager, Strategic Planning on the Land & Housing Supply Monitor 1 January 2018 - 30 June 2018.

Executive summary

The Land and Housing Supply Monitor was developed as part of the Urban Release Strategy process. This report provides the latest data for the period ending 30 June 2018.

Disclosure of Interest

Nil.

Detailed report

The table below provides data for the last five years. For the financial year ending 30 June 2018, the data has been provided for the two 6 month periods.

	2013/2014	2014/2015	2015/16	2016/17	1 July – 31 Dec 2017	1 Jan – 30 Jun 2018	2017/18 TOTAL
SUBDIVISION							
Residential subdivision applications (no. of lots approved – DA's)	710	246	80	30	4	18	22
Rural subdivision applications (no. of lots approved – DA's)	-	-	-	-	1	2	3
Industrial subdivision applications (no. of lots approved – DA's)	-	-	-	-	-	34	34
SUBDIVISION CERTIFICATES							
Residential subdivision certificate (no. of lots released)	95	135	18	34	10 lots (400-1000m2) 4 lots (2000m2) TOTAL = 14 lots	3 lots (400-1000m2) - TOTAL = 3 lots	17
Rural subdivision certificate (no. of lots released)	-	-	-	-	4 lots (12ha) 5 lots (20ha) 13 lots (100ha) TOTAL = 22 lots	6 lots (12ha) - 2 lot (100ha) TOTAL = 8 lots	30
DWELLINGS							
DA approval for dwellings and dual occupancies (no. of	148	123	95	87	50	51	101

dwelling approved)							
CDC's for dwellings and dual occupancies (no. dwellings)	50	23	38	46	3	44	47
Occupation certificates (no. dwellings)	51	91	22	159	62	32	94

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning

Strategic implications

Council Strategies

The preparation of this report is an outcome of the Mid-Western Regional Urban Release Strategy December 2014.

Council Policies

Not applicable.

Legislation

Not applicable.

Financial implications

Not applicable.

Associated Risks

Not applicable.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

29 June 2018

Attachments: |

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

8.4 Monthly Development Applications Processing and Determined

REPORT BY THE DIRECTOR DEVELOPMENT
TO 18 JULY 2018 ORDINARY MEETING
GOV400066,

RECOMMENDATION

That Council receive the report by the Director Development on the Monthly Development Applications Processing and Determined.

Executive summary

The report presented to Council each month is designed to keep Council informed of the current activity in relation to development assessment and determination of applications.

Disclosure of Interest

Nil.

Detailed report

Included in this report is an update of Development Applications determined and Development Applications processing for the month of June 2018. The report details:

- Total outstanding development applications indicating the proportion currently being processed and those waiting for further information
- Median and average processing times for development applications
- A list of determined development applications
- Currently processing development applications and heritage applications

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Maintain and promote the aesthetic appeal of the towns and villages within the Region

Strategic implications

Council Strategies

Not Applicable

Council Policies

Not Applicable

Legislation

Not Applicable

Financial implications

Not Applicable

Associated Risks

Not Applicable

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

3 July 2018

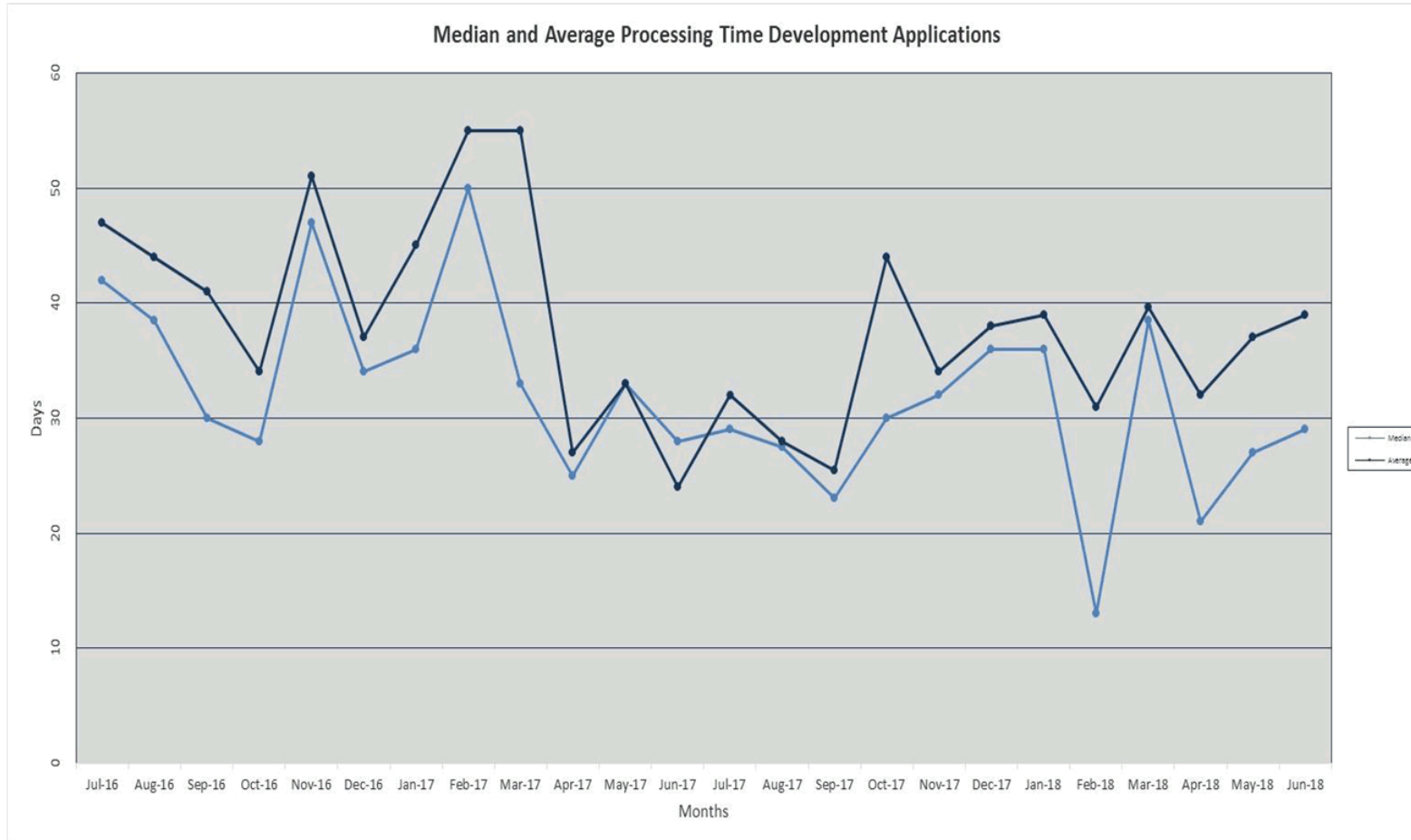
Attachments: 1. Monthly Development Applications Processing and Determined - June 2018.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

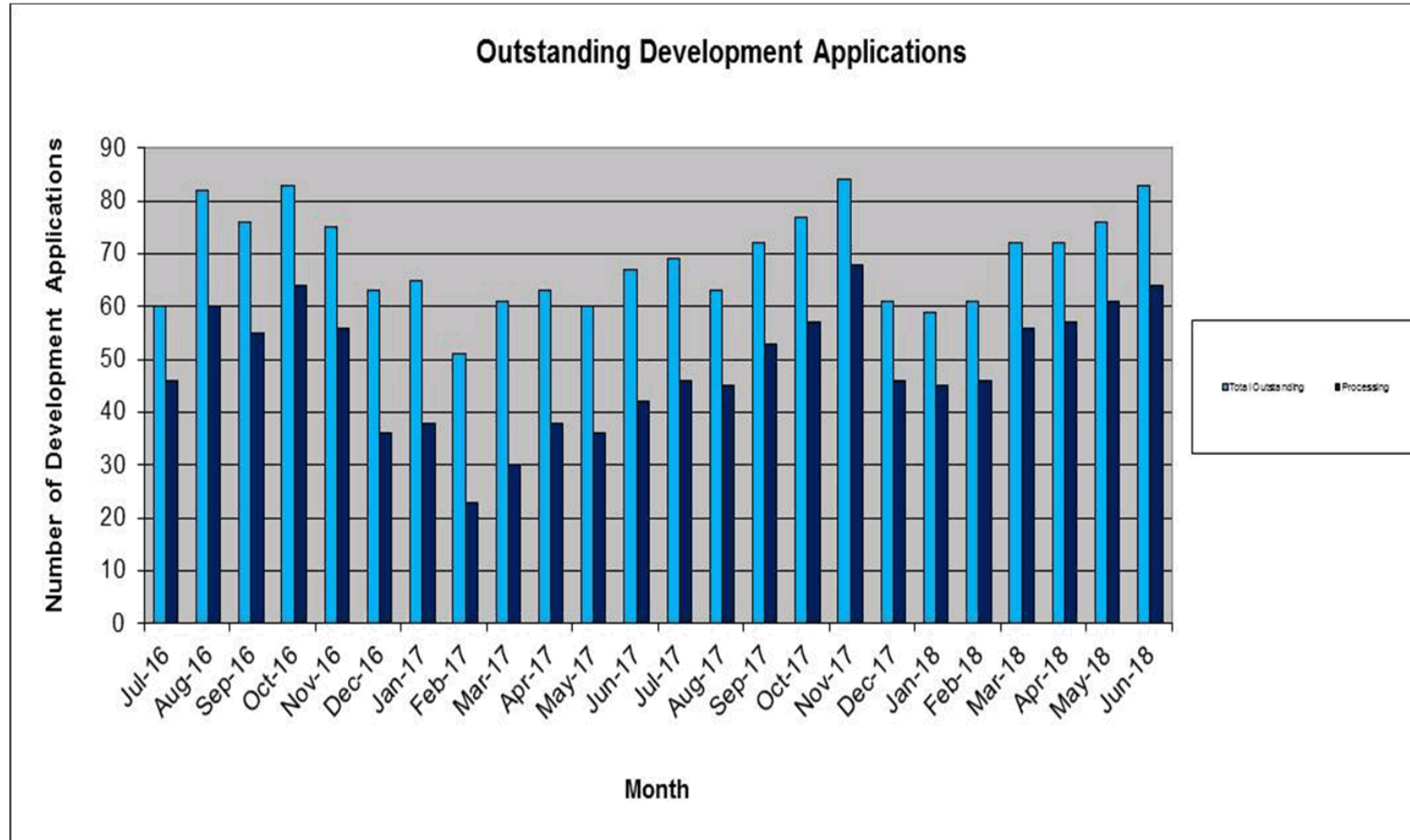
Monthly Development Application Processing Report – June 2018

This report covers the period for the month of June 2018. Graph 1 indicates the processing times up to 30, June 2018 with the month of June having an average of 39 days and a median time of 29 days.



Monthly Development Application Processing Report – June 2018

Graph 2 indicates the total number of outstanding applications, the number currently being processed and the number on “stop clock”.



Monthly Development Application Processing Report – June 2018

The Planning and Development Department determined 20 Development Applications either by Council or under delegation during June 2018.

Development Applications Determined – June, 2018

Appl/Proc ID	Description	House No	Street Name	Locality
DA0204/2018	Residential Shed	22	Bumberra Place	BOMBIRA
DA0261/2018	Residential Shed	9	Grant Street	MUDGEE
DA0139/2018	Community Facility & Housing for people with a Disability	153	Bruce Road	MUDGEE
DA0157/2018	Dwelling	20A	Lewis Street	MUDGEE
DA0165/2018	Liquid Fuel Depot	56A	Sydney Road	MUDGEE
DA0246/2018	Residential Shed	312	Wilbetree Road	MENAH
DA0248/2018	Boundary Adjustment	501	Melrose Road	MULLAMUDDY
DA0252/2018	Dual Occupancy and subdivision	35	Banjo Paterson Avenue	MUDGEE
DA0255/2018	Dual Occupancy and subdivision	10	Short Street	MUDGEE
DA0265/2018	Change of use - Motorcycle & Accessories Sales	17	Depot Road	MUDGEE
DA0266/2018	Alterations & Additions	7	Court Street	MUDGEE
DA0269/2018	Dual Occupancy & Subdivision	8	Short Street	MUDGEE
DA0270/2018	Dwelling	52	Bellevue Road	MUDGEE
DA0273/2018	Residential Shed	24	Hughson Avenue	MUDGEE
DA0276/2018	Pergola	23	Inglis Street	MUDGEE
DA0281/2018	Subdivision	276	Perseverance Lane	GULGONG
DA0283/2018	Swimming Pool	37A	Henry Bayly Drive	MUDGEE
DA0287/2018	Alterations & Additions	125	Market Street	MUDGEE
DA0295/2018	Residential Shed	3	Durack Court	MUDGEE
DA0298/2018	Alterations & Additions	101	Winchester Crescent	COOKS GAP

Monthly Development Application Processing Report – June 2018

Development Applications currently being processed – June, 2018.

