

Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee
on 21 April 2021, commencing at 5.40pm and concluding at 6.34pm.

PRESENT Cr D Kennedy, Cr S Paine, Cr R Holden, Cr A Karavas, Cr E Martens,
Cr J O'Neill, Cr P Shelley and Cr JP Thompson.

IN ATTENDANCE General Manager (Brad Cam), Director Operations (Garry Hemsworth),
Director Community (Simon Jones), Director Development (Julie
Robertson), Chief Financial Officer (Leonie Johnson), Executive Manager
Human Resources (Michele George), Manager Customer Service &
Governance (Richard Cushway), Manager Statutory Planning (Lindsay
Dunstan) and Executive Assistant (Mette Sutton).

Item 1: Apologies

An apology was received for Cr P Cavalier.

87/21 MOTION: Holden / Martens

That the apology received for Cr P Cavalier be accepted.

The motion was carried with the Councillors voting unanimously.

Item 2: Disclosure of Interest

Councillor D Kennedy declared a significant pecuniary conflict of interest in item 8.1 and item 8.2 as he is an owner of the premise.

Councillor J O'Neill declared a significant pecuniary conflict of interest in item 8.1 and item 8.2 as he has a commercial relationship with the proponent.

Councillor S Paine declared a less than significant non-pecuniary conflict of interest in item 11.2 as he is mentioned in the report as an artist involved in the program for the art gallery that is being funded.

General Manager, Brad Cam, declared a less than significant non-pecuniary conflict of interest in item 11.4 as he is the Chair of Housing Plus.

Director Development, Julie Robertson, declared a less than significant non-pecuniary conflict of interest in item 8.1 and item 8.2 as a family member is employed by owner on a casual basis.

Item 3: Confirmation of Minutes

88/21 MOTION: Shelley / Paine

That the Minutes of the Ordinary Meeting held on 17 March 2021 be


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taken as read and confirmed.

The motion was carried with the Councillors voting unanimously.

89/21 MOTION: Shelley / Martens

That the Minutes of the Extraordinary Meeting held on 26 March 2021 be taken as read and confirmed.

The motion was carried with the Councillors voting unanimously.

Item 4: Matters in Progress

Nil

Item 5: Mayoral Minute

Nil

Item 6: Notices of Motion or Rescission

6.1 UNMAINTAINED AND UNFORMED ROADS POLICY REVIEW
GOV400088, RO7900035;A0100035; GOV400022

MOTION: Thompson / Martens

That Council review the Unmaintained and Unformed Roads Policy.

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

Councillors	Ayes	Nayes
Cr Kennedy		✓
Cr Paine		✓
Cr Holden		✓
Cr Karavas		✓
Cr Martens	✓	
Cr O'Neill		✓
Cr Shelley		✓
Cr Thompson	✓	

6.2 RYLSTONE SHOWGROUND LIGHTING
GOV400088, P1622111, A0100035

90/21 MOTION: Shelley / Holden

That Council investigate the price for the purchase and installation of appropriate LED stadium lighting for the arena at the Rylstone Showground, and report back to Council.


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The motion was carried with the Councillors voting unanimously.

6.3 LAND FOR ABATTOIR

GOV400088, A0100035; GOV400022

MOTION: Thompson / Martens

That Council identify appropriate land if people want to start up an abattoir.

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

Councillors	Ayes	Nayes
Cr Kennedy		✓
Cr Paine		✓
Cr Holden		✓
Cr Karavas	✓	
Cr Martens	✓	
Cr O'Neill		✓
Cr Shelley		✓
Cr Thompson	✓	

Item 7: Office of the General Manager

Nil

Item 8: Development

Councillor D Kennedy declared a significant pecuniary conflict of interest in item 8.1 and item 8.2 as he is an owner of the premise. He vacated the chair, left the Chambers at 5.54pm and did not participate in discussion or vote in relation to these matters.

Councillor J O'Neill declared a significant pecuniary conflict of interest in item 8.1 and item 8.2 as he has a commercial relationship with the proponent. He left the Chambers at 5.54pm and did not participate in discussion or vote in relation to these matters.

Director Development, Julie Robertson, declared a less than significant non-pecuniary conflict of interest in item 8.1 and item 8.2 as a family member is employed by owner on a casual basis. She left the Chambers at 5.54pm and did not participate in discussion in relation to these matters.

Deputy Mayor, Councillor Paine, proceeded to Chair the meeting.

8.1 DA0203/2021 - HOTEL OR MOTEL ACCOMMODATION - 38
PERRY STREET AND 82 GLADSTONE STREET, MUDGEE
GOV400088, DA0203/2021

91/21 MOTION: Shelley / Holden

That Council:

A. receive the report by the Planning Coordinator regarding


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Development Application DA0203/2021 - Hotel or Motel Accommodation - 38 Perry Street and 82 Gladstone Street, Mudgee;

- B. approve the removal of the street tree in front of the ingress driveway to the proposed development; and**
- C. approve DA0203/2021 - Hotel or Motel Accommodation - 38 Perry Street and 82 Gladstone Street, Mudgee subject to the following conditions and Statement of Reasons:**

CONDITIONS

PART 1 – DEFERRED COMMENCEMENT CONDITIONS

- 1. This is a deferred commencement condition in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979 and this consent shall not operate until the following matters have been completed, to the satisfaction of Council.**
 - a) The Applicant must provide to Council detailed design and documentation for the proposed re-alignment of the existing sewer and demonstrate that the proposed modification is capable of meeting Council's minimum grade requirements for sewer with a fall of no less than 1% and having no detrimental effect on flow rates and the ongoing operation of Council's existing infrastructure.**
 - b) Amended Plans for the development must be submitted to and approved by Council, detailing how the re-aligned sewer main will be protected and made accessible for Council maintenance at all times. The amended plans may incorporate any of the following design solutions (but not limited to):**
 - (i) Provision of a 3m wide easement over the sewer mains line. This will require amendments to Units 1 to 3 in terms of width, such that these units will be set back from the boundary by 3m; or**
 - (ii) Securing an easement (on Title) to allow the re-routing of the sewer mains line through the adjoining property/s to the west at Lot 12 DP1217725 and Lot 10 DP1217725. The easements will need to be registered with the NSW Land Registry Services, to satisfy the deferred commencement condition; or**
 - (iii) Encasement of the sewer mains line in concrete, allowing the existing design to be maintained.**


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Evidence that will sufficiently enable Council to be satisfied as to the compliance with the above matters must be submitted to Council within twenty-four (24) months of the date of determination.