Appl/Proc ID	Description	House No	Street Name	Locality
DA0214/2011	Dwelling House	663	Castlereagh Highway	BURRUNDULLA
DA0327/2011	Shed >150m2	23	Horatio Street	MUDGEES
DA0191/2015	Subdivision - Torrens Title	196	Robertson Road	MUDGEES
DA0102/2016	Dwelling House	705	Windeyer Road	GRATTAI
DA0315/2016	Tourist and Visitor Accommodation	345	Bylong Valley Way	ILFORD
DA0325/2016	Change of use - Garage to Bedroom	179	Denison Street	MUDGEES
DA0343/2016	Commercial Alterations/Additions	137	Ulan Road	PUTTA BUCCA
DA0221/2017	Function Centre	141	Black Springs Road	EURUNDEREE
DA0266/2017	Residential Shed	3	Cudgegong Street	RYLSTONE
DA0303/2017	Change of use - Vehicle Repair Station	1	Inglis Street	MUDGEES
DA0004/2018	Multi Dwelling Housing	66	Dangar Street	KANDOS
DA0063/2018	Shed >150m2	434	Melrose Road	MOUNT FROME
DA0072/2018	Earthworks	290	Rocky Waterhole Road	MOUNT FROME
DA0102/2018	Change of use - Studio/Shed and Dwelling	111	Mount Pleasant Lane	BUCKAROO
DA0119/2018	Secondary Dwelling	4	Dunn Street	KANDOS
DA0142/2018	Subdivision - Torrens Title	38	Rifle Range Road	MUDGEES
DA0146/2018	Tourist and Visitor Accommodation	196	Rocky Waterhole Road	MOUNT FROME
DA0178/2018	Commercial Premises	36	Sydney Road	MUDGEES
DA0199/2018	Residential Shed	2018	Campbells Creek Road	CARCALGONG
DA0214/2018	Camping Ground	2970	Lue Road	LUE
DA0218/2018	Extractive Industry	1330	Pyramul Road	PYRAMUL
DA0221/2018	Extractive Industry	1484	Crudine Road	CRUDINE
DA0222/2018	Extractive Industry	1484	Crudine Road	CRUDINE
DA0223/2018	Dwelling House	24	Farrelly Street	CLANDULLA
DA0225/2018	Subdivision - Torrens Title	81	Bellevue Road	MUDGEES
DA0226/2018	Dwelling House	308	Cypress Drive	YARRAWONGA
DA0232/2018	Shed >150m2	1132	Bocoble Road	BOCOBLE
DA0241/2018	Subdivision - Torrens Title	594	Goolma Road	GULGONG
DA0247/2018	Dwelling House	286	Melrose Road	MOUNT FROME
DA0249/2018	Carport	73	Fleming Street	KANDOS

Monthly Development Application Processing Report – June 2018

DA0250/2018	Community Centre	363	Ulan Road	EURUNDEREE
DA0254/2018	Dual Occupancy	7	Alexander Dawson Court	MUDGEES
DA0263/2018	Residential Shed	26	Farrelly Street	CLANDULLA
DA0267/2018	Garage	31	McLachlan Street	KANDOS
DA0268/2018	Boundary Adjustment	499	Lue Road	MILROY
DA0277/2018	Moveable Dwelling	1817	Bylong Valley Way	KANDOS
DA0278/2018	Change of use - Function Centre	227	Melrose Road	MOUNT FROME
DA0279/2018	Change of use - Garage to Disabled Accommodation	125	Frog Rock Road	FROG ROCK
DA0280/2018	Subdivision - Torrens Title	155	Bruce Road	MUDGEES
DA0285/2018	Dual Occupancy	1	Rowe Street	MUDGEES
DA0286/2018	Commercial Premises	17	Sydney Road	MUDGEES
DA0288/2018	Residential Shed	24	Robertson Street	MUDGEES
DA0289/2018	Dwelling House	9	Clare Court	MUDGEES
DA0294/2018	Industrial Building	13	Swords Court	MUDGEES
DA0297/2018	Alterations & Additions	18	Tennant Close	MUDGEES
DA0301/2018	Commercial Premises	20	Sydney Road	MUDGEES
DA0303/2018	Dwelling House	2673	Bylong Valley Way	RYLSTONE
DA0304/2018	Change of use - Warehouse/Storage	8	Sydney Road	MUDGEES
DA0305/2018	Home Industry	226	Melrose Road	MOUNT FROME
DA0306/2018	Dwelling House	47	Robert Hoddle Grove	BOMBIRA
DA0308/2018	Commercial Alterations/Additions	2	Burrundulla Road	BURRUNDULLA
DA0309/2018	Change of use - Serviced Apartment and Business Premises	6	Henry Lawson Drive	BOMBIRA
DA0310/2018	Alterations & Additions	20	Woodside Close	MUDGEES
DA0311/2018	Alterations & Additions	6241	Iford Sofala Road	SOFALA
DA0312/2018	Alterations & Additions	1300	Hill End Road	GRATTAI
DA0313/2018	Dwelling House	13	Lloyd Avenue	KANDOS
DA0314/2018	Residential Shed	120	Bellevue Road	MUDGEES
DA0315/2018	Dwelling House	12	Robert Jones Street	MUDGEES
DA0316/2018	Alterations & Additions	16	Roxburgh Street	KANDOS
DA0321/2018	Alterations & Additions	20	Mudgee Street	RYLSTONE
DA0323/2018	Dwelling House	0	Hill End Road	COLLINGWOOD
DA0004/2019	Alterations & Additions	36	Robert Hoddle Grove	BOMBIRA

Monthly Development Application Processing Report – June 2018

Heritage Development Applications currently being processed – June 2018.

Appl/Proc ID	Description	House No	Street Name	Locality
DA0271/2011	Alterations & Additions	87	Short Street	MUDGEE
DA0091/2017	Residential Shed	42	Louee Street	RYLSTONE
DA0058/2018	Fence	1	Dunphy Crescent	MUDGEE
DA0081/2018	Commercial Alterations/Additions	5	Church Street	MUDGEE
DA0220/2018	Commercial Premises	13	Perry Street	MUDGEE
DA0237/2018	Alterations & Additions	152	Mortimer Street	MUDGEE
DA0244/2018	Subdivision - Torrens Title	15	Lynne Street	GULGONG
DA0282/2018	Commercial Alterations/Additions	106	Church Street	MUDGEE
DA0290/2018	Change of use - Retail Shop to Dwelling	24	Louee Street	RYLSTONE
DA0291/2018	Clearing Native Vegetation	2	Short Street	MUDGEE
DA0292/2018	Commercial Alterations/Additions	27	Fleming Street	KANDOS
DA0296/2018	Change of use - Education Establishment and Additions	77	Louee Street	RYLSTONE
DA0299/2018	Subdivision - Torrens Title	94	Buckaroo Lane	BUCKAROO
DA0302/2018	Alterations & Additions	47	Lawson Street	MUDGEE
DA0307/2018	Alterations & Additions	74	Mortimer Street	MUDGEE
DA0317/2018	Residential Shed	54	Mortimer Street	MUDGEE
DA0319/2018	Change of use - Beauty Salon	46	Market Street	MUDGEE
DA0320/2018	Alterations & Additions	106	Gladstone Street	MUDGEE
DA0001/2019	Dwelling House	11	Costigan Court	MUDGEE
DA0002/2019	Alterations & Additions	47	Herbert Street	GULGONG
DA0003/2019	Alterations & Additions	20	Lewis Street	MUDGEE

8.5 Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Policy

REPORT BY THE MANAGER, HEALTH AND BUILDING
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0130047

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Health and Building on the Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Policy; and**
2. **adopt the updated Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Policy.**

Executive summary

Under the *Local Government Act 1993*, Council is responsible for considering and approving mobile and temporary food premises within the Mid-Western Regional Local Government Area (LGA). Council Health Officers are authorised, as delegated by the NSW Food Authority, to inspect mobile and temporary food premises and ensure that good food safety practices are in place to preserve the safety of food sold for human consumption.

The purpose of this report is to present a revised policy to Council for consideration. The revised policy *Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Policy (July 2018)* replaces *Mobile Vending and Street Trading Policy (June 2013)*.

Disclosure of Interest

Nil

Detailed report

Acknowledging Council's responsibilities, the Region's growing tourism sector and the increasing number of temporary events involving food and beverage sales, the revised policy will provide clarity to current and prospective businesses, event organisers and the general public on the requirements to operate a mobile or temporary food premises within the Region.

The objective of the revised policy is to strengthen the process and the responsibilities of all stakeholders involved in operating mobile food vending vehicles and temporary food stalls within the Mid-Western Regional Local Government Area (LGA). It is designed to provide applicants with instructions on how to obtain approval for mobile sales and sales at temporary events within the region.

The policy will be used to regulate 'Approvals to Operate' (ATO) issued under the *Local Government Act 1993* for mobile food vending vehicles and temporary food stalls, so that they will not interfere with the operation of permanent commercial enterprises located within the Central

Business Districts (CBD) areas of Mudgee, Gulgong, Rylstone and Kandos, or elsewhere as stated within the policy.

Community Plan implications

Theme	Looking After Our Community
Goal	A safe and healthy community
Strategy	Work with key partners and the community to reduce crime, anti-social behaviour and improve community safety

Strategic implications

Council Strategies

The policy links to Council's strategy of maintaining its partnership with the NSW Food Authority to address matters such as food premises inspections, safe food handling and food borne illness investigation.

Should the policy not be adopted, Council may not meet the expectations of both the businesses seeking the opportunity to operate a mobile or temporary food premises in the Region and the community, who should be confident in the knowledge that the operators are satisfying food regulation requirements.

Council Policies

Mobile Vending and Street Trading Policy.

Legislation

Local Government Act 1993
Local Government (General) Regulation 2005
NSW Food Act 2003
NSW Food Regulation 2015

Financial implications

Not Applicable.

Associated Risks

Not Applicable.

JOSH BAKER
MANAGER, HEALTH AND BUILDING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

4 July 2018

Attachments: 1. Mobile Food Vending Vehicles and Temporary Food Stalls Policy July 2018.
2. Mobile Vending and Street Trading June 2013.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Mobile Vending Vehicles and Temporary Food Stalls in a Public Place

A prosperous and progressive community

ADOPTED		VERSION NO	2
COUNCIL MEETING MIN	[xx/xx]	REVIEW DATE	JULY 2020
DATE:	JULY 2018	FILE NUMBER	A0130047

Objective

The objective of this policy is to manage mobile food vending vehicles and temporary food stalls operating within the Mid-Western Region Local Government Area. It is designed to provide applicants with instructions on how to obtain approval for mobile sales and sales at temporary events within the region.

The policy will be used to regulate 'Approvals to Operate' for mobile food vending vehicles and temporary food stalls, so that they will not interfere with the operation of permanent commercial enterprises located in the Central Business District (CBD) areas of Mudgee, Gulgong, Rylstone and Kandos, or elsewhere as stated within this policy.

Businesses that sell food at temporary events such as fairs, festivals, markets and shows are considered retail food businesses under this policy, as they sell food to the public and need to meet a range of requirements.

This policy does not relate to mobile food carts or kiosks in a shopping centre, or a temporary stall or mobile vehicle on private land.

Legislative requirements

This policy operates in accordance with the provisions of the following legislation::

- Local Government Act 1993
- Local Government (General) Regulation 2005
- NSW Food Act 2003
- NSW Food Regulation 2015

Related policies and plans

- Australian Standard AS4674-2004 'Design, Construction and Fitout of Food Premises'
- NSW Food Authority Guidelines for Mobile Food Vending Vehicles
- NSW Food Authority Guidelines for Food Businesses at Temporary Events
- Standards 3.1.1, 3.2.2 and 3.2.3 of the Australian New Zealand Food Standards Code
- Roads and Maritime Services (RMS) – 'Mobile vending in rest areas' Policy Number: PN271

POLICY: MOBILE VENDING VEHICLES AND TEMPORARY FOOD STALLS IN A PUBLIC PLACE, 2, JULY 2018

Policy

Criteria for Determination of Applications

All applications must be made in the approved form. Each vehicle and/or food stall operator must submit a completed individual application form which is accompanied by the appropriate application fee and relevant supporting documentation for Council assessment.

Prior to the issuing of an 'Approval to Operate' a Mobile Food Vending Vehicle or a Temporary Food Stall under this policy, the applicant is to submit sufficient information for Council to use when considering the application. The criteria used to assess the application is provided in Council's 'Section 68 Application to Operate a Mobile Food Vending Vehicle or Temporary Food Stall' form. Further provisions and explanatory information is included in the *NSW Food Authority Guidelines for Mobile Food Vending Vehicles* and *Guidelines for Food Businesses at Temporary Events*.

The construction and fitout of mobile food vending vehicles and temporary food stalls must comply with the relevant requirements of the *NSW Food Act 2003*, and, the *NSW Food Regulation 2015* incorporating the Food Standards Code.

Other Matters Relating to Approvals

Approvals will be issued for a maximum of 12 months. In all cases, a written approval must be obtained from Council prior to operation.

NOISE

The use of amplified music, bells or a public address system is restricted to the approved hours of operation on any day. The use of such equipment is also prohibited whilst the vehicle is stationary.

WASTE MANAGEMENT

Mobile vendors and temporary food stall operators are responsible for the waste materials that they generate. Waste materials such as food packaging and food waste generated by the operator, should be collected in bins or suitable receptacles, bagged or contained, stored and disposed of at the cost of the operator.

INSPECTIONS

The inspection of retail food businesses trading at temporary events is conducted by Council Health Officers, who are authorised officers under the *NSW Food Act 2003*. The role of Council Health Officers undertaking inspections is to ensure that good food safety practices are in place such as temperature control, cleanliness, hand washing and labelling.

Mobile Food Vending Vehicles

All mobile food vending vehicles operating in the Mid-Western Regional LGA must be presented for inspection at Council's administration office or an alternative location as agreed upon with Council. Mobile food vending vehicles must be constructed and maintained in accordance with the NSW Food Authority's 'Guidelines for Mobile Food Vending Vehicles'.

A prior appointment must be made with Council's Health Officers for an inspection. A minimum 48 hours' notice is required.

POLICY: MOBILE VENDING VEHICLES AND TEMPORARY FOOD STALLS IN A PUBLIC PLACE, 2, JULY 2018

Temporary Food Stalls

In accordance with the *NSW Food Act 2003*, Council may inspect food stalls at any time of operation.

FEES

Fees for the assessment of applications, issuing of approvals and conducting of inspections are determined by Council each year and are contained in Council's "Adopted Fees and Charges". The application fee includes the cost of any initial inspections.

Applications will only be considered for approval after payment of the approved fee.

Additional inspection fees will be charged for all additional inspections of mobile food vending vehicles and temporary food stalls, where reinspection is required or where sufficient evidence is provided in conjunction with a complaint.

Charities and not-for-profit organisations are not required to pay the application fee. However, they must still make application and comply with the conditions of the approval if issued.

SIGNAGE

An approval under this policy does not infer any approval for the erection or display of any sign or sign structure other than those directly attached to the mobile vending vehicle or temporary food stall.

HOURS OF OPERATION

A mobile vending vehicle or temporary food stall that is erected, installed or located on a public place or public reserve is only permitted to operate within daylight hours or for the duration of a sporting event, fete, fair, festival, carnival, community market or similar event.

Council reserves the right to vary the approved hours of operation where it has been demonstrated that the hours will not interfere with residents or other commercial businesses.

SAFEWORK NSW

A fire extinguisher and fire blanket should be supplied and readily accessible in every vehicle or stall where cooking or heating processes are undertaken. Gas fired appliances used in the open should not have a gas bottle greater than 9kg capacity and the bottle secured so that it cannot be tipped over. All measures should be taken to satisfy SafeWork NSW. Contact SafeWork NSW for more information.