If sufficient evidence of the satisfaction of the above matters is not received by Council within this timeframe, the consent will lapse pursuant to Section 4.53(6) of the Environmental Planning and Assessment Act 1979.

If sufficient evidence of the satisfaction of the above matters is received by Council within the above nominated timeframe, Council will notify the applicant/developer in writing of the date the development consent becomes operative. This consent will become operative subject to the following conditions of consent.

The development consent will lapse 5 years after it becomes operative, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979.

PART 2 – CONDITIONS OF CONSENT

PARAMETERS OF CONSENT

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein.

Title/Name	Drawing No/ Document Ref	Revision/ Issue	Dated	Prepared by
Existing and Proposed Site Plan	31758-A01	D	15/03/21	Barnson
Overall Floor Plan	31758-A02	D	15/03/21	Barnson
Floor Plans – Bedroom Layouts	31758-A03	B	15/12/20	Barnson
Elevations and Section	31758-A04	B	15/12/20	Barnson
Erosion and Sediment Control Notes	31758-A05	C	01/02/21	Barnson
Existing House (Unit 12) Floor Plan and Elevations	31758-A06	A	01/02/21	Barnson
Proposed Site Plan	31758-C02	C	09/02/21	Barnson
Pavement	31758-C03	B	09/02/21	Barnson


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Plan				
Stormwater Management Plan	31758-C04	C	09/02/21	Barnson
Roof Drainage Plan	31758-C05	A	09/02/21	Barnson
Stormwater Notes and Details	31758-C06	A	22/12/20	Barnson
Sewer Reticulation Plan	31758-C07	B	09/02/21	Barnson
Sewer Notes and Details	31758-C08	A	22/12/20	Barnson
Water Reticulation Plan	31758-C09	B	09/02/21	Barnson
Water Notes and Details	31758-C10	A	22/12/20	Barnson
Fire Hydrant Coverage Plan	31758-C11	B	09/02/21	Barnson

The plans approved in accordance with Part 1 – Deferred Commencement Conditions, shall supersede the above-mentioned plans to the extent of any inconsistency.

2. This consent does not permit commencement of any site works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifier.
3. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
4. This development consent does not include approval for any signage for the approved development. A separate Development Consent or Complying Development Certificate may be required for signage, if the signage is not exempt development.
5. This approval includes approval for:
 - a) Demolition of the existing dongas (12 rooms) located on the northern side of the site.
 - b) Demolition of the existing garage on Lot 1.
 - c) Construction of 11 hotel rooms, comprising nine (9) one-bedroom apartments and two (2) two-bedroom apartments (subject to changes approved by the Deferred Commencement conditions).
 - d) Refurbishment of the existing dwelling to a three-bedroom hotel suite.
 - e) The construction of on-site car parking spaces.



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- f) Construction of a 9m wide access from Gladstone Street to serve as the vehicle entrance into the site.
- g) Upgrading the existing 5.2m wide access to Gladstone Street to serve as the vehicle exit for the site.
- h) Connection of water, sewer and stormwater services to the development.
- i) Removal of the street tree located in front of the ingress driveway for the proposed development.

GENERAL

- 6. All building works, earthworks and pavement works must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning and Assessment Act 1979 and Regulations and all relevant Australian Standards.
 - 7. All building work is to comply with the requirements of the Access to Premises Standard.
 - 8. All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, should be handled, conveyed and disposed of in accordance with guidelines and requirements from SafeWork NSW. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.
 - 9. Notwithstanding the approved plans, the structure is to be located clear of any easements and/or 1.5 metres (or a lesser distance if approved by Council) from any water and sewer mains in accordance with Council Policy.
 - 10. If the development involves any excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the building, structure or work from possible damage from the excavation; and
 - b) where necessary, underpin the building, structure or work to prevent any such damage.
- Note – this is a prescribed condition pursuant to clause 98E of the Environmental Planning and Assessment Regulation 2000 and Council requirement to preserve the stability of adjoining roads/public places
- 11. All trafficable pavements are to be constructed and sealed with an impervious surface, either bitumen or concrete, and maintained to the satisfaction of Council at all times.


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12. The number of car parking spaces to be provided within the site of the development must be no less than the number of Hotel or Motel rooms to be constructed. The car parking spaces must:
- a) Comply with AS 2890.1: 2004 – Parking facilities – Part 1: Off-street car parking and the following requirements;
 - b) Each parking space is to have minimum dimensions of 5.4m x 2.5m;
 - c) The disabled car parking spaces and associated shared area are to be in accordance with the provisions of AS 2890.6:2009 – Parking facilities – Part 6: Off-street parking for people with disabilities;
 - d) Line marking, wheel stop and signage has to be installed as per the relevant Australian Standard;
 - e) Off-street visitor parking is to be encouraged by the placement of prominent signs indicating the availability of visitor parking; and
 - f) All car parking spaces are to be line-marked and provided with a sealed concrete or bitumen surface and must be maintained in a satisfactory condition at all times.
13. Internal driveways are to be constructed and configured to ensure that:
- a) Loading and unloading facilities (to be contained within the site and to be able to cater for largest design vehicle).
 - b) Safe on-site manoeuvring area for the largest design vehicle.
 - c) Vehicle movement areas are to be sealed with a bitumen or concrete pavement to address environmental impacts.
 - d) All vehicles must be able to enter and leave in a forward direction. Signage to this effect is to be appropriately located within the site.
 - e) The number of access points from a site to any one street frontage is limited to 1 ingress and 1 egress.
 - f) Driveways must be provided in accordance with AS2890.1 Parking Facilities.
 - g) The loading area is to be provided behind the building line at the side or rear of the building.
14. All external plant, such as air-conditioning units, is to be screened from view of the street or adjoining residential properties.
15. In accordance with Mid-Western Regional Development Control Plan 2013, Council does not permit the following types of development over an existing sewer main or easement for sewer/stormwater drainage:
- a) Erection of permanent structures;



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- b) Cut or fill of land;
 - c) The planting of trees; or
 - d) Concrete structures.
16. Footing design must ensure that footings extend below the zone of influence to ensure that no load is placed on existing or proposed infrastructure.
17. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
18. The only waste derived fill material that may be received at the development site must be:
- a) Virgin excavated natural material, within the meaning of the Protection of the Environment Operations Act 1997; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.
19. All earthworks, filling, building, driveways or other works are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
20. All stormwater runoff from roof and developed surfaces is to be controlled in such a manner so as not to flow or discharge over adjacent properties. Methods of disposal of excess stormwater including overflow from tank must also include adequate provision for prevention of erosion and scouring.
21. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
22. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to Council's satisfaction and at no cost to Council.
23. Where required, the Developer must provide for the construction, and obtain a Construction Certificate Approval for a mains extension necessary to provide a suitably located and metered hydrant for fire-fighting purposes sufficient to



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meet Building Code of Australia requirements.

24. Where main extension or alteration of services is required, the Developer must meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage works are required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply authority under the Local Government Act 1993) and in accordance with the National Specification – Water and Sewerage Codes of Australia.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

25. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
26. Consent from Council must be obtained for all works within the road reserve, including removal of the street tree, pursuant to Section 138 of the Roads Act 1993, prior to the issue of a Construction Certificate. The accesses are to be designed and constructed in accordance with Council's Access to Properties Policy.
27. Prior to the issue of a Construction Certificate, the following heritage related items are to be submitted to and approved by Council:
- a) Amended plans and elevations replacing decorative barge boards and fascias with simple rectangular section boards;
 - b) Details of the joinery used in the doors and windows of the new building. The joinery is to be timber and simply detailed;
 - c) Details of the metal fence to be erected along the front of the new building. Details at a scale of 1:5 or larger should be included. The metal fence is to be without traditional cast spear points; and
 - d) A schedule of external colours and finishes is to be submitted. "Windspray" is the preferred colour for corrugated steel roofing. The schedule shall include work proposed on the existing dwelling.
28. Prior to the issue of a Construction Certificate, the following fencing details are to be submitted to and approved by Council:
- a) Provision of a screen fence with a minimum height of 1.8m along the western and northern boundaries of the site (please note, the existing fence may be used to satisfy this condition where it is 1.8m in height); and


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- b) Provision of a 1.8m high timber screen fence along the eastern boundary of the property, where the property adjoins other residential properties. No gates are to be provided in this fence.
29. Prior to the issue of a Construction Certificate, details shall be submitted to the Principal Certifier demonstrating that any earthworks, including any structural support/s, for the purposes of the development will not cause damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
30. Prior to the issue of a Construction Certificate, amended plans must be submitted to and approved by Council demonstrating that structures are located at least 1500 mm away from the centreline of any sewer pipe (or a lesser distance as approved by Council), and such that the structures do not encroach into an easement. The footing for the wall must be of sufficient depth to extend below the Zone of Influence to ensure no additional loading is placed on the sewer pipe.
31. Prior to the issue of a Construction Certificate, the developer must arrange for a detailed drainage design, supported by calculations, that demonstrates that all stormwater runoff from the site can be captured in a suitably sized temporary storage tank. Stormwater runoff captured in the tank must then be pumped using a dual / redundancy pump arrangement to discharge stormwater runoff to the gutter in Gladstone Street or other approved discharge point. A Music modelling report is to be submitted to ensure that the stormwater discharge to Council's drainage system complies with quality requirements as specified in the Mid-Western Regional Development Control Plan 2013. The design must be prepared by a suitably qualified consultant and submitted to Council for approval.
32. Drainage design must also include a plinth or footing with a minimum height of 100mm along western, northern and eastern boundary fencing to ensure no surface runoff discharges over adjoining properties. All impervious surfaces must be graded to ensure that all runoff is directed to the drainage pit for temporary storage prior to pump out to the Gladstone Street kerb and channel.
33. A detailed Engineering Design of Sewer Extensions is to be submitted to and approved by Council prior to the issue of a Construction Certificate. The Engineering Design is to comply with Mid-Western Regional Development Control Plan 2013, Guidelines and Standards.

Note - the existing concrete sewer lid within the proposed parking area has to be replaced with a trafficable lid. Please contact Council's Water and Sewer department in relation to



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this matter.

34. All documentation supporting the application for the Construction Certificate (for alteration of sewer mains) must be submitted in electronic format with a hard copy covering letter and a completed Construction Certificate Application Form to Council. A fee payable at this juncture shall only be for a Construction Certificate in accordance with Council's current Fees and Charges.
35. A Traffic Management Plan (TMP) completed by a certified person for implementation during the works is to be submitted to Council for assessment and approval by Council prior to the issue of the Construction Certificate.
36. Prior to the issue of a Construction Certificate, a Survey Plan for consolidation of the Lots must be submitted to Council for approval. The consolidation shall consolidate Lot 1 DP730123 and Lot 2 DP730123 into a single allotment. The Plan of Consolidation must be accompanied by all relevant section 88B documentation and the easement is to be vested in Council's favour free of charge. All costs associated with the preparation the plan and documentation and the registration of documents are to be borne by the Applicant. The Plan of Consolidation is to be registered with the NSW Land Registry Services. The Plan of Consolidation is to include the following:
 - a) Easements over the sewer mains line diversion, within the boundaries of the subject site, to be constructed as part of the approved development. The easement is to have a minimum width of 3 metres, unless otherwise agreed to by Council.
 - b) A Restrictive Covenant, or similar instrument, to provide for the ongoing operation and maintenance of the pumps required for the proposed stormwater infrastructure on site.
37. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$25,000 or more.

Note - the amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.

Note – Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction Certificate is to be issued by a Private Certifier, the long service levy must


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be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.

38. The developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.

Note – refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

39. In accordance with the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Contributions Plan 2019, a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of local infrastructure, prior to issue of a Construction Certificate.

The value of works is to be calculated in accordance with Section 2.9 and the procedure outlined in Section 4.3 of the Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the levy amount following submission of the documents.

Note – based on the proposed cost of works being \$1,357,000, it is estimated that the contribution amount will be \$13,570.

Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.