RMS REST STOPS

Any application to operate within a designated rest stop/trucking bay must have prior concurrence from NSW Roads and Maritime Services (RMS), granting support for the activity. If RMS support is granted, application must then be made to Council for mobile trading within the nominated rest stop. Any approval granted will be subject to Council conditions and any other conditions imposed by the RMS.

POLICY: MOBILE VENDING VEHICLES AND TEMPORARY FOOD STALLS IN A PUBLIC PLACE, 2, JULY 2018**REVOKE OR AMEND AN APPROVAL TO OPERATE**

Where it is found that a condition of any approval to operate has not been complied with, Council may decide to either modify the approval or revoke the approval.

RESTRICTED AREAS

Mobile food vending is not approved in areas where it may interfere with road users or established food shops.

In the Mid-Western Regional LGA, operation of a mobile food vending vehicle is prohibited in the following areas:

- Within a 200 metre radius of a commercial area in Mudgee, Gulgong, Rylstone and Kandos; or
- Within a 200 metre radius of a sports ground with a canteen, unless approval is obtained from the relevant sporting association consenting to the mobile trading occurring in conjunction with the sporting event; or
- Within a 200 metre radius of an existing fixed food premises not located within a commercial area; or
- On the side of a highway or classified road (including the Castlereagh Highway or Ulan Road); or
- Any other road where reduced speed limits apply.

INSURANCE

Prior to operation and for the duration of any 'Approval to Operate', all mobile vending vehicles and temporary stalls are to hold a valid Certificate of Currency for Public Liability Insurance to a value of \$20,000,000 which lists Mid-Western Regional Council as an 'Interested Party'.

Where insurance cover expires within an approval period, the operator is required to submit a copy of new insurance details to Council within 7 days prior to the expiry date of the insurance.

Mobile vending vehicles are required to carry and supply a Certificate of Currency for Third Party Property Damage Insurance.

Should any insurance cover either expire without renewal or be cancelled by the provider, the 'Approval to Operate' ceases to have any affect and the holder of the approval is not permitted to operate the business until insurance cover is obtained.

Exemptions

Given the importance of preserving the safety of food for sale for human consumption, there are no exemptions for compliance with this policy. The design, fitout and operation of any mobile vending vehicles or temporary stalls used for the sale of food in a public place in the Mid-Western Region LGA must comply with this policy.

POLICY: MOBILE VENDING VEHICLES AND TEMPORARY FOOD STALLS IN A PUBLIC PLACE, 2, JULY 2018


Definitions

For the purposes of this policy:

- *“food-vending vehicle”* includes any vehicle, whether mobile or stationary, used for the purposes of selling any article of food.
- *“temporary food stall”* includes any structure, food stall or mobile food stall, any van, truck, trailer or moveable module, tent or gazebo used for the purposes of selling any article of food. A temporary food stall includes any structure that is built or designed to enable it to be dismantled and removed from the site when required.
- *“a standing vehicle”* includes any mobile food vending vehicle that has stopped to make a sale.
- *“any article for the purpose of selling”* includes a temporary food stall.
- *“a roadside stall”* includes any stand, van or vehicle set up on the side of the road selling to passing trade.
- *“charities and community groups”* includes those which do not derive funds for personal financial gain, but direct any profits back to the community (e.g. local sports clubs, Lions and Rotary clubs).
- *“public place”* means:
 - a) a public reserve, public bathing reserve, public baths or public swimming pool; or
 - b) a public road, public bridge, public wharf or public road-ferry; or
 - c) a Crown reserve comprising land reserved for future public requirements; or
 - d) public land or Crown land that is not:
 - (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)); or
 - (ii) a common; or
 - (iii) land subject to the *Trustees of Schools of Arts Enabling Act 1902*; or
 - (iv) land that has been sold or leased or lawfully contracted to be sold or leased; or
 - e) land that is declared by the regulations to be a public place for the purposes of this definition.
- A *“public reserve”* means:
 - a) a public park; or
 - b) any land conveyed or transferred to the council under section 340A of the *Local Government Act 1919*; or
 - c) any land dedicated or taken to be dedicated as a public reserve under section 340C or 340D of the *Local Government Act 1919*; or
 - d) any land dedicated or taken to be dedicated under section 49 or 50; or
 - e) any land vested in the council, and declared to be a public reserve, under section 37AAA of the *Crown Lands Consolidation Act 1913*; or
 - f) any land vested in the council, and declared to be a public reserve, under section 76 of the *Crown Lands Act 1989*; or

POLICY: MOBILE VENDING VEHICLES AND TEMPORARY FOOD STALLS IN A PUBLIC PLACE, 2, JULY 2018

- g) a Crown reserve that is dedicated or reserved:
 - (i) for public recreation or for a public cemetery; or
 - (ii) for a purpose that is declared to be a purpose that falls within the scope of this definition by means of an order published in the Gazette by the Minister administering the *Crown Lands Act 1989*, being a Crown reserve in respect of which a council has been appointed as manager of a reserve trust for the reserve or for which no reserve trust has been established; or
 - h) land declared to be a public reserve and placed under the control of a council under section 52 of the *State Roads Act 1986*; or
 - i) land dedicated as a public reserve and placed under the control of a council under section 159 of the *Roads Act 1993*, and includes a public reserve of which a council has the control under section 344 of the *Local Government Act 1919* or section 48, but does not include a common.
- “public road” means a road which the public are entitled to use.

	POLICY	ADOPTED C/M 15/06/2011 Minute No. 133 / 11
	Mobile Vending and Street Trading	REF: June 2013 REV: insert revision number FILE No. A0130047 A0100021

INTRODUCTION

These guidelines are intended for mobile food businesses and other businesses engaged in trade or business selling from mobile vehicles within the Mid-Western Regional Council local government area.

Important: Mobile food vans operating within the Council area must sell only coffee, drinks, cakes, sweets, or other such low risk foods.

Food preparation apart from the preparation of tea and coffee is not permitted within mobile food vans operating within this Council area.

OBJECTIVE:

To regulate the operation of Mobile vending vehicles and street traders so that they will not interfere with the operation of permanent commercial enterprises located in the Central Business Districts of Mudgee, Gulgong, Rylstone and Kandos or to create traffic hazards on or within the network of roads within the Local Government Area.

POLICY:

1. Mobile Vending and Street Trading will only be conducted subject to Council approval and in accordance with this policy.
2. Approval will not be given to vendors who sell goods that are sold by permanent established businesses within the relevant town or village. For example, where a town or village does not include a fresh fish shop then a mobile fish vendor may be approved.
3. Any approval by Council will only apply to public places within the Mid-Western Regional Council. Should the applicant wish to trade on private land, permission must be first obtained from the owners of such land. Permanent mobile trading activities on private land is prohibited.
4. Any vehicle used in connection with the sale or distribution of food or other articles for sale must not be parked in such a way, nor the business of street trading be conducted in such a way, that the free flow of traffic is hindered or that any dangerous or hazardous situation is created.
5. All street trading is subject to compliance with Chapter 6 of the "Street Vending Manual" prepared by the RTA. Please note that the NSW Police Service will enforce the Motor Traffic Regulations under the Traffic Act, 1999.
6. The setting up of a stall, stand or standing vehicle for the purpose of engaging in trade or business on any road outside the town boundaries of Mudgee, Gulgong, Rylstone and Kandos is prohibited.

NAME OF POLICY

7. This policy does not apply to an authorised charity or other not-for-profit organisations approved by Council.
8. All mobile vehicle or stands must be used for trade or business only during daylight hours.
9. Nothing in this policy prohibits mobile food vendors or traders participating in special events such as sporting events, markets or street festivals.
10. All approved mobile food vendors will be subject to the following conditions
 - a) Public liability insurance with a minimum of \$10,000,000 must be taken out and maintained.
 - b) The operation of the mobile vehicle or stand must not restrict pedestrian access along the footway or obstruct vision to other vehicular traffic on the road.
 - c) The mobile vehicle must be removed from its location within 15 minutes of closure and the area around the vehicle or stand must be left in a clean and litter free state.
 - d) The requirements of the Food Act 2003, Food Regulations 2004 and the Local Government Act 1993 & Regulations thereunder must be observed at all times.
 - e) The Council reserves the right to cancel an approval at any time should any reasonable and substantive complaint be received from the NSW Police or the public.
 - f) Mobile food vehicles must not be operated on any RTA classified street or road (ie includes highways, main roads and state works)

Item 9: Finance

9.1 Amendment to Mudgee Region Tourism Contract

REPORT BY THE ACTING CHIEF FINANCIAL OFFICER
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, ECO800015

RECOMMENDATION

That Council:

1. **receive the report by the Acting Chief Financial Officer on the Amendment to Mudgee Region Tourism Contract;**
2. **approve an amendment to the contract with Mudgee Region Tourism Inc., as attached, by the addition of clause 4 (g) to allow indexation of agreed funding; and**
3. **authorise the General Manager to enter into the contract and sign on behalf of Council.**

Executive summary

The purpose of this report is to recommend a consumer price index based increase to the funding within the existing contract with Mudgee Region Tourism Inc. (MRTI). The contract is for the period 1 July 2017 to 30 June 2021 to provide tourism and visitor information services for the Mid-Western Regional Local Government Area.

It is proposed that on 1 July each year the funding amount be increased by the annual CPI (Consumer Price Index) percentage change as at the March quarter. For reference the increase to the 2018/2019 financial year contract would be \$7,524 plus GST, an increase of 1.9%.

Disclosure of Interest

Nil

Detailed report

At Council's ordinary meeting of 21 June 2017 it was resolved to enter into a contract with MRTI and approve the value of the contract in year 1 as \$396,000 excluding GST. Both parties to the contract were under the impression that the contract value would increase by CPI at the beginning of each financial year, however this was not specified in the signed agreement. It is therefore recommended that an amendment to the agreement is entered into which allows an annual CPI increase to the funding amount.

The amendment recommended is shown in the attachment and states at clause 4(g):

Commencing on 1 July 2018, the previous financial year funding amount shall on 1 July be indexed by the annual percentage change to the All groups CPI as at the March quarter. The All groups CPI means the consumer price index published by the Australian Bureau of Statistics or the index officially substituted for it.

Community Plan implications

Theme	Building a Strong Local Economy
Goal	A prosperous and diversified economy
Strategy	Support the attraction and retention of a diverse range of businesses and industries

Strategic implications

Council Strategies

Not applicable

Council Policies

Not applicable

Legislation

Not applicable

Financial implications

Approval of the amendment to the contract will result in an additional \$7,524 excluding GST payable to MRTI over the 2018/19 financial year. As Council's Operational Plan 2018/19 has already budgeted for a CPI increase to this contract, should the increase be approved there is no requirement to amend the budget.

Associated Risks

Not applicable.

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

29 June 2018

Attachments: 1. MRTI contract amendment.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

THIS AGREEMENT is made on the day of 2018

PARTIES

MID-WESTERN REGIONAL COUNCIL of 86 Market Street, Mudgee (herein called “MWRC”)

MUDGEES REGION TOURISM INC of 84 Market Street, Mudgee (herein called “MRTI”)

BACKGROUND

- A. On 3 July 2017 the parties entered into an agreement for MRTI to provide MWRC with Tourism and Visitor Information Services for the Mid-Western Regional Local Government Area (herein called “the LGA”) with the primary objective of promoting the LGA as a tourism destination.
- B. The term of agreement is commencing 1 July 2017 and ending on 30 June 2021.
- C. At section 4 of the agreement the funding provided is stated as \$396,000 *plus GST for the term of the agreement*.
- D. The purpose of the parties entering into this amendment is to allow an annual consumer price index (CPI) increase to the funding agreement.
- E. The parties agree to amend the agreement signed on 3 July 2017 with the terms set out below.

VARIATION OF AGREEMENT

1. Amendments

(a) Section 4 of the agreement is amended by inserting the following clause after 4.(f) :

4 (g)

Commencing on 1 July 2018, the previous financial year funding amount shall on 1 July be indexed by the annual percentage change to the All groups CPI as at the March quarter. The All groups CPI means the consumer price index published by the Australian Bureau of Statistics or the index officially substituted for it.

EXECUTION

Executed as an agreement

Executed by Mid-Western Regional Council by:

.....
Signature of authorised person

.....
Name of authorised person

.....
Office held

Executed by Mudgee Region Tourism Inc by:

.....
Signature of authorised person

.....
Signature of authorised person

.....
Name of authorised person

.....
Name of authorised person

.....
Office held

.....
Office held

9.2 Budget Amendments to Road Improvement Projects

REPORT BY THE ACTING CHIEF FINANCIAL OFFICER
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, FIN300179

RECOMMENDATION

That Council:

1. receive the report by the Acting Chief Financial Officer on the Budget Amendments to Road Improvement Projects;
2. amend the 2018/19 Operational Plan to include a budget for the road improvement expenditure associated with the Bylong Coal Project in the amount of \$3,635,802, funded from contributions from KEPCO; and
3. amend the 2018/19 Operational Plan to remove the budget for road improvement expenditure under the Black Spot Program in the amount of \$1,160,000, funded from Australian Government grants.

Executive summary

Budget amendments are required to the 2018/19 Operational plan to recognise the potential road improvement funding associated with the Bylong Coal Project.

A further amendment to the 2018/19 Operational Plan is required to remove the Black Spot Program budget of \$1,160,000. Council's application for Black Spot funding has been submitted for the Munghorn Gap upgrade works however the timing is amended to the 2019/20 financial year.

Disclosure of Interest

Nil.

Detailed report

A report has been presented to Council for the acceptance of Resources for Regions Grants which requires matching funding contributions from Council for the Wollar Road (Munghorn Gap) Upgrade. When accepting the Resources for Region funding Council needs to ensure adequate budgets are in place and as part of the matching funds are proposed to be sourced from KEPCO road contributions, these now need to be added into the 2018/19 Operational Plan.

The projects agreed to in November 2017 were:

Description	Estimated Cost (Ex GST)
Wollar Road (Munghorn Gap) Upgrade	\$2,254,113
Bylong Valley Way Upgrade between Upper Bylong and Wollar Road Intersections	\$784,950
Realignment of Wollar Road to proposed intersection location	\$177,751
Intersection upgrade Bylong Valley Way and Wollar Road (incl. asphalt pavement)	\$418,988
TOTAL	\$3,635,802

Despite the Bylong Coal Project not yet receiving consent it is proposed that all the road contributions listed above be added as projects to the 2018/19 Operational Plan.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Council's Community Strategic Plan includes an outcome of connecting our region through goals of providing a high quality road network that is safe and efficient and efficient connection of the region to major towns and cities. These projects contribute towards the Community Strategic Plan.