Note – Mid-Western Regional Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

PRIOR TO THE COMMENCEMENT OF WORKS

40. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- a) the appointment of a Principal Certifying Authority; and
- b) the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

41. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential


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for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE

42. Sediment erosion controls shall be installed within the development site, to the satisfaction of the Certifier (ie. Council or the Principal Certifier), prior to the commencement of works.
43. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is carried out:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the principal certifying authority for the work; and
 - d) the sign shall be removed when the erection or demolition of the building has been completed.
44. If the work involved in the erection/demolition of the building:
- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) building involves the enclosure of a public place; then
- A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
45. The street tree located on Gladstone Street and directly in front of the ingress driveway for the Hotel or Motel Accommodation development is to be removed at the developer's cost, in accordance with the following requirements:
- a) Following removal of the tree, the remaining stump and roots are to be ground down to a depth of no less than 300mm below existing pavement and all pavement material and exposed roots are to be excavated for an area no less than 3 metres x 3 metres and depth of 300mm.
 - b) The road pavement is to be replaced by a stabilised base material compacted on layers not greater than 150mm thick and achieve a minimum 98% MDD as defined in


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AS1289.5.4.1 – 1993. When pavement has been constructed to match existing surface levels and grades, a two-coat bitumen flush seal 14/7mm (double double) is to be applied. Seal must extend no less than 500mm beyond the extent of new pavement to ensure overlap preventing water penetration.

Note – prior to the commencement of the above work, the Developer must obtain separate approval under Section 138 of the Roads Act 1993.

- 46. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.**
- 47. Prior to the commencement of any construction, appropriate erosion control, dust control and silt collection measures must be put in place. These controls must be to the satisfaction of Council and to relevant engineering standards. Such erosion control, dust control and silt collection measures must remain onsite and be maintained to the satisfaction of Council for the duration of the construction period.**
- 48. Any soil / water retention structures are to be constructed prior to the bulk stripping of topsoil to ensure sediment from the whole site is captured.**

DURING CONSTRUCTION

- 49. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.**
- 50. All mandatory inspections required by the Environmental Planning and Assessment Act 1979 and any other inspections deemed necessary by the Principal Certifying Authority are to be notified by the developer (providing no less than 24 hours' notice) and carried out during the relevant stage of construction.**
- 51. Construction work noise that is audible at other premises is to be restricted to the following times:**
 - a) Monday to Saturday - 7.00am to 5.00pm**
 - b) No construction work noise is permitted on Sundays or Public Holidays.**
- 52. The strength of the concrete used for the reinforced concrete components must be a minimum 25Mpa.**
- 53. The list of measures contained in the schedule attached to the**


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- Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.**
- 54. All stormwater is to discharge to the street gutter with the use of non-flexible kerb adaptors.**
 - 55. The development site is to be managed for the entirety of work in the following manner:**
 - a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;**
 - b) Appropriate dust control measures;**
 - c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and**
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.**
 - 56. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's/Demolisher's expense.**
 - 57. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.**
 - 58. If historical archaeological remains are found during works, works should immediately cease and the Heritage Branch of the OEH should be contacted for further advice, as required under Section 146 of the Heritage Act 1977.**
 - 59. All construction related traffic shall utilise the existing access to Gladstone Street. No construction traffic is to traverse via Lot 1 SP50014 (ie. 36 Perry Street) to Perry Street to access the site.**
 - 60. The developer is to grant unrestricted access to the site at all times to enable inspections or testing of the works.**
 - 61. Following completion of any infrastructure works to be vested in Council, work-as-executed plans (WAE) are to be submitted to Council following the completion of the works, one set of Works As Executed Drawings in PDF format, AutoCAD compatible files in DWG format, MapInfo files (MGA GDA94**



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Zone 55/56) and completed Asset Data Template spreadsheets in MS Excel format, are to be submitted to Council. All Works As Executed plans shall bear the consulting engineer's or consulting surveyor's certification stating that all information shown in the plans are accurate.

- 62. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.**

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

- 63. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.**
- 64. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the Fire and Rescue NSW and a copy is to be prominently displayed in the building.**
- 65. Prior to the issue of an Occupation Certificate, the following works in relation to access, car parking and associated manoeuvring areas are to be completed:**
- a) Internal car parking spaces and associated manoeuvring areas are to be provided with a sealed concrete or bitumen surface.**
 - b) The car parking area must be set out and clearly delineated in accordance with the requirements of AS 2890.1:2004 Parking Facilities Part 1: Off-street Car Parking.**
 - c) 'Entry only' and 'exit only' signs are to be placed near each respective access into the development. Signage must be provided in accordance with the standards and requirements set out in AS 1742.1 – 2014 Manual of uniform traffic control devices Part 1: General introduction and index of signs.**
 - d) A sign is to be located at the internal approach to the exit warning of pedestrians.**
 - e) Pavement marking indicating direction of flow is to be provided.**
- 66. Prior to the issue of an Occupation Certificate, all stormwater drainage works must be completed to Council's satisfaction. The proposed stormwater pit must be fitted with dual / redundancy pumps to pump water to the kerb in Gladstone Street.**


Mayor


General Manager

67. Prior to the issue of an Occupation Certificate, the external finishes of the development must be completed and matching to the approved schedule of external colours and finishes.
68. Prior to the issue of an Occupation Certificate, for any buildings on site, the building is to be connected to reticulated water supply, stormwater and sewerage in accordance with the relevant section 68 approval/s.

OPERATIONAL/ ONGOING CONDITIONS

69. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
70. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
71. All vehicles are required to enter and leave the site in a forward direction, at all times.
72. All line-marking for the on-site car parking spaces and footpath areas are to be maintained in a visible condition, at all times.
73. All loading and unloading in connection with the premises shall be carried out wholly within the site.
74. All car parking spaces, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use, at all times.
75. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
76. Garbage storage areas are to be adequately screened from public view.
77. The development is to be maintained in a clean and tidy manner, at all times.

STATEMENT OF REASONS


Mayor


General Manager

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment Act 1979.
3. The proposed development satisfactorily addresses the issues raised in objections received in response to public notification of the development, as follows:
 - a) Suitable conditions are imposed requiring fencing along the eastern boundary.
 - b) The proposed development will not have an adverse impact on the retaining wall along the western boundary.
 - c) It is considered that the fence on the western boundary is in reasonable condition and does not require replacement.

OTHER APPROVALS

Not applicable.

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Division 8.2 of the Environmental Planning and Assessment Act 1979 (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 6 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
4. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.


Mayor


General Manager

6. This development consent requires a Certificate of Compliance under the Water Management Act 2000 to be obtained prior to the issue of a Construction Certificate.