Council Policies

Not applicable.

Legislation

Not applicable.

Financial implications

The proposed agreement with KEPCO to accept funding to undertake various road improvement works associated with the Bylong Coal Project does not require any funding contribution from Council. All work will be undertaken at full cost recovery.

Longer term these works will expand the road network and Council will be responsible for future renewals. This will increase depreciation which will negatively impact the Operating Performance Ratio of future years, and also negatively impact the Building & Infrastructure Renewal ratio.

Because these works are funded from external contributions to Council infrastructure, the Own Source Revenue ratio will also be negatively impacted in the years that contributions are received towards the work. It should be noted that the expansion/upgrade works will provide an increased level of service to users of this road.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2018/19	-	✘	✓
Future Years	✘	-	✘

Associated Risks

The Black Spot Program and KEPCO funding is not yet secured therefore a risk of changes to the project or the funding source exists.

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

2 July 2018

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

9.3 Community Grant Program Application - Quarter 1

REPORT BY THE GRADUATE ACCOUNTANT - GRANTS & CONTRIBUTIONS
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, FIN300159

RECOMMENDATION

That Council:

1. receive the report by the Graduate Accountant - Grants & Contributions on the Community Grant Program Application - Quarter 1;
2. provide financial assistance to the following applications in accordance with the criteria and guidelines of the Community Grants Program Policy, subject to those requirements being met; and

HammondCare	\$3,000
Mudgee Lions Club	\$2,500
Bungaba Progress Association Inc.	\$1,500
Memorial Hall Committee	\$3,000
Kandos High School	\$250
Kids & Carers Support Group	\$500
4. offer financial assistance of \$250 each to the Mudgee, Gulgong and St Matthew's High Schools towards a presentation day for their students and if accepted in accordance with the policy conditions approve the financial assistance.

Executive summary

This report considers a request for financial assistance under Council's Community Grants Program Policy.

Provision is made in Council's Community Grants Program Policy to provide financial assistance to not-for-profit community-based organisations, groups and individuals that offer a significant contribution to community outcomes and goals as provided in the Towards 2030 Community Plan. All applications were first reviewed for eligibility and then assessed by a panel of three staff against the following criteria relative to the amount of funding requested:

- Degree of benefit to the community aligned with the community plan
- Amount of resident participation
- Level of consultation and collaboration with other local groups
- Organisational capacity to deliver the program or project

Even though an application meets the criteria it may be judged that there is not a significant enough benefit to the community in order to fund or fully fund the request.

A summary of each application is shown below, together with panel recommendation.

Applicant	Project/ Activity	Total Project Cost \$	Funding Request \$	Project Surplus \$	Recommended Funding \$	Total Score out of 12
HammondCare	Experiencing Dementia	5,995	6,195	0	3,000	8
Mudgee Lions Club	Mudgee Lions Twilight Market & Festival	9,000	2,500	0	2,500	12
Bungaba Progress Association Inc.	Blue Springs Bus Service 70 th Anniversary and Community Hall official opening	3,960	2,500	0	1,500	11
Memorial Hall Committee	Gulgong Community Christmas Celebration	5,300	3,500	0	3,000	12
Kandos High School	Kandos High School annual Presentation Day	1,000	1,000	0	250	9
Kids & Carers Support Group	Family Fun Kite Day	152	1,000	1,623	500	3

Disclosure of Interest

Nil.

Detailed report

The information provided below gives more detail on each application and the scoring against the policy criteria. Copies of all application are provided as attachments to the report.

HammondCare

HammondCare proposes to run “Experiencing Dementia” workshop for local aged care and hospital staff later in 2018. The workshop will be facilitated by experienced educators from the Dementia Centre HammondCare.

The workshop offers both a basis for greater empathy and excellent evidence-based information for staff to improve how they work with older people with dementia.

HammondCare request financial assistance to the value of \$6,195.

2 ★★

Benefits and link to the community plan

1 ★

Amount of resident participation

2 ★★

Consultation and collaboration with other local groups

3 ★★★

Capacity to deliver the program or project

RECOMMENDATION

\$3,000

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

Mudgee Lions Club

A combined market and fun festival for the whole community with a festive, Christmas theme – as a community project, the principal focus is on fun and activities for all members of the family, whilst keeping the costs to families as low as possible.

Mudgee Lions Club has sought \$2,500 of financial assistance for this event.

3 ★★★

Benefits and link to the community plan

3 ★★★

Amount of resident participation

3 ★★★

Consultation and collaboration with other local groups

3 ★★★

Capacity to deliver the program or project

RECOMMENDATION

\$2,500

Link to Community Plan: 3.1.1 Support the attraction and retention of a diverse range of businesses and industries.

Link to Community Plan: 1.4.2 Support arts and cultural development across the Region

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

Bungaba Progress Association Inc.

The Blue Springs/Merotherie School bus service will have been in operation for 70 years come September 2018, research indicates that this is the oldest running school bus service west of the Blue Mountains.

To recognise this remarkable historical milestone we are planning to host a celebration that unites past and present community members of all ages for a day of reuniting, reminiscing and toasting. The official opening of the community hall will round out the evening's events.

Bungaba Progress Association are seeking \$2,500 contribution to assist with the event expenses.

1 ★

Benefits and link to the community plan

2 ★★

Amount of resident participation

3 ★★★

Consultation and collaboration with other local groups

3 ★★★

Capacity to deliver the program or project

RECOMMENDATION

\$1,500

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

Link to Community Plan: 1.4.1 Support programs which strengthen the relationships between the range of community groups.

Memorial Hall Committee – Auspiced by Gulgong Men's Shed Inc.

Gulgong Memorial Hall Committee is hosting their annual Christmas Celebration, which is a long-serving community event for Gulgong. This event is aimed at children, with Carnival rides and other activities, and is the only venue in Gulgong where children can have their photos taken with Santa.

The Memorial Hall Committee has requested \$3,500 financial assistance towards this annual event.

3 ★★★

Benefits and link to the community plan

3 ★★★

Amount of resident participation

3 ★★★

Consultation and collaboration with other local groups

3 ★★★

Capacity to deliver the program or project

RECOMMENDATION**\$3,000**

Link to Community Plan: 1.4.1 Support programs which strengthen the relationships between the range of community groups.

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

Kandos High School

Kandos High School's annual end of year presentation day is being hosted in December 2018. It is focused on acknowledging student achievements in both academic and sports.

Kandos High School request \$1,000 financial assistance, which will be used to provide students certificates, trophies, medals, vouchers and apparel.

1 ★*Benefits and link to the community plan***2** ★★*Amount of resident participation***1** ★*Consultation and collaboration with other local groups***3** ★★★*Capacity to deliver the program or project***RECOMMENDATION****\$250**

Link to Community Plan: 1.1.1 Maintain the provision of high quality, accessible community services that meet the needs of our community.

Kids & Carers Support Group Kandos/Rylstone Inc.

The Kandos Kids & Carers Support Group are hosting their annual family kite day in Kandos on Sunday 5th August 2018, with the aim help raise funds towards their respite house in Kandos (45 Dunn Street, Kandos).

The Kids & Carers Support Group are seeking \$1,000 financial assistance towards their event.

1 ★*Benefits and link to the community plan***1** ★*Amount of resident participation***0***Consultation and collaboration with other local groups***2** ★★*Capacity to deliver the program or project*

RECOMMENDATION

\$500

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

Community Plan implications

Theme	Looking After Our Community
Goal	A safe and healthy community
Strategy	Support networks, program and facilities which promote health and wellbeing and encourage healthy lifestyles

Strategic implications

Council Strategies

Not applicable

Council Policies

Recommendations are made under the Community Grants Program Policy.

Legislation

In accordance with the *Local Government Act 1993 Section 356* granting of financial assistance must be approved by a Council resolution.

Financial implications

Funding of \$121,800 is provided in the Operational Plan for Financial Assistance. \$9,160 has already been allocated for ongoing commitments, leaving a balance of \$112,640.

Should Council approve the recommendations in this report, a balance of \$101,890 will remain.

Associated Risks

Not applicable

ALISON CAMERON
GRADUATE ACCOUNTANT - GRANTS & CONTRIBUTIONS

3 July 2018

- Attachments:*
1. Community Grant - HammondCare. (separately attached)
 2. Community Grant - Mudgee Lions Club. (separately attached)
 3. Community Grant - Bungaba Progress Association. (separately attached)
 4. Community Grant - Memorial Hall Committee. (separately attached)
 5. Community Grant - Kandos High School. (separately attached)
 6. Community Grant - Kids & Carers Support Group. (separately attached)

APPROVED FOR SUBMISSION:

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

9.4 Monthly Statement of Investment and Bank Balances as at 30 June 2018

REPORT BY THE ACTING MANAGER FINANCIAL PLANNING
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, FIN300053

RECOMMENDATION

That Council:

1. receive the report by the Acting Manager Financial Planning on the Monthly Statement of Investment and Bank Balances as at 30 June 2018; and
2. note the certification of the Responsible Accounting Officer.

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.

Disclosure of Interest

Nil.

Detailed report

The attachment to this report provides information on the performance of the portfolio and provides a register of all investments held as at 30 June 2018.

As shown in the attachment the portfolio balance increased by \$4.86 million. From this increase \$3.15 million is due to the advance payment on 21 June of the first and second quarter Financial Assistance Grant for the 2018/19 financial year.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Not applicable.

Council Policies

Council's Investments Policy requires a written report each month setting out the entire investment portfolio.

Legislation

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.

Financial implications

Not applicable

Associated Risks

There are inherent risks in investing funds across different platforms, which have the possibility of impacting Council investments. However, the parameters of the Investment Policy have been developed to reduce risk, as much as possible, and are designed to heavily protect capital investment. The higher risk items are that return on investment will not be as high as anticipated, or in very bad economic environments there may be no return on investment – this risk is low, and monthly reporting to Council helps to mitigate investment risk by providing a probity process.

TRISH ELSEGOOD
ACTING MANAGER FINANCIAL PLANNING

NEIL BUNGATE
ACTING CHIEF FINANCIAL OFFICER

4 July 2018

Attachments: 1. Investment Balances 30 June 2018.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

For the month ended: 30/06/2018

Investment Register as at 30 June 2018

Bank Account	Opening Balance	Receipts	Payments	Closing Balance	Overdraft Limit
NAB (Cheque Account)	181,158	22,664,472	22,797,911	47,719	700,000

The bank balances have been reconciled to the General Ledger as at 30/06/2018

Investments	Type	Amount \$'000	Yield %	Maturity Date	Term	Long Term Rating
National Australia Bank	At Call	4,737	1.90%	NA	At Call	AA-
National Australia Bank	Term Deposit	3,000	2.66%	26/09/2018	370	AA-
National Australia Bank	Term Deposit	1,800	2.57%	5/09/2018	322	AA-
National Australia Bank	Term Deposit	1,500	2.54%	14/11/2018	350	AA-
National Australia Bank	Term Deposit	1,000	2.60%	19/12/2018	287	AA-
National Australia Bank	Term Deposit	2,500	2.62%	23/01/2019	301	AA-
National Australia Bank	Term Deposit	1,500	2.90%	29/04/2020	728	AA-
Bankwest	Term Deposit	1,500	2.80%	20/03/2019	266	AA-
Bankwest	Term Deposit	2,000	2.80%	27/03/2019	273	AA-
CBA	Term Deposit	2,000	2.58%	25/07/2018	359	AA-
CBA	Term Deposit	1,000	2.61%	11/07/2018	307	AA-
CBA	Term Deposit	1,000	2.61%	29/08/2018	356	AA-
CBA	Term Deposit	1,000	2.63%	8/08/2018	314	AA-
CBA	Term Deposit	1,500	2.67%	12/12/2018	336	AA-
CBA	Term Deposit	1,500	2.67%	19/12/2018	343	AA-
CBA	Term Deposit	1,000	2.79%	24/04/2019	363	AA-
St George Bank	Term Deposit	1,000	2.61%	11/07/2018	364	AA-
St George Bank	Term Deposit	1,300	2.60%	3/10/2018	322	AA-
St George Bank	Term Deposit	1,500	2.57%	9/01/2019	322	AA-
St George Bank	Term Deposit	2,500	2.70%	20/02/2019	280	AA-

Investments	Type	Amount \$'000	Yield %	Maturity Date	Term	Long Term Rating
Westpac	Term Deposit	1,500	2.71%	7/08/2019	546	AA-
Westpac	Term Deposit	1,000	2.85%	15/04/2020	742	AA-
Westpac	Term Deposit	2,500	2.88%	27/05/2020	728	AA-
Westpac	Term Deposit	2,000	2.76%	12/06/2019	371	AA-
Suncorp Metway	Term Deposit	2,500	2.55%	28/11/2018	357	A+
AMP	Term Deposit	1,500	2.65%	25/10/2018	260	A
AMP	Term Deposit	1,500	2.65%	21/11/2018	273	A
AMP	Term Deposit	1,000	2.80%	6/03/2019	266	A
AMP	Term Deposit	1,000	2.85%	6/03/2019	252	A
ING Bank	Term Deposit	1,000	2.92%	2/10/2019	720	A
ING Bank	Term Deposit	2,500	2.86%	4/03/2020	728	A
Bank of Queensland	Term Deposit	1,300	2.60%	22/08/2018	315	BBB+
Bank of Queensland	Term Deposit	1,000	2.60%	8/08/2018	287	BBB+
Bendigo & Adelaide Bank	Term Deposit	1,300	2.65%	31/10/2018	364	BBB+
Rural Bank	Term Deposit	1,500	2.80%	6/02/2019	280	BBB+
Bank Australia	Term Deposit	1,000	2.80%	25/07/2018	322	BBB
Credit Union Australia	Term Deposit	1,000	2.60%	31/10/2018	343	BBB
Credit Union Australia	Term Deposit	1,000	2.78%	1/05/2019	364	BBB
Defence Bank	Term Deposit	1,500	2.65%	19/09/2018	322	BBB
Members Equity Bank	Term Deposit	2,000	2.56%	17/10/2018	329	BBB
TCorp - Cash Fund	Managed Fund	1,690	*			TCorp (Unrated)
TCorp - Long Term Growth Fund	Managed Fund	1,009	*			TCorp (Unrated)
TCorp - Medium Term Growth Fund	Managed Fund	5,113	*			TCorp (Unrated)
Total Investments		72,249				