A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the Water Management Act 2000.

Please be advised that as a precondition to the granting of a Compliance Certificate, either of the following is to occur:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable); or

Section 64 Contributions			
Hotel or Motel Accommodation (credit for existing development)			
	ET	Value/ET	12 Hotel Units
Water Headworks	0.1	\$8,689.00	\$868.90
Sewer Headworks	0.125	\$3,967.00	\$495.88
Total Headworks			\$1,364.78

- b) The adjustment of existing services or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the Developer.

Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's Planning and Development Department regarding any adjustments.

Essential Energy

7. Prior to any demolition works commencing, any service line/s to the property must be disconnected.
8. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available for the Hotel or Motel Accommodation in accordance with NSW Service and Installation Rules. The Applicant's Level 2 Electrician will be able to advise on these requirements. Further, any work to the existing service line to the property will need to be completed by a suitably qualified Level 2 Accredited Service Provider (Electrician) to comply with the NSW Service and Installation Rules.


Mayor


General Manager

- 9. **Essential Energy’s records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities with Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.**
- 10. **Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).**
- 11. **Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around power lines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Line and Code of Practice – Work near Underground Assets.**

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

Councillors	Ayes	Nayes
Cr Paine	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr Shelley	✓	
Cr Thompson	✓	

8.2 DA0271/2021 - CHANGE OF USE - YOGA STUDIO TO SHOP - 15-17 BYRON PLACE, MUDGEE

GOV400088, DA0271/2021

92/21

MOTION: Shelley / Holden

That Council:

- A. **receive the report by the Planning Coordinator regarding Development Application DA0271/2021 - Change of Use - Yoga Studio to Shop - 15-17 Byron Place, Mudgee; and**
- B. **approve DA0271/2021 - Change of Use - Yoga Studio to Shop - 15-17 Byron Place, Mudgee subject to the following conditions and Statement of Reasons:**

CONDITIONS


Mayor


General Manager

PARAMETERS OF CONSENT

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein.

Title/Name	Drawing No/ Document Ref	Revision/Issue	Dated	Prepared by
Floor Plan	-	-	Undated	-

2. For clarity, this development consent provides approval for a change of use to shop, on the upper level of the building only. No building works are approved as part of this development consent.
3. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

4. Under Clause 93 of the Environmental Planning and Assessment Regulations 2000, the fire protection measures in the building are to be improved and be brought into conformity with respect to Category 1 fire safety provisions. In this regard, the building shall comply with:
- a) Performance Requirement DP4 'Exits' of NCC 2019, BCA Volume 1 (amendment 1), in relation to all required Exits within the building including barrier protection at the discharge Exit points and contrasting slip-resistant treads;
 - b) Performance Requirement DP6 'Path of travel to exits' of NCC 2019, BCA Volume 1 (amendment 1), in relation to the path of travel to all required Exits within the building;
 - c) Performance Requirement EP2.2 'Safe evacuation routes' of NCC 2019, BCA Volume 1 (amendment 1);
 - d) Performance Requirement EP4.1 'Visibility in an emergency' of NCC 2019, BCA Volume 1 (amendment 1), in relation to emergency lighting throughout the building; and
 - e) Performance Requirement EP4.2 'Identification of exits' of NCC 2019, BCA Volume 1 (amendment 1), in relation to all directional and required Exit signage throughout the building.

Plans and specifications for the installation of the required fire


Mayor


General Manager

safety measures must be submitted to and approved by Council prior to installing.

Certification from a suitably qualified Building Code of Australia person stating compliance with the above performance requirements and for the installation of the required measures is to be provided to Mid-Western Regional Council prior to the final inspection and prior to use of the building.

- 5. The list of measures contained in the fire safety schedule attached to the Development Consent are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.**

- 6. Once all fire safety measures have been installed and commissioned, a final inspection is to be arranged with Council.**

Note – payment of the applicable fee pursuant to Council's adopted fees and charges is to be made prior to Council conducting a final inspection.

- 7. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the erection of the building.**
- 8. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of Fire & Rescue NSW and a copy is to be prominently displayed in the building.**

OPERATIONAL/ ONGOING

The following conditions have been applied to ensure that the use of the land and/or building is carried out in a manner that is consistent with the aims and objectives of the environmental planning instrument affecting the land.

- 9. For every 12 month period after the issue of the final Fire Safety Certificate the owner/agent of the building must provide Mid-Western Regional Council and the Commissioner of Fire and Rescue NSW with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.**


Mayor


General Manager

10. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
11. All waste generated by the development is to be disposed of to a Council approved waste facility. All fees and charges for disposal are to be borne by the developer.
12. Garbage areas are to be adequately screened from public. All waste must be secured in enclosed containers.
13. The hours of operation of the development are limited to the following:
 - a) 7am to 6pm, Monday to Friday; and
 - b) 7am to 2pm, Saturday; and
 - c) No activities are to be undertaken on Sundays and public holidays.
14. Despite other conditions of consent that limit hours of operation, VIP events may be held for a single day, twice per year. The hours of the VIP events are confined to 9am to 8pm.
15. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
16. No display or sale of goods is to take place from public areas or footpaths fronting the premises.
17. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
18. The development is to be maintained in a clean and tidy manner, at all times.

STATEMENT OF REASONS

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental


Mayor


General Manager

Planning and Assessment Act 1979.**OTHER APPROVALS**

Not applicable.

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Division 8.2 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
4. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

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

Councillors	Ayes	Nayes
Cr Paine	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr Shelley	✓	
Cr Thompson	✓	

Manager Statutory Planning, Lindsay Dunstan, left the meeting at 5.56pm and did not return.

Councillor Kennedy, Councillor O'Neill and Director Development, Julie Robertson, returned to the Chambers at 5.56pm.

Councillor Kennedy recommenced chairing the meeting.


Mayor


General Manager

8.3 REVIEW OF DCP OPEN SPACE REQUIREMENTS

GOV400088, A0420143

MOTION: Holden / Martens

That Council:

1. receive the report by the Director Development on the Review of DCP Open Space Requirements;
2. amend the existing Open Space provisions for Urban Subdivision as set out in Section 7.1 of the Mid-Western Development Control Plan 2013 Amendment No. 5 to specify that "all lots are within 400m walking distance of a local park, playground or passive open space";
3. place the proposed amendment on public exhibition for a period of 28 days; and
4. receive a further report after the public exhibition period.

93/21

AMENDMENT: Shelley / Paine**That Council:**

1. **receive the report by the Director Development on the Review of DCP Open Space Requirements; and**
2. **maintain the existing Open Space provisions for Urban Subdivision as set out in Section 7.1 of the Mid-Western Development Control Plan 2013 Amendment No 5.**

The amendment was put and won on the casting vote of the Mayor, with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Holden		✓
Cr Karavas		✓
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

The amendment, on becoming the motion, was put and won on the casting vote of the Mayor with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	



Mayor



General Manager

Cr Holden		✓
Cr Karavas		✓
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

The following recommendations (item 8.4 to item 12.3) were adopted as a whole, being moved by Cr Shelley, seconded by Cr Paine and carried with Councillors voting unanimously. Each recommendation is recorded with separate resolution numbers commencing at Resolution No.94/21 and concluding at Resolution No. 119/21.

8.4 ACCEPTANCE OF GRANT FUNDING - REGIONAL NSW PLANNING PORTAL GRANTS

GOV400088, GRA600046

94/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Economic Development on the Acceptance of Grant Funding - Regional NSW Planning Portal Grants;
2. if successful, accept \$50,000 in grant funding from the NSW Government Regional NSW Planning Portal Grant Fund;
3. if successful, amend the 2020/21 Budget to include grant funding received of \$50,000 and set project expenditure of \$50,000; and
4. if successful, authorise the General Manager to finalise and sign the funding agreement with the NSW Government.

The motion was carried with the Councillors voting unanimously.

8.5 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING AND DETERMINED

GOV400088, A0420109

95/21 MOTION: Shelley / Paine

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

The motion was carried with the Councillors voting unanimously.


Mayor


General Manager

Item 9: Finance**9.1 RFT 2020/78 BILLY DUNN AMENITIES BUILDING
GOV400088, COR400368****96/21 MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the Procurement Officer on the RFT 2020/78 Billy Dunn Amenities Building;**
- 2. amend the Operational Plan 2020/21 to increase the budget for the Billy Dunn Amenities Building by \$70,000 funded from Unrestricted Cash to ensure budget provides adequate funds to proceed with project;**
- 3. accept Adaptive Pty Ltd ITF Adaptive Trust (t/a Dezign) for tender RFT 2020/78 Billy Dunn Amenities Building – structural design and construction in accordance with Clause 178 of the Local Government (General) Regulation 2005 – Part 7 Tendering for the price of \$325,563.70 incl GST;**
- 4. delegate authority to the Director Community to approve variations to an accumulative total of +/-10% of the finalised contract sum; and**
- 5. authorise Council staff to notify all respondents of the outcome of their tender.**

The motion was carried with the Councillors voting unanimously.

**9.2 LAND PURCHASE OF PART LOT 35 DP 859542 & PART LOT
6 DP 265664 FOR ROAD REALIGNMENT - PUTTA BUCCA
ROAD, PUTTA BUCCA NSW
GOV400088, ROA100487****97/21 MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the Director Community Land Purchase of part Lot 35 DP859542 & part Lot 6 DP265664 for road realignment – Putta Bucca Road, Putta Bucca NSW;**
- 2. resolve to purchase the 6.7m² of part Lot 6 DP265664 and 8.1m² of part Lot 35 DP859542 ('Sale Land') by agreement with the Vendor for the Sale Price of NIL for the purpose of**



Mayor



General Manager

public road;

3. agree for Council, at its own cost, to procure the preparation, lodgement and registration of an appropriate Subdivision Plan giving effect of the road realignment, fencing and any legal costs;
4. authorise the General Manager, where necessary, to complete and execute all documentation necessary to effect the subdivision and land purchase;
5. authorise the Mayor to sign all documentation, where additionally required to do so, to effect land purchase; and
6. authorise the Common Seal be affixed to all documentation, where necessary, to effect the land purchase.

The motion was carried with the Councillors voting unanimously.

9.3 NAMING OF NEW STREETS IN A SUBDIVISION OFF
FAIRYDALE LANE MUDGEE

GOV400088, R0790141 P25906 P20790 P20791

98/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Property Support Officer on the naming of new streets in a subdivision off Fairydale Lane, Mudgee; and
2. formally approve the name of Dunnachie Street for Street 1, Goodlet Lane for Street 2 and McEwen Street for Street 3.

The motion was carried with the Councillors voting unanimously.

9.4 COMMUNITY GRANTS PROGRAM - APRIL 2021

GOV400088, FIN3000159

99/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Finance on the Community Grants Program - April 2021;
2. provide financial assistance to the following applications in accordance with the criteria and guidelines of the Community Grants Policy; and


Mayor


General Manager

Mudgee Playgroup	\$6,893
Mudgee & District Kennel & Obedience Club Inc	\$1,000
Rylstone Kandos Chamber of Commerce	\$71
Gulgong Memorial Hall Committee	\$3,000
The Australian Kidney Foundation trading as Kidney Health Australia	\$2,000

3. provide relief from the \$1,000 security bond fee for Mudgee & District Kennel & Obedience Club Inc for the showground hire.

The motion was carried with the Councillors voting unanimously.

9.5 REVISED DELIVERY PROGRAM 2017/22 AND DRAFT OPERATIONAL PLAN 2021/22

GOV400088, FIN300315

100/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Finance on the Revised Delivery Program 2017/22 and Draft Operational Plan 2021/22;
2. endorse the Draft Delivery Program 2017/22 and Draft Operational Plan 2021/22 to go on public exhibition for a period of 28 days commencing Friday 23 April; and
3. request a further report be presented following the exhibition period including a review of any submissions made on the Draft Delivery Program 2017/22 and Draft Operational Plan 2021/22.

The motion was carried with the Councillors voting unanimously.

9.6 REVERSE AUCTION FOR SUPPLY OF ELECTRICITY TO CONTESTABLE SITES AND STREET LIGHTING

GOV400088, ENE100001

101/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Finance on the Reverse Auction for Supply of Electricity to Contestable Sites and


Mayor


General Manager

Street Lighting;

2. the tender from Simply Energy to supply Council with energy to its contestable sites for a period of 18 Months be accepted with contract to commence from 1 January 2022 at an estimated total value of \$433,932 excluding GST;
3. the tender from Shell Energy to supply Council with energy for street lighting (Mudgee, Gulgong, Rylstone) for a period of 18 months be accepted with contract to commence from 1 January 2022 at an estimate total value of \$85,382 excluding GST; and
4. authorised the General Manager to execute any necessary contract documentation.