* Closing balance is not yet finalised by TCorp and may be subject to change

Limit Compliance as at 30 June 2018

Investments by Institution	Long Term Rating	Amount \$'000	% of Portfolio	
			Actual	Policy Limit
National Australia Bank	AA-	16,037	22%	30%
Bankwest	AA-	3,500	5%	30%
CBA	AA-	9,000	12%	30%
St George Bank	AA-	6,300	9%	30%
Westpac	AA-	7,000	10%	30%
Suncorp Metway	A+	2,500	3%	15%
AMP	A	5,000	7%	15%
ING Bank	A	3,500	5%	15%
Bank of Queensland	BBB+	2,300	3%	5%
Bendigo & Adelaide Bank	BBB+	1,300	2%	5%
Rural Bank	BBB+	1,500	2%	5%
Bank Australia	BBB	1,000	1%	5%
Credit Union Australia	BBB	2,000	3%	5%
Defence Bank	BBB	1,500	2%	5%
Members Equity Bank	BBB	2,000	3%	5%
TCorp - Medium Term Growth Fund	TCorp (Unrated)	5,113	7%	15%
TCorp - Long Term Growth Fund	TCorp (Unrated)	1,009	1%	15%
TCorp - Cash Fund	TCorp (Unrated)	1,690	2%	15%
		72,249	100%	

Investments by S&P Rating	Long Term Rating	Amount \$'000	% of Portfolio	
			Actual	Policy Limit
	AAA to AA-	41,837	58%	100%
	A+ to A-	11,000	15%	40%
	BBB+ to BBB-	11,600	16%	20%
	TCorp (Unrated)	7,812	11%	15%
	Unrated	-	0%	\$ 250,000
		72,249	100%	

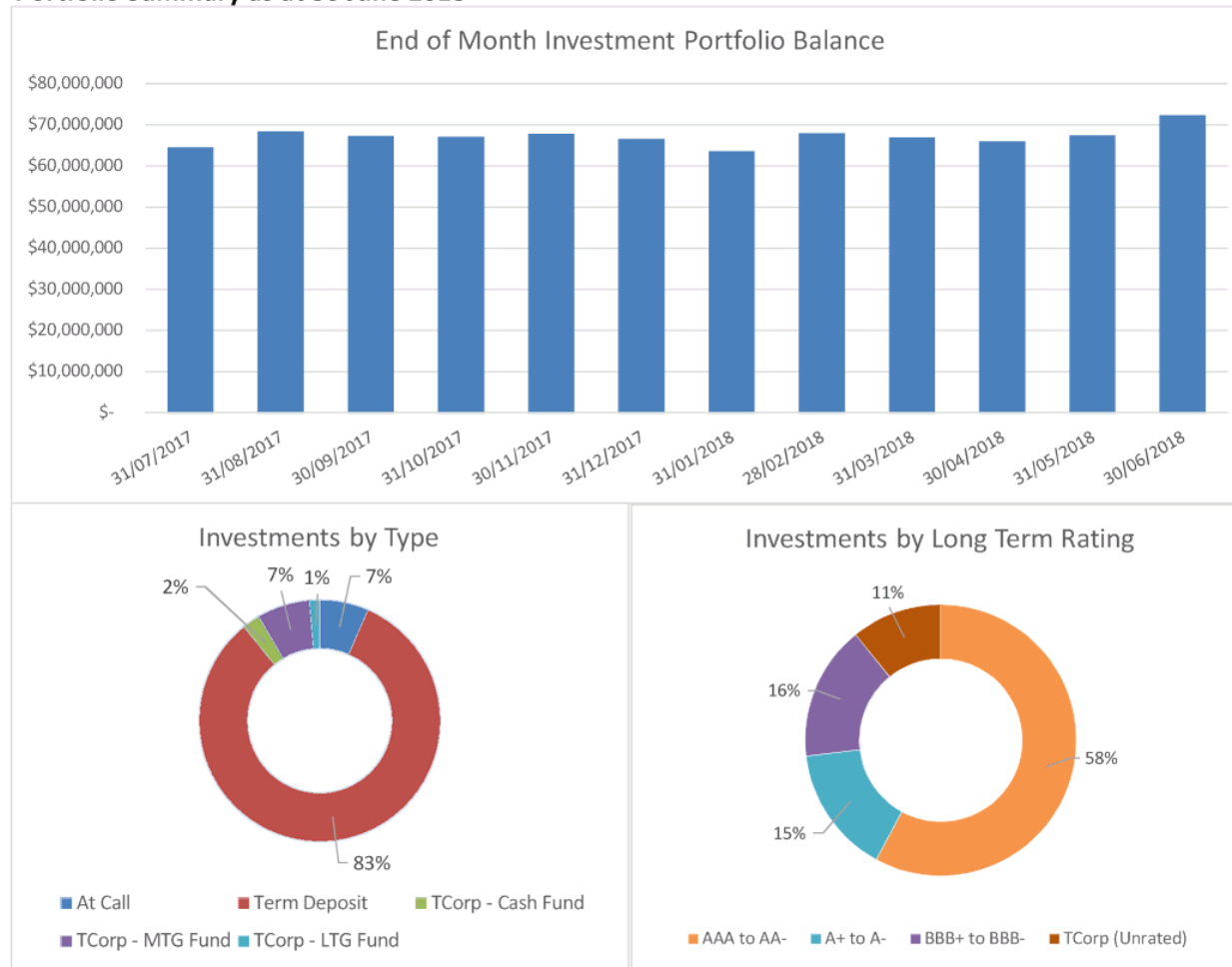
Term to Maturity	Amount \$'000	Actual	% of Portfolio	
			Cumulative Actual	Cumulative Minimum
Less than 3 months	28,149	39%	39%	20%
Between 3 months and 1 year	34,100	47%	86%	40%
Between 1 year and 2 years	10,000	14%	100%	50%
Between 2 years and 4 years	-	0%	100%	85%
More than 5 years	-	0%	100%	0%
	72,249	100%		

Monthly Investment Portfolio Activity

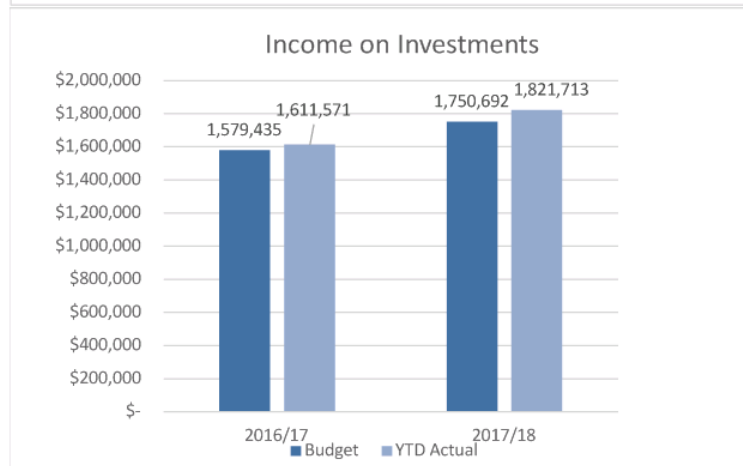
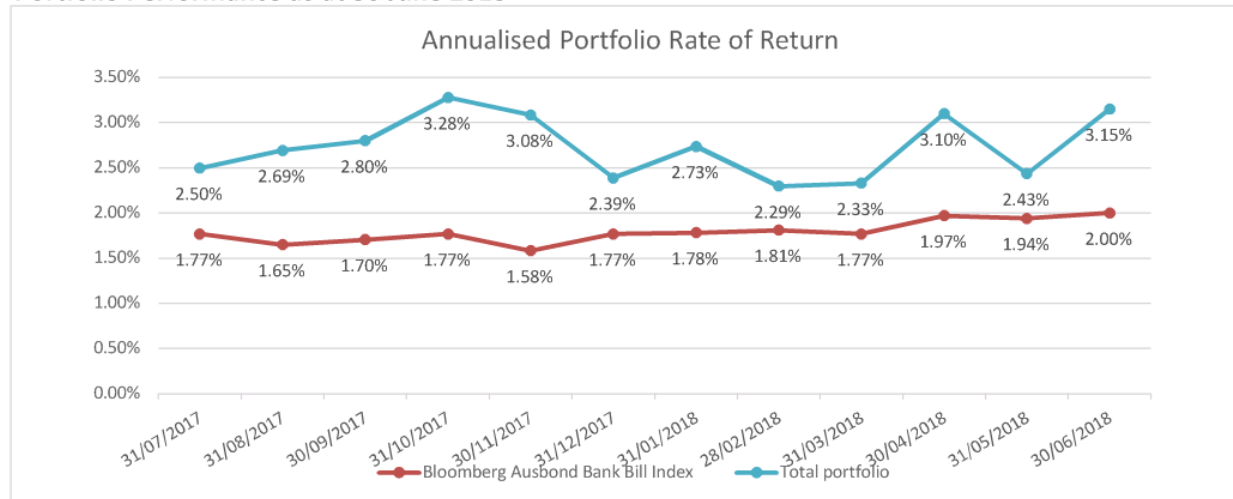
The below table shows investments that have matured and have been redeemed or re-invested, and new investments placed.

Bank Accounts	Opening Balance \$'000	Redeemed Balance \$'000	Re-invested Balance \$'000	Change in interest rate	Change in Term (days)	New Term Rate
NAB (At call account)	3,224		4,737			
TCorp - Cash Fund	1,688		1,690			
TCorp - Long Term Growth Fund	995		1,009			
TCorp - Medium Term Growth Fund	5,082		5,113			
Westpac			2,000	New Deposit		2.76%
CBA	1,700	1,700		Redeemed		
AMP			1,000	New Deposit		2.80%
CBA	2,500	2,500		Redeemed		
AMP			1,000	New Deposit		2.85%
Bankwest			1,500	New Deposit		2.80%
Bankwest			2,000	New Deposit		2.80%
	15,189		20,049			
Investment Portfolio Movement			4,860	Addition		

Portfolio Summary as at 30 June 2018



Portfolio Performance as at 30 June 2018



Item 10: Operations

10.1 Lue and Goolma Upgrade works for Transfer Stations

REPORT BY THE MANAGER ENVIRONMENTAL SERVICES
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, F0570006

RECOMMENDATION

That Council receive and note the report by the Manager Environmental Services on the Lue and Goolma Upgrade works for Transfer Stations.

Executive summary

This report is to details works completed to date with regard Councils resolution of 21st March 2018.

Disclosure of Interest

Nil

Detailed report

In response to Councils Notice of Motion of 21st March 2018 to carry out various upgrade works at the Lue and Goolma Transfer Stations the following works have been undertaken to date;

- a) The existing security camera install project was expanded to allow the installation of new upgraded security cameras at all of Councils Transfer Station sites. This project is nearing completion with only 2 sites to be completed.

The new system of cameras feeds direct to 'The Cloud' allowing footage to be downloaded at any time to view.

- b) A survey has been carried out of all Transfer Station Sites that has resulted in a plan being produced indicating current layout and boundaries, an audit of all existing infrastructure on site and an audit of all existing signage.

From this information standardised signage will be produced for all sites as well as new layout designs that are more logical and user friendly. This will include were appropriate screen plantings. Advice is being sort from a Horticulturalist as to the best type of plants to provide screening considering site conditions etc.

- c) Design and construction of Councils new Transfer Station design at Hargraves has just been completed. This new design will trial a new method of Transfer Station operation and

servicing with an aim to eliminating the majority of issues currently around the Transfer Station Operations. The new design incorporates two 30m³ hooklift bins accessed via a ramp that will allow disposal of all waste materials directly into the bins eliminating the need to place any larger waste on the ground and providing a total of 60m³ storage space as apposed to the 20m³ currently provided by the smaller front lift bins.

The new service method will commence upon delivery of the new hooklift truck and trailer in the coming months.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Live in a clean and environmentally sustainable way
Strategy	Work regionally implement strategies that will enhance environmental outcomes in regards to waste management and minimisation

Strategic implications

Council Strategies

'Not Applicable'

Council Policies

Not Applicable'

Legislation

Not Applicable'

Financial implications

Money is budgeted for upgrade remediation works to Transfer Stations.

Associated Risks

Nil

PETER COTTERILL
MANAGER ENVIRONMENTAL SERVICES

GARRY HEMSWORTH
DIRECTOR OPERATIONS

3 July 2018

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

10.2 Charbon Sewer Reticulation

REPORT BY THE MANAGER, WATER & SEWER
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, SEW200040

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Water & Sewer on the Charbon Sewer Reticulation;**
2. **accept funding of \$1,310,000 from Restart NSW for the Construction of the Charbon Sewage Scheme, including the sewer reticulation, pumping station and rising main to Kandos;**
3. **amend the 2018/19 Operational Plan to reduce the Sewer Augmentation – Charbon & Clandulla expenditure budget by \$715,000 funded by \$358,943 Restart NSW and \$356,057 Sewer Fund Reserve;**
4. **amend the 2019/20 budget within the 2017/18 – 2020/21 Delivery Program to increase the Sewer Augmentation – Charbon & Clandulla expenditure budget by \$905,000, funded by \$358,943 Restart NSW and \$546,057 Sewer Fund Reserve; and**
5. **authorise the General Manager to negotiate final terms and sign all necessary documentation to formally accept the funds from Restart NSW.**

Executive summary

The construction of the Charbon Sewage Scheme has been identified in Council's strategy for improved water and sewer services within Mid-Western Regional Council. This has been assessed by NSW DPI as the first stage of the upgrade of the Rylstone/Kandos Sewerage program.

Council staff have scoped the project in accordance with the Conditions of Consent and Council's requirements and have developed a project cost of \$3,025,000 which will be funded by Restart NSW and Council's Budget.

It is recommended that Council accept the funding and undertake the tender for the construction works.

Goal – Collect and remove sewage from Charbon to improve the treatment process of the sewer.
Strategy – Improve the Water Quality by treating the sewer waste/sewage to acceptable levels for receiving waters of the Cudgegong River.

Disclosure of Interest

Nil

Detailed report

Council identified the need for an improvement in the quality of the effluent discharged from both the Rylstone and Kandos Sewage Plants. Council engaged NSW PW&S in 2007 to develop a Strategy Option for the whole area encompassing Rylstone, Kandos, Charbon and Clandulla. This project is included in the Water and Sewer Strategic Business Plan and IWCM. This scope of works was developed in consultation with Council staff.

The program is the first stage of the overall improvement of the sewerage for this area with other stages to include the upgrading of the treatment process at one central site at Kandos, a transfer system from Rylstone and the sewer reticulation with a transfer station at Clandulla.

Council will start the project with some land acquisitions and easements for the reticulation works at Charbon in August. The design by PW&S will be surveyed to ensure the reticulation will be capable of meeting Council's requirements. Then a tender will be prepared for the construction of the reticulation scheme, a pumping station and transfer main to Kandos.

It is anticipated that construction works will commence in April 2019 and be completed by May 2028.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

This project will contribute to the improvement and upgrade of Council assets.

Council Policies

Not applicable

Legislation

Not applicable

Financial implications

Council currently has within the 2018/19 Operational Plan a total budget of \$2,835,000, which includes \$1,310,000 of grant funding, and the remainder funded from Sewer Fund Reserves. With the revised project cost being \$190,000 higher than the current budget amendments have been recommended for Council to contribute this gap from Sewer Fund Reserves. The timing of expenditure and funding is also proposed to be amended as follows:

2018/19

Funding Source	Current Budget	Proposed Budget	Variance
Sewer Fund Reserves	923,000	566,943	356,057
Restart NSW	792,000	433,057	358,943
Total	1,715,000	1,000,000	715,000

2019/20

Funding Source	Current Budget	Proposed Budget	Variance
Sewer Fund Reserves	602,000	1,148,057	(546,057)
Restart NSW	518,000	876,943	(358,943)
Total	1,120,000	2,025,000	(905,000)

It is expected that the maintenance costs will be comparable with future maintenance estimates and therefore no change to the Operating Performance Ratio. The Own Source Revenue Ratio will decrease due to the external funding and the Building and Infrastructure Renewal will increase due to the installation of the new asset.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2018/19	-	✘	✔
Future Years	-	✘	✔

Associated Risks

Staff will manage the construction project risks such as program and cost. Construction risks associated with wet weather, environmental and approvals from the EPA.

TOM BALDWIN
MANAGER, WATER & SEWER

GARRY HEMSWORTH
DIRECTOR OPERATIONS

4 July 2018

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Item 11: Community

11.1 Library Services - Quarterly Report

REPORT BY THE LIBRARY SERVICES COORDINATOR

TO 18 JULY 2018 ORDINARY MEETING

GOV400066, F0620020

RECOMMENDATION

That Council receive the report by the Library Services Coordinator on the Library Services - Quarterly Report.

Executive summary

This report seeks to inform Council of the activities undertaken by the Mid-Western Regional Council Library Service, under the broad outlines of Customer visits, Library Borrowings, Purchased Items, Strategic Partnerships, and Sustainable Organisation. The Report covers the period January – March 2018.

Disclosure of Interest

Nil

Detailed report

CUSTOMER VISITS, LIBRARY BORROWINGS, & PURCHASED ITEMS

Visits to our Library branches during the January to March 2018 period have increased from the previous quarter.

Quarter	Visits
Jan-Mar 2018	25,621
Oct-Dec 2017	23,561

Across the Library Service, loans of library items have increased when compared to the previous quarter.

Quarter	Loans
Jan-Mar 2018	22,955
Oct-Dec 2017	19,105

Loans from the Mobile Library during Jan-Mar 2018 have increased slightly compared to the previous quarter.

Quarter	Loans
Jan-Mar 2018	1,358
Oct-Dec 2017	1,348

The use of Library resources has increased slightly when compared to the previous quarter.

Quarter	Accesses
Jan-Mar 2018	620
Oct-Dec 2017	198

The Library continues to purchase new items in line with the Collection Development Strategy. These items include audio books, magazines, fiction and nonfiction for adults and children in both print and electronic format, and DVDs.

Quarter	Purchases
Jan-Mar 2018	1631

STRATEGIC PARTNERSHIPS

The Library has partnered with LiveBetter to bring LEGO Play into each branch 1 afternoon per month.

SUSTAINABLE ORGANISATION

Secured a grant from Glencore for the purchase of a new Mobile Library.

The Library continues to engage with the community through regular newspaper features, items in Council's Community Newsletter, and via the Library's Facebook page. An email is sent monthly to subscribing customers and BookGroup members advising them of upcoming events and new items in the Library. A second email is sent to schools and school librarians, which includes posters and instructions for use on a different online library database each month.

Mudgee Library continues to host a monthly Monday History talk, with local historians invited to present on a topic of interest to the wider community. The history talks have generated much local interest.

The Library has also hosted a number of authors, who have spoken on a range of topics.

All branches of the Library hosted a range of well-attended children's craft and storytelling programs during the school holidays. The Summer Reading Program was a success, with numerous children joining, reading and enjoying their summer break in the Library.

The Library continues to support the 'Wrap with Love' program, acting as collection points for knitted squares. Mudgee Library also supports a monthly knitting group at the Library.

During 2018, the Library is facilitating 3 U3A BookGroups and 4 community BookGroups.

Community Plan implications

Theme	Looking After Our Community
Goal	A safe and healthy community
Strategy	Maintain the provision of high quality, accessible community services that meet the needs of our community

Strategic implications

Council Strategies

The Library Services – Quarterly Report has been developed in line with the 2017/18 – 2020/21 Delivery Program.

Not applicable.

Council Policies

The Library Services – Quarterly Report has been developed in line with the Collection Management Strategy.

Not applicable.

Legislation

Not applicable.

Financial implications

Not applicable.

Associated Risks

Not applicable

MICHELLE MAUNDER
LIBRARY SERVICES COORDINATOR

SIMON JONES
DIRECTOR COMMUNITY

22 June 2018

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

11.2 Councillor Representative on NSW Public Libraries Association

REPORT BY THE LIBRARY SERVICES COORDINATOR
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, F0620022

RECOMMENDATION

That Council:

1. **receive the report by the Library Services Coordinator on the Councillor Representative on NSW Public Libraries association; and**
2. **appoint Councillor _____ to the NSW Public Libraries Association as its authorised Elected Representative until the end of August 2020.**

Executive summary

Correspondence has been received from the NSW Public Libraries Association (NSWPLA), seeking advice as to who Council has appointed as its Elected Representative to the Association. The Association rules entitle Councillor representatives to vote at its Annual General Meeting, held together with the Annual Conference in November, and to stand for a position on the Executive.

Councillor representatives are also encouraged to attend Zone meetings of the Association. The Central West Zone generally holds 2 meetings per year, in March and October, with irregular special meetings, if required.

Disclosure of Interest

Nil

Detailed report

The New South Wales Public Libraries Association (NSWPLA) is the peak body for public libraries in NSW. The organisation advocates for the public library cause, provides relevant information to stakeholders, fosters cooperation and collaboration, and strengthens the public library network.

NSWPLA depends on the support and engagement of Councils across NSW for its strength and prosperity. Councillor engagement in particular is the cornerstone of the Association's capacity. As an Association member, MidWestern Regional Council is entitled to have three representatives to the Association.

- An Elected Representative: Councillors – who can lobby government and make political comment, thus strengthening funding campaigns. They are also key to strengthening the partnership between the Association with Local Government NSW (LGNSW)
- An Administration Representative: who provides the link from the Association into Council, and can inform Council of the work of the Association
- A Library Manager: who provides the professional advice that forms the basis for the work of the Association.

Currently the Library Services Coordinator is the only representative from MidWestern Regional Council, and this report seeks a nomination for the Elected Representative position from a current Councillor.

The Elected Representative role will act as a liaison with the NSWPLA for MidWestern Regional Council. This will ensure that libraries, and their role in vibrant, healthy communities, are part of regular discussion.

The NSWPLA is committed to continue lobbying for significantly increased State Government funding, and will shortly be launching a campaign to support the 368 public libraries provided by Councils across the state in the leadup to the 2019 state election.

In addition, there will also be opportunities for the Elected Representative to attend the Public Libraries Central West Zone meetings. The Central West Zone consists of 26 member Councils, with regular meetings held to discuss contemporary library topics and issues, investigate collaboration opportunities, and review general library business.

These meetings are a great opportunity for Library Managers and Elected Representatives to network, forge strategic partnerships, and work collaboratively.

Community Plan implications

Theme	Looking After Our Community
Goal	A safe and healthy community
Strategy	Maintain the provision of high quality, accessible community services that meet the needs of our community

Strategic implications

Council Strategies

Not applicable

Council Policies

Not applicable

Legislation

Not applicable

Financial implications

Nil

Associated Risks

Nil

MICHELLE MAUNDER
LIBRARY SERVICES COORDINATOR

SIMON JONES
DIRECTOR COMMUNITY

3 July 2018

Attachments: 1. NSWPLA - Request for Elected Representative to Association.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER




Executive Officer: Lynne Makin
PO Box 172 Albury NSW 2640
Tel 02 6056 0400 • Fax 02 6056 0500 • Mob 0418 208 292
lmakin@nswpla.org.au • www.nswpla.org.au

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



Dear General Manager,

Thank you for supporting the New South Wales Public Libraries Association through your Council's membership of the organisation. NSWPLA depends on the support and engagement of Councils across NSW for its strength and prosperity. Councillor engagement in particular is a cornerstone of the Association's capacity. As a member - your council is entitled to have three representatives to the Association.

- An Elected representatives (Councillors – who can lobby government and make political comment and thus strengthen funding campaigns. They are also a key to strengthening the partnership of the association with Local Government New South Wales (LGNSW).
- An Administration representatives – who provide the link from the association into Council and can inform council of the work of the association
- A Library Managers – who provide the professional advice that forms the basis for the work of the association.

Currently, the NSWPLA is the peak body for public libraries across NSW. The role of NSWPLA is to:

- advocate effectively and initiate partnerships
- champion the public library cause and build trust and support
- provide relevant information and foster cooperation and collaboration
- strengthen the public library network

To date, the Association has not been advised of the NSWPLA delegate(s) that have been appointed by your Council. The NSWPLA is committed to continue lobbying for significantly increased State Government funding and will shortly be launching a campaign to support the 368 public libraries provided by Councils across the state in the run up to the 2019 state election. Provision of the above information will enable us to be able to reach across all levels in all Councils across the state when the campaign begins in earnest.

To facilitate the provision of information and updates to your Council on the activities of NSWPLA please complete the enclosed form and return to The Executive Officer, NSWPLA, PO Box 172, ALBURY. NSW. 2640 or via email to lmakin@nswpla.org.au Thank you in advance for your assistance and please do not hesitate to contact either myself or the Association Vice-Presidents (see contact details below) for further discussion.

Kind regards,

Dallas Tout

Cr Dallas Tout
President
0427 448 525
tout.dallas@wagga.nes.gov.au

Cr Romola Hollywood
Vice President
0414 195983
rhollywood@bmcc.nsw.gov.au

Cr Les Lambert
Vice President
0407 314 537
cr.lambert@narromine.nsw.gov.au



MEMBERSHIP OF NSW PUBLIC LIBRARIES ASSOCIATION
(incorporated under the Associations Incorporation Act 2009)

PART ONE – COUNCIL DETAILS

.....
[Full Council name]

.....
[Postal Address]

.....

PART TWO – DELEGATE INFORMATION

a) Authorised Elected Representative:

.....
[Full name of authorised representative]

email address:

Contact phone number

b) Authorised Administrative Officer Representative:

.....
[Full name of authorised representative]

email address:

Contact phone number

c) Authorised Library Representative:

.....
{Full name of authorised representative}

Email address:

Contact phone number

Item 12: Reports from Committees

12.1 Gulgong Memorial Hall Committee meeting 10 April 2018

REPORT BY THE DIRECTOR COMMUNITY

TO 18 JULY 2018 ORDINARY MEETING

GOV400066, A0100024

RECOMMENDATION

That Council:

1. receive the report by the Director Community on the Gulgong Memorial Hall Committee meeting 10 April 2018; and
2. note the minutes from the Gulgong Memorial Hall Committee meeting held 10 April, 2018.

Executive summary

The purpose of this report is to advise Council of the considerations and recommendations of the Gulgong Memorial Hall Committee meeting held on 10 April, 2018.

Disclosure of Interest

Nil.

Detailed report

The Gulgong Memorial Hall met on the 10 April 2018 as part of their ongoing monthly meetings.

Community Plan implications

Theme	Looking After Our Community
Goal	Meet the diverse needs of the community and create a sense of belonging
Strategy	Provide equitable access to a range of places and spaces for all in the community

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Not Applicable.

Legislation

The Gulgong Memorial Hall Committee is operating under Section 355 of the Local Government Act 1993, which allows it to exercise a function of Council.

Financial implications

Not Applicable

Associated Risks

Not Applicable.

SIMON JONES
DIRECTOR COMMUNITY

14 June 2018

Attachments: 1. Gulgong Memorial Hall Committee meeting 10 April 2018.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Gulgong Memorial Hall Meeting 10 April 2018

Present: Chris Hannaford, Pauline Hannaford, Ray Thackeray, Maureen Trgo, Percy Thompson, Toni Morrison

Apologies: Bill Clifford, Cheryl Vassel. Charles Vassel

Minutes of last meeting read moved Pauline Hannaford, 2nd Ray Thackeray

Arising - Toni Morrison accepted as Gulgong Arts Council Representative on the Gulgong Memorial Hall Committee.

Arranged emails from Council member to be sent directly to Secretary Gulgong Memorial Hall Committee. Secretary to forward emails to Toni Morrison. Email address – artcouncilgulgong@hotmail.com

No ladder at present but is still an urgent matter.

Reiterate to Council- Bottom exit door to the bottom Dressing Room needs correct Safety Exit Doors fitted.

Incoming-

We have a printed copy of the Council code of Practice for 355 Committees.

Received from Council – consent clearance forms for permission for photos and/or video images of people put on Council Web site.

Ray and Chris have attended to the Project Evaluation acquittal for last year's Christmas party and apply for this year's funds to be funded in second half of this year.