The motion was carried with the Councillors voting unanimously.

9.7 SERVICE PROVIDER MANAGEMENT POLICY REVIEW

GOV400088, COR4000019

102/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Procurement and Fleet on the Service Provider Management Policy Review;
2. endorse renaming the policy the 'Contractor Management Policy';
3. place the Contractor Management Policy on exhibition for 28 days; and
4. adopt the policy if no submissions are received after the exhibition period.

The motion was carried with the Councillors voting unanimously.

9.8 ASSET DISPOSAL POLICY REVIEW

GOV400088, GOV400047

103/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Chief Financial Officer on the Asset Disposal Policy Review;
2. place the revised Asset Disposal Policy on public exhibition for 28 days; and
3. adopt the Asset Disposal Policy if no submissions are



Mayor



General Manager

received.

The motion was carried with the Councillors voting unanimously.

9.9 MONTHLY STATEMENT OF INVESTMENTS AS AT 31
MARCH 2021

GOV400088, FIN300053

104/21 MOTION: Shelley / Paine

That Council:

1. receive the report by Manager Finance on the Monthly Statement of Investments as at 31 March 2021; and
2. note the certification of the Responsible Accounting Officer.

The motion was carried with the Councillors voting unanimously.

9.10 MONTHLY BUDGET REVIEW - MARCH 2021

GOV400088, FIN300240

105/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Finance on the Monthly Budget Review - March 2021; and
2. amend the 2020/21 budget in accordance with the variations as listed in the Monthly Budget Review attachment to this report; and
3. amend the 2020/21 budget to allocate \$75,000 to Water Main Replacement Church St/Meares St, funded from Water Reserve.

The motion was carried with the Councillors voting unanimously.

9.11 FINANCIAL ASSISTANCE - AREC

GOV400088, PUB600025

106/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Chief Financial Officer on the


Mayor


General Manager

Financial Assistance - AREC;

2. **not provide financial assistance to AREC of \$10,000, for the following reasons:**
 - 2.1 **the request for funds does not meet the Events Assistance Policy requirements;**
 - 2.2 **the request for funds does not meet the Community Grants Program Policy requirements.**

The motion was carried with the Councillors voting unanimously.

Item 10: Operations

10.1 DRINKING WATER QUALITY POLICY

GOV400088, GOV400088

107/21 MOTION: Shelley / Paine**That Council:**

1. **receive the report by the Manager Water and Sewer on the Drinking Water Quality Policy; and**
2. **adopt the Drinking Water Quality Policy.**

The motion was carried with the Councillors voting unanimously.

10.2 MUDGEES STP - EMERGENCY WORKS

GOV400088, GOV400088

108/21 MOTION: Shelley / Paine**That Council:**

1. **receive the report by the Manager Water and Sewer on the Mudgee STP - Emergency Works;**
2. **allocate a budget of \$275,000 to the Mudgee Sewer Treatment Plant modification budget to be funded from \$47,000 transferred from Sewer Treatment Renewals (sewer reserve funded) and \$228,000 funded through a transfer from Sewer Reserves ;**
3. **engage TWS Evolution Pty Ltd to complete the plant modification works to increase discharge effluent quality in line with Environment Protection Licence requirements, as detailed in this report;**



Mayor



General Manager

4. **authorise exemption from tendering for the procurement of plant modification works to increase discharge effluent quality in line with Environment Protection Licence requirements, in accordance with Clause 55(3)(i) of Local Government Act 1993, due to the reasons listed below, should the contract exceed the tendering threshold:**
 - 4.1 **the urgent nature of the works to decrease the WHS risk of maintenance work and decrease risk of non-compliance with Environment Protection Licence requirements; and**
 - 4.2 **the immediate availability of TWS Evolution Pty Ltd and knowledge of the Mudgee Sewer Treatment Plant requirements due to the contractor completing the current emergency works.**

The motion was carried with the Councillors voting unanimously.

10.3 LAND PURCHASE FOR ROAD RESERVE - PART LOT 1581
DP 803795 HILL END ROAD, TAMBAROORA
GOV400088, ROA100465

109/21

MOTION: Shelley / Paine

That Council:

1. **receive the report by the Senior Works Engineer on the Land Purchase for road reserve - part Lot 1581 DP 803795 Hill End Road, Tambaroora ;**
2. **resolve to purchase a total of 1,981m2 of Lot 1581 DP 803795 ('Sale Land') by agreement with the Vendor for the Sale Price of \$1000.00 for the purpose of public road;**
3. **agree for Council, at its own cost, to arrange for the demolition of existing boundary fencing and relocate to the new boundary between the Sale Land and Hill End Road;**
4. **agree for Council, at its own cost, to make on behalf of the landowner Notification of Exempt Development under Bathurst Regional LEP 2014 or SEPP(Exempt and Complying Development Codes) 2008 and Subdivision Certificate Application, procure the preparation, lodgement and registration of an appropriate Subdivision Plan with Bathurst Regional Council giving effect to the transfer to road reserve;**
5. **agree for Council at its own cost to procure the preparation, lodgement and registration of LGA boundary adjustment or other appropriate agreement with Bathurst**


Mayor


General Manager

Regional Council for maintenance of the road reserve

6. **authorise the General Manager to complete and execute all documentation, where necessary, in relation to effect the subdivision and land purchase for the purpose of the public road;**
7. **authorise the Mayor to execute all documentation, where additionally required to do so, in relation to effect the subdivision and land purchase for the purpose of the public road; and**
8. **authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to effect the subdivision and land purchase for the purpose of the public road.**

The motion was carried with the Councillors voting unanimously.