Ray has completed the connections (supplied by Gulgong Mens' Shed) to the Sound System. Ray has also fixed the hole in the Storeroom door. Last coat on the door will be done soon.

Thanks to Council for the cleaning of the upper area of the Memorial Hall.

Meeting held 2 weeks ago between Paul Blackwell and the Gulgong Arts Council has come to an agreement for the picture rail to be put up in the hall.

Christmas Party

Continuing with the same format as last year including tattoos and face painting. Disappointed that there were no photos from the Christmas party in the Gossip or on the Council web site.

Council doesn't have a Certificate of Appreciation with a Mid Western Regional Council logo on it. Memorial Hall Committee can design one with the MWRC logo on it. Should we put up a competition to design a Certificate of Appreciation with the MWRC logo on it (this doesn't have to be approved by Council) perhaps aimed towards the primary school age group. Prize maybe –1st \$75 2nd \$25 Moved Percy Thompson 2nd Pauline Hannaford.

Aussie A Model Ford being held 12th & 13th May Supported by Gulgong Vintage and Classic Motorcycle Club needs chairs and tables for a trivia night- agreed to. Unfortunately they are unable to use the Sound System as the Eisteddfod is still running and they have priority over the sound system.

Meeting closed 4.50pm

Next Meeting 5th June 2018(1st Tuesday) owing to the Henry Lawson Long Weekend.

12.2 Mudgee Sports Council Meeting 29 May 2018

REPORT BY THE DIRECTOR COMMUNITY
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0360013

RECOMMENDATION

That Council:

1. **receive the report by the Director Community on the Mudgee Sports Council Meeting 29 May 2018; and**
2. **note the minutes of the Mudgee Sports Council meeting held 19 May, 2018.**

Executive summary

The purpose of this report is to advise Council of the considerations and recommendations of the Mudgee Sports Council meeting held 19 May 2018.

Disclosure of Interest

Nil.

Detailed report

The Mudgee Sports Council receives an updated Works Request and Matters in Progress report together with updated financial details each month prior to their meetings.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Not Applicable.

Legislation

The Mudgee Sports Council is operating under Section 355 of the Local Government Act (1993), which allows it to exercise a function of Council.

Financial implications

Not Applicable.

Associated Risks

Nil.

SIMON JONES
DIRECTOR COMMUNITY

14 June 2018

Attachments: 1. Mudgee Sports Council Meeting 29 May 2018.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Mudgee Sports Council Minutes**Netball Clubhouse****29-05-2018****18:04**

Present: P. Mitchell (Soccer), G. Robinson, K. Marshall (Netball), K. Bennetts (Little A's), T. Kane MWRC, P. Blackwell MWRC), M. Collins(Hockey), N. Richards (Hockey) K. Lang (Touch, Snr League), R. Smith (Rugby)& J.Johnson (Softball).

Apologies : Councillor J. O'Neill, L. Humphries (Rugby), J. Fleming (Soccer) Apologies moved and accepted M. Collins, seconded K. Bennetts

Minutes from previous meeting read as true and correct. After amendment which should read Hockey asking for 1 field being water based in stage 2 not 2 fields as written, email was will also be attached to previous minutes. Moved K. Bennetts seconded M. Collins.

Business arising from previous meeting:

1. Nil.

Treasurer's Report:

1. As at meeting there is \$78873.05 balance as presented by council.
2. Awaiting Sports Council fees from Softball.

Moved G. Robinson, seconded K. Marshall

Secretary Report:

1. Request for funding for 1 Long Jump run up from Little Athletics this request is to replace the artificial grass surface with a cushioned surface to prevent injuries, Little A's have received 2 grants from local coal mines, and with 3 run ups needs assistance with the 3rd. **Motion that Mudgee Little Athletics be provided with a grant for \$3000 to be put towards the resurfacing of long jump run ups.** Moved K. Bennetts, seconded K. Marshall motion carried.

Works Request Updates:

1. Lift fixed at Glen Willow, lift serviced, and a procedure for monitoring of emergencies is now in place.
2. Top dressing completed at Walkers Oval.
3. Bull on Netball courts has been sorted, if animals on grounds again please notify council immediately so that the animal can be removed and the escapee can be logged.
4. Concrete at Glen Willow will be completed after season finishes.
5. Painting of pedestrian area Glen Willow ongoing.
6. Speed humps being installed into Soccer/Touch driveway.
7. Last Saturday carpark full at Soccer, it was very dangerous with parents and children trying to cross the road will need to rethink traffic flows when Junior League, Rugby and Hockey move to Glen Willow.

Works Requests:

1. Remarking carpark at Netball.
2. Lock loose on hallway door near the canteen cool room at Soccer/Touch amenities.
3. Light cover broken amenities Soccer/Touch.

4. Holes in drain in front of BBQ area at Soccer/Touch need to be made bigger, water takes ages to drain away.
5. Damage to away change room ceiling, a hole punched in ceiling at Soccer/Touch amenities.

General Business:

1. Reminder to all clubs to get their nominations in for the sports awards whilst fresh in your minds.
2. List of cleaning/Quote to be brought to next meeting.

Meeting closed 18:30

Next meeting

26th June 2018 at 6pm

Netball clubhouse

12.3 Heritage Committee Meeting Minutes 5 June 2018

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, DEV700020

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Strategic Planning on the Heritage Committee Meeting Minutes 5 June 2018; and**
2. **note the minutes of the 5 June 2018 Heritage Committee Meeting.**

Executive summary

The purpose of this report is to advise Council of the considerations of the Heritage Committee meeting held on 5 June 2018.

Disclosure of Interest

Nil.

Detailed report

A copy of the minutes from the 5 June 2018 Heritage Committee meeting are attached to this report.

There were two recommendations from the Heritage Committee Meeting, which are discussed below.

Recommendation 1 from the Committee

Given the importance and significance of the designated conservation zones within the MWRC area, it is essential that these zones be constantly maintained and enhanced. Given that it is the responsibility of MWRC to monitor and approve all work and development within its LGA, it is therefore the recommendation of the MWRC Heritage Committee that in compliance with the DCP and in accordance with best practice in conservation management and where appropriate consult with the Development Directorate to determine when further consideration is required.

Staff Comment

Council already has an established operational practice of engagement between Directorates. In the case of works undertaken within heritage conservation areas, the Operations Directorate continually engages with the Development Directorate to determine if the proposed works require a form of consent or are exempt from requiring consent under the relevant legislation.

Council engages a Heritage Advisor to provide specialist advice utilised in the planning of works and assessment of development applications as required. The Heritage Advisor resource is utilised by Council's Operations Directorate as required.

As existing practices ensure that relevant approvals are obtained and compliance with local controls is met, this recommendation is not required.

Recommendation 2 from the Committee

Council to undertake an audit of existing parking signage with the view to remove excess unnecessary signage and redesign where possible.

Staff Comment

There is no budget in place to undertake this project. Further information would be required to estimate the costs involved and extent of work. The Heritage Committee could be invited to undertake the audit if they believe it is high priority and there is capacity to do so.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Respect and enhance the historic character of our Region and heritage value of our towns

Strategic implications

Council Strategies

Conducting Heritage Committee Meetings is consistent with Council's Heritage Strategy.

Council Policies

Not applicable.

Legislation

The Heritage Committee is operating under Section 355 of the Local Government Act 1993, which allows it to exercise a function of Council.

Financial implications

Not applicable.

Associated Risks

Not applicable.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

2 July 2018

Attachments: 1. 5 June 2018 Heritage Committee Minutes.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

**HERITAGE COMMITTEE MEETING MINUTES
STABLES MEETING ROOM
5 JUNE 2018 9.30AM**

1. WELCOME and PRESENT

Chris Pearson, Barbara Hickson, David Mort, Peter Monaghan, John Bentley, Councillor
Paine Staff: Sarah Armstrong

2. APOLOGIES

Virginia Hollister, Councillor Holden.

3. CONFIRMATION OF PREVIOUS MINUTES

April meeting minutes, moved – John Bentley, second – Peter Monaghan.

4. MATTERS IN PROGRESS

Matter	Responsible	Date Commenced / Matter Raised	Progress
Local Heritage Grants.	Development Directorate Committee consideration		Acquittals submitted by Council to Office of Environment and Heritage May 2018. 2018-19 Local Heritage Grants open July 2018. Council staff to prepare new application forms and flyers for distributions within the community.
Heritage Conservation Fact Sheet.	Development Directorate	September 2016	Pending approval of Development Director. The fact sheet forms part of a suite of fact sheets. First distribution will be to landowners of heritage items, a cover letter will accompany the fact sheet.

Matter	Responsible	Date Commenced / Matter Raised	Progress
Heritage Advisor.	Development Directorate		Funded until 30 June 2019. Peter questioned date, confirmed the position is funded until June 2019. Staff will apply for further funding (when open).
Review of the Rylstone Main Street Study	Committee Members provided input into grant application.	September 2016	OE&H Grant and Council Community Plan Proposal.
DCP Review – inclusion of Heritage Conservation provisions.	Development Directorate Committee Members to review and provide feedback.		OE&H Grant and Council Community Plan Proposal. Heritage Conservation Area Statements of Significance prepared. Council staff have engaged the Heritage Advisor to prepare a draft of heritage conservation provisions for the DCP, draft to be provided to Council end June 2018.
Proposed Heritage Conservation Area for Kandos	Sub committee	June 2017	Project paused.
Heritage Near Me funding application 'Snapshot of our Heritage'	Development Directorate	May 2018.	Project Plan submitted May 2018. Anticipate Council will be advised the outcome of the application June / July 2018.

5. GENERAL BUSINESS

- 5.1 To keep updated communication between meetings via email is encouraged, Committee members to confirm that email addresses can be shared. Review the every second meeting towards the end of the year. It should be noted this will require a change to the Committees Terms of Reference.
- 5.2 Works within Heritage Conservation Areas – below recommendation put forward by David Warner

For all works carried out by MWRC personnel within the MWRC designated conservation zones

Given the importance and significance of the designated conservation zones within the MWRC area, it is essential that these zones be constantly maintained and enhanced. Given that it is the responsibility of MWRC to monitor and approve all work and development within its LGA, it is therefore the recommendation of the MWRC Heritage Committee that ALL works, both minor and major, that are to be carried out by MWRC personnel within the conservation zones are to be approved by the Manager of Planning prior to their commencement. Such works are then to be inspected on completion in order to ensure full compliance with the heritage provisions of the current LEP.

The wording of the recommendation was questioned. Peter Monaghan questioned the terminology of 'enhanced' and removal of 'personnel'. It was clarified that when works are done that they are done in a manner to enhance the heritage conservation area.

COMMITTEE RECOMMENDATION -

Given the importance and significance of the designated conservation zones within the MWRC area, it is essential that these zones be constantly maintained and enhanced. Given that it is the responsibility of MWRC to monitor and approve all work and development within its LGA, it is therefore the recommendation of the MWRC Heritage Committee that in compliance with the DCP and in accordance with best practice in conservation management and where appropriate consult with the Development Directorate to determine when further consideration is required.

Moved - Chris Pearson, second - Peter Monaghan.

The potential for the Manager of Works to attend a committee meeting? Sarah Armstrong to explore this option.

- 5.3 Parking / Traffic signage within Heritage Conservation Areas – Chris Pearson / David Warner

Parking signage 'room to move'. The committee suggested Council contact Office of Environment and Heritage to explore this option.

COMMITTEE RECOMMENDATION -

Council to undertake an audit of parking existing signage with the view to remove excess unnecessary signage and redesign where possible.

Moved – Chris, Second – Barbara

- 5.4 Update on the Regent and former Cudgegong Shire

Staff provided an update on these projects.

- 5.5 29 Louee Street iron lattice approx \$6000 does development application cover the verandah restoration.

Peter Monaghan provided an update.

6. CORRESPONDENCE

Nil.

Meet closed – 11am

Next meeting – Tuesday 3 July 2018.

12.4 Local Traffic Committee Meeting - 15 June 2018

REPORT BY THE ADMINISTRATION OFFICER, OPERATIONS
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0100009

RECOMMENDATION

That Council:

1. receive the report by the Administration Officer, Operations on the Local Traffic Committee Meeting - 15 June 2018;
 2. approve the event – ‘Mudgee High School Rainbow Day 2018 Thursday 27 September 2018 – be classified as a Class 3 event under the “Guide to Traffic and Transport Management for Special Events Version 3.4” and be approved with the following conditions:
 - a. The Event is to be undertaken in accordance with the requirements of the attached Special Events Transport Management Plan (TMP), Risk Assessment and Traffic Control Plans;
 - b. The Event is to be undertaken in accordance with the requirements of the NSW Police Force approval documentation
 - c. Controlling noise as required by the Protection Of The Environment Operations (Noise Control) Regulation 2000;
 - d. Reimbursing Council for the cost of damage repairs;
 - e. Complying with Council's Law Enforcement Officers' reasonable directives;
 - f. Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;
 - g. Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;
 - h. The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;
 - i. Maintain a four-metre wide emergency vehicle lane;
 - j. Advertise the proposed event in local newspapers with relevant information at least two weeks prior to the date;
 - k. The organiser is to notify NSW Fire and Rescue and the NSW Ambulance Service of the event.
 - l. The event is to be covered under the submitted public liability insurance policy in the amount of at least \$20 million. Council, NSW Police and the RMS are indemnified against any possible action as the result of the event;
 - m. The event is to be undertaken in accordance with the traffic control contingency plan, to ensure additional authorised traffic controllers are not required at short notice;
 - n. All people interacting with vehicles are to wear reflective high visibility vests.
 - o. The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review
 3. approve the event – ‘*Flavours of Mudgee Street Festival*’, 22 September 2018 – be classified as a Class 2 Event under the *Guide to Traffic and Transport Management for Special Events Version 3.4* and proceeds with the following conditions:
-

- a. **A Special Events Transport Management Plan (TMP), is to be prepared in accordance with the *Guide to Traffic and Transport Management for Special Events Version 3.4* and submitted to and approved by Council prior to the event;**
- b. **Events are to be undertaken in accordance with the requirements of the NSW Police Force with their approval documentation forwarded to Council for notation;**
- c. **Controlling noise as required by the Protection of The Environment Operations (Noise Control) Regulation 2000;**
- d. **Reimbursing Council for the cost of damage repairs;**
- e. **Complying with Council's Law Enforcement Officers' reasonable directives;**
- f. **Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;**
- g. **Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;**
- h. **The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;**
- i. **Maintain a four-metre wide emergency vehicle lane;**
- j. **Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;**
- k. **The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review; and**
- l. **The organiser is to notify NSW Fire and Rescue and the NSW Ambulance Service of the event;**

4. That Council install a "STOP" Sign on Quarry Road at the intersection with Pipeclay Lane.

Executive summary

The purpose of this report is to advise Council and seek resolution on the recommendations of the Local Traffic Committee (LTC).

NSW Police were not present at this meeting but a quorum was reached to allow the meeting to go ahead. The NSW Police was sent the minutes of the meeting afterwards and Chief Inspector Jeff Boon approved the minutes.

Disclosure of Interest

There are no disclosure of interest associated with this report.

Detailed report

The Local Traffic Committee meeting was held on 15 June 2018. There were two event related matters discussed:

- Mudgee High School Rainbow Day – 27 September 2018
- Flavours of Mudgee – 22 September 2018

There was one non – event related matters discussed:

- Install a 'Stop' sign on Quarry Road at the intersection of Pipeclay Lane

The minutes and comments for the LTC meeting are attached.

Community Plan implications

Theme	Good Governance
Goal	Good communications and engagement
Strategy	Improve communications between Council and the community and create awareness of Council's roles and responsibilities

Strategic implications

Council Strategies

Facilitating the Local Traffic Committee is covered in Council's Delivery Program, Strategy 4.1.1. Pedestrian Access Mobility Plan

Council Policies

Not Applicable

Legislation

Roads Act 1993
Roads Transport Act 2013
Road Rules 2014

Financial implications

Not Applicable

Associated Risks

Not Applicable

MICHELLE NEILSON
ADMINISTRATION OFFICER, OPERATIONS

GARRY HEMSWORTH
DIRECTOR OPERATIONS

2 July 2018

Attachments: 1. Minutes - June 2018 Local Traffic Committee.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Mid-Western Regional Council

Date: 15 June 2018

Minutes of the Local Traffic Committee

Held at the Operations Meeting Room, 54 Depot Rd Mudgee
on 15 June 2018.

Present	Daniel Buckens MWRC – (Chairperson), Cr Alex Karavas (Councillor), Phillip Blackman (Members Representative), Sharon Grierson (RMS), Garry Hemsworth (MWRC),
Apologies	Jillian Gibson– NSW Police, Chief Inspector Jeff Boon (NSW Police),
Secretary	Michelle Neilsen (MWRC)

The LTC meeting commenced at 9.30am.

MINUTES OF PREVIOUS MEETING

RECOMMENDATION

There were no minutes to the May meeting as it did not take place due to lack of reports to be presented to LTC. A report was submitted for Council approval at the Council meeting to be held on 20 June 2018 to an amendment of the TCP for the Small Fields Day event.

2

MID-WESTERN REGIONAL COUNCIL | LOCAL TRAFFIC COMMITTEE - 15 JUNE 2018

MATTERS IN PROGRESS

SUBJECT	RES NO. & DATE	RESOLUTION	ACTION
Mudgee Town Pedestrian Crossings	20 Jan LTC Meeting	Council conduct an audit on all crossings, place counts on Market and Church Street and provide a report to the committee with findings and suggestions for improvements	Audit in the process. Survey will be done and lighting will be done also. Progressing well.
Caravans on Mayne Street Gulgong	20 Jan LTC Meeting	Council provide a proposal of what options may be available. Council to table an item at Gulgong Access Committee with the proposal	Council has a study that was undertaken in 2007 that was never reviewed by the committee or endorsed by Council.
Disabled parking Kandos IGA	28 April 2017	RMS and Council to meet onsite and discuss viable options. Provide report to June meeting.	Further investigations to be undertaken as part of the updated PAMP. Will be going to Council meeting. Information to come to next meeting.
Pedestrian Crossing Lewis Street intersection	16 February	Lewis Street and Mortimer intersection pedestrian crossing is too close for that intersection	Lewis Street still to be inspected as too close to the intersection.
Perry St Parking Issues	15 June 2018	To monitor the parking issues that surround Mudgee High School	Perry Street to be monitored in the afternoon at the time of school finishing.

PAST EVENT DEBRIEF

EVENT	
Nothing received from recent events	

CALENDAR OF EVENTS

MONTH	Date	Comments
FEBRUARY		
	24 February 2018	
MARCH		
	17 March 2018	
APRIL		
	25 April 2018	
MAY		
JUNE		
	2-6 June 2018	
JULY		
	13 th & 14 th July 2018	
AUGUST		

SEPTEMBER	Date	Comments
Flavours of Mudgee Campervan and Motor Home Club of Australia SOLOS Rally Rainbow Day	22 September 2018 24 Sept to 1 Oct 27 September 2018	Does not need LTC Approval as it is a Category 4

Red = Unapproved
 Green = Approved

18/013 INSTALLATION OF "STOP" SIGN AT THE INTERSECTION OF QUARRY ROAD AND PIPECLAY LANE

RECOMMENDATION

That Council install a "STOP" Sign on Quarry Road at the intersection with Pipeclay Lane

MOTION: Mr Phillip Blackman / Sharon Grierson

That the above recommendation be accepted and approved.

18/014 MUDGEE HIGH SCHOOL RAINBOW DAY- 27 SEPTEMBER 2018

RECOMMENDATION

That the event – "Mudgee High School Rainbow Day 2018 Thursday 27 September 2018 – be classified as a Class 3 event under the "Guide to Traffic and Transport Management for Special Events Version 3.4" and be approved with the following conditions:

- a. The Event is to be undertaken in accordance with the requirements of the attached Special Events Transport Management Plan (TMP), Risk Assessment and Traffic Control Plans;
- b. The Event is to be undertaken in accordance with the requirements of the NSW Police Force approval documentation
- c. Controlling noise as required by the Protection Of The Environment Operations (Noise Control) Regulation 2000;
- d. Reimbursing Council for the cost of damage repairs;
- e. Complying with Council's Law Enforcement Officers' reasonable directives;
- f. Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;
- g. Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;
- h. The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;
- i. Maintain a four-metre wide emergency vehicle lane;
- j. Advertise the proposed event in local newspapers with relevant information at least two weeks prior to the date;

4

MID-WESTERN REGIONAL COUNCIL | LOCAL TRAFFIC COMMITTEE - 15 JUNE 2018

- k. The organiser is to notify NSW Fire and Rescue and the NSW Ambulance Service of the event.
- l. The event is to be covered under the submitted public liability insurance policy in the amount of at least \$20 million. Council, NSW Police and the RMS are indemnified against any possible action as the result of the event;
- m. The event is to be undertaken in accordance with the traffic control contingency plan, to ensure additional authorised traffic controllers are not required at short notice;
- n. All people interacting with vehicles are to wear reflective high visibility vests.
- o. The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review

MOTION: Councillor Alex Karavas / Phillip Blackman

That the above recommendation be accepted and approved subject to RMS receiving information about TCP on rural road on Ulan Rd between Short St roundabout and Cudgegong Bridge.

18/015 FLAVOURS OF MUDGEES STREET FESTIVAL - 22 SEPTEMBER 2018

RECOMMENDATION

That the event – *Flavours of Mudgees Street Festival, 22 September 2018* – be classified as a Class 2 Event under the *Guide to Traffic and Transport Management for Special Events Version 3.4* and proceeds with the following conditions:

- a. A Special Events Transport Management Plan (TMP), is to be prepared in accordance with the *Guide to Traffic and Transport Management for Special Events Version 3.4* and submitted to and approved by Council prior to the event;
- b. Events are to be undertaken in accordance with the requirements of the NSW Police Force with their approval documentation forwarded to Council for notation;
- c. Controlling noise as required by the Protection of The Environment Operations (Noise Control) Regulation 2000;
- d. Reimbursing Council for the cost of damage repairs;
- e. Complying with Council's Law Enforcement Officers' reasonable directives;
- f. Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;
- g. Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;
- h. The event convener is to notify all affected businesses and residents adjacent to the proposed closure indicating the period during which their accesses will be affected. Such notification is to be in writing;
- i. Maintain a four-metre wide emergency vehicle lane;
- j. Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;
- k. The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review; and
- l. The organiser is to notify NSW Fire and Rescue and the NSW Ambulance Service of the event;

MOTION: Councillor Alex Karavas / Phillip Blackman

That the above recommendation be accepted and approved.

18/016 GENERAL BUSINESS

PERRY STREET PARKING ISSUES

Email received from the Principle of Mudgee High School regarding parking issues on Perry Street. See Attachment 1.

Continue to monitor this. Move to matter of progress.

MAYNE AND HERBERT STREET

Pedestrian Crossing issues at the intersection of Herbert and Mayne Street Gulgong. See hand out. Noted in meeting. Not a Council issue.

RIDE AGAINST CANCER

Charity organised by Mudgee Lions Club. See Attachment 2-6
Include in the TCP in the Minutes of this meeting. Should come to the next Local Traffic Committee meeting for approval.

Nil

CLOSURE

There being no further business the meeting concluded at 10.39.

Next meeting Friday 20 July 2018

12.5 Mudgee Sports Council Meeting 26 June 2018

REPORT BY THE DIRECTOR COMMUNITY
TO 18 JULY 2018 ORDINARY MEETING
GOV400066, A0360013

RECOMMENDATION

That Council:

1. receive the report by the Director Community on the Mudgee Sports Council Meeting 26 June 2018; and
2. note the minutes of the Mudgee Sports Council meeting held 26 June 2018.

Executive summary

The purpose of this report is to advise Council of the considerations and recommendations of the Mudgee Sports Council meeting held 26 June, 2018.

Disclosure of Interest

Nil.

Detailed report

The Mudgee Sports Council receives an updated Works Request and Matters in Progress report together with updated financial details each month prior to their meetings.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Not Applicable.

Legislation

The Mudgee Sports Council is operating under Section 255 of the Local Government Act (1993), which allows it to exercise a function of Council.

Financial implications

Not Applicable.

Associated Risks

Nil.

SIMON JONES
DIRECTOR COMMUNITY

6 July 2018

Attachments: 1. Sports Council meeting 26/06/2018.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Mudgee Sports Council Minutes**Netball Clubhouse****26-06-2018****18:10**

Present: G. Robinson, K. Marshall (Netball), K. Bennetts (Little A's), T. Kane MWRC, P. Blackwell MWRC, J. Fleming (Soccer) N. Richards (Hockey) K. Lang (Touch, Snr League), L. Humphries (Rugby), M. Brydon (Jnr League)& J.Johnson .

Apologies : Councillor J. O'Neill, P. Mitchell (Soccer) Apologies moved and accepted M. Brydon, seconded J. Fleming.

Minutes from previous meeting read as true and correct. Moved K. Bennetts seconded N. Richards.

Business arising from previous meeting:

1. Little Athletics have received their grant for Long Jump run up.
2. Cleaning program held to next meeting.

Treasurer's Report:

1. Financial statement out next week and will be emailed to all reps.
2. All fees up to date for Summer sports, all Winter sports are reminded that **FEES ARE DUE**.
Moved G. Robinson, seconded M. Brydon.

Secretary Report:

Nil.

Works Request Updates:

1. Placement of bin along arboretum walkway.
2. Lock fixed on amenities block Soccer/Touch.
3. BBQ area drainage cleaned at Soccer/Touch.
4. Damage to away changeroom quote obtained for \$1000 at Soccer/Touch.
5. Painting of pedestrian area Glen Willow ongoing.
6. Concrete at Netball held to end of season.
7. Remarking of Netball carpark ongoing.

Works Requests:

1. Removal of Onion weed at West End complex.
2. Gates scrapping on ground on entry to Soccer/Touch.
3. Pedestrian only signage on Pedestrian entry to soccer/Touch people driving down walkway, bollards to be reinstalled, will be made removable when reinstalled.
4. More bins for Jubilee with lids please.
5. Fencing around Jubilee oval rusty and dangerous needs replacing, needs a budget suggest Rugby get letters sent to council, and include photos.
6. Glen Willow- re 45kg Gas Bottles, incident 25th June where gas ran out, second bottle not on site,, had no key when gas came, this took a couple of hours to sort, issues due to how gas is charged between areas, unsure if user pays, and how should be charged. We need user pay for gas for BBQ area Glen Willow main stadium, then the suppliers will pop out and sort, also need to check gas prior to events when hiring out stadium.
7. Lock on male amenities Soccer/Touch odd keying.
8. Re do of lock on Soccer/Touch gates.
9. Could Public toilets get a clean tomorrow whist the PSSA League carnival is on.

General Business:

1. Reminder to all clubs to get their nominations in for the sports awards whilst fresh in your minds.
2. BBQ at Netball working really well, a couple of padlocks for the lid are coming.
3. New fee's and charges out- Glen willow fee's changed, please see council website, all other fee's have gone up according to CPI.
4. PSSA very happy with the facilities, PSSA Touch have changed booking for July and have now booked fields 1 & 2, not 3 to 6, which will be easier and less inconvenient for Soccer, Council may need to explain re booking of fields for warm ups, PSSA changed booking for League carnival due to fees charges, perhaps council needs to also consult with associated sporting groups.

Meeting closed 1900

Next meeting

31st July 2018 at 6pm

Netball clubhouse

Item 13: Urgent Business Without Notice

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 14: Confidential Session

LOCAL GOVERNMENT ACT, 1993

10A *WHICH PARTS OF A MEETING CAN BE CLOSED TO THE PUBLIC?*

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
 - (a) the discussion of any of the matters listed in subclause (2), or
 - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
 - (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
 - (i) alleged contraventions of any code of conduct requirements applicable under section 440.
- (3) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

10D *GROUND FOR CLOSING PART OF MEETING TO BE SPECIFIED*

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:
 - (a) the relevant provision of section 10A(2)
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

664

DISCLOSURE AND MISUSE OF INFORMATION

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

Maximum penalty: 50 penalty units

MOTION

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

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

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

CHAIRMAN

The following matters have been listed for consideration in Confidential Session:

14.1 General Manager's Contract of Employment

The reason for dealing with this report confidentially is that it relates to personnel matters concerning particular individuals (other than Councillors) in accordance with Section 10A(2)(a) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of Personnel matters concerning particular individuals (other than councillors).

14.2 Proposed class action related to Council insurance

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

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of Legal advice concerning confidentiality deeds.

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

The General Manager will read out any written representations received.

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

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