10.4 LAND PURCHASE FOR ROAD RESERVE - PART LOT 10 DP
252743, 5874 HILL END ROAD, TAMBAROORA
GOV400088, ROA100465

110/21

MOTION: Shelley / Paine

That Council:

1. **receive the report by the Senior Works Engineer on the Land Purchase for Road Reserve - Part Lot 10 DP 252743, 5874 Hill End Road, Tambaroora ;**
2. **resolve to purchase a total of 422.1m2 of Lot 10 DP 252743 ('Sale Land') by agreement with the Vendor for the Sale Price of \$1000.00 for the purpose of public road;**
3. **agree for Council, at its own cost, to arrange for the demolition of existing boundary fencing and relocate to the new boundary between the sale Land and Hill End Road;**
4. **agree for Council, at its own cost, procure the preparation, lodgement and registration of an appropriate Subdivision Plan with giving effect to the transfer to road reserve;**
5. **authorise the General Manager to complete and execute all documentation, where necessary, in relation to effect the subdivision and land purchase for the purpose of the public road;**
6. **authorise the Mayor to execute all documentation, where additionally required to do so, in relation to effect the subdivision and land purchase for the purpose of the**


Mayor


General Manager

public road; and

7. authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to effect the subdivision and land for the purpose of the public road.

The motion was carried with the Councillors voting unanimously.

10.5 MUNGHORN GAP NATIONAL PARK LAND REVOCATION
AND LAND PURCHASE FOR MINISTER'S ACQUISITION OF
COMPENSATORY LAND

GOV400088, ROA100366

111/21

MOTION: Shelley / Paine

That Council:

1. receive the report by the Senior Works Engineer on the Wollar Rd, Munghorn Gap National Park Land Revocation and acquisition of suitable compensatory land to effect the Minister's approval;
2. agree for Council, to procure the preparation, lodgement and registration of an appropriate Subdivision Plan giving effect of transfer to Council, for the purpose of public road, the 0.42ha's of land to be revoked under National Parks and Wildlife Legislation Amendment (Reservations) Bill 2020;
3. resolve to acquire from the private land owner under the Land Acquisition (Just Terms Compensation) Act 1991, on behalf of the Minister and for the sum of \$11,000, 0.82ha of Lot 25 DP 755447 ('the Land') to be transferred to National Park (subject to the Ministers satisfaction of the Land being suitable compensation for revocation);
4. agree for Council, to procure the preparation, lodgement and registration of an appropriate Subdivision Plan giving effect to the transfer of the Land to National Park and fence the Land;
5. authorise the General Manager to complete and execute all documentation, where necessary, in relation to effect the subdivision and land acquisition and transfer;
6. authorise the Mayor to execute all documentation, where additionally required to do so, in relation to effect the subdivision and land acquisition and transfer; and
7. authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to effect the subdivision and land purchase or agreed works in kind to


Mayor


General Manager

the equivalent value, for the purpose of the public road.

The motion was carried with the Councillors voting unanimously.

Item 11: Community

11.1 PROCUREMENT OF THE MUDGEES VALLEY PARK
AMENITIES BUILDING

GOV400088, FIN300299

112/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Director Community on the Procurement of the Mudgee Valley Park Amenities Building;
2. accept the quote from Marathon Modular for the supply and installation of the amenities block at the Mudgee Valley Park for the price of \$237,847.87 incl GST;
3. delegate authority to the Director Community to approve variations to an accumulative total of +/-10% of the finalised contract sum; and
4. authorise exemption from tendering for the procurement and construction of a new amenities building at Mudgee Valley Park, in accordance with Clause 55(3)(i) of Local Government Act 1993, due to the reasons listed below, should the variations exceed the tendering threshold:
 - i. unavailability of competitive suppliers; and
 - ii. the extenuating circumstances where two separate request for quote processes have already been undertaken.

The motion was carried with the Councillors voting unanimously.

11.2 ACCEPTANCE OF GRANT FUNDING - CREATE NSW LOCAL
GOVERNMENT AUTHORITY ARTS & CULTURAL FUNDING

GOV400088, REC800048

113/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager, Community & Cultural


Mayor


General Manager

Services on the Acceptance of Grant Funding - Create NSW Local Government Authority Arts & Cultural Funding;

2. **accept \$50,000 in grant funding from the Create NSW Local Government Authority Arts and Cultural Funding Program;**
3. **amend the 2021/22 budget to increase expenditure in the Art Gallery Operations budget by \$50,000 to be funded from grant funding; and**
4. **authorise the General Manager to finalise and sign the funding agreement with the NSW Government.**

The motion was carried with the Councillors voting unanimously.

11.3 MUDGEE REGION GALLERY BRANDING UPDATE

GOV400088, COR400426, REC800048

114/21 MOTION: Shelley / Paine

That Council receive and note the report by the Director Community on the Mudgee Region Gallery Branding Update.

The motion was carried with the Councillors voting unanimously.

11.4 PURCHASE OF 70 COURT STREET MUDGEE - UPDATE

GOV400088, P1122711

115/21 MOTION: Shelley / Paine

That Council:

1. **receive the report by the Director Community on the Purchase of 70 Court Street Mudgee - Update;**
2. **endorse the proposal to utilise part of the 70 Court Street site for Housing Plus to provide emergency accommodation support; and**
3. **seek expressions of interest from appropriate local community groups to coordinate the remainder of the facility for community use.**

The motion was carried with the Councillors voting unanimously.

11.5 MUDGEE SPORTS COUNCIL FEES

GOV400088, A0360013

116/21 MOTION: Shelley / Paine



Mayor



General Manager

That Council:

1. receive the report by the Director Community on the Mudgee Sports Council Fees; and
2. endorse a refund or waiver of Mudgee Sports Council fees for summer sports for the 2020/21 season due to the impact of Covid-19 on sporting organisations.

The motion was carried with the Councillors voting unanimously.

Item 12: Reports from Committees**12.1 AUDIT RISK AND IMPROVEMENT COMMITTEE MINUTES
12 FEBRUARY 2021**

GOV400088, COR400236

117/21 MOTION: Shelley / Paine**That Council:**

1. receive the report by the Executive Manager, People and Performance on the Audit Risk and Improvement Committee Minutes 12 February 2021; and
2. endorse the minutes and recommendations of the Audit Risk and Improvement Committee meeting 12 February 2021.

The motion was carried with the Councillors voting unanimously.

**12.2 LOCAL TRAFFIC COMMITTEE MEETING MINUTES - MARCH
2021**

GOV400088, A0100009

118/21 MOTION: Shelley / Paine**That Council:**

1. receive the report by the Administration Officer, Operations on the Local Traffic Committee Meeting Minutes - March 2021; and
2. approve the amended plan presented to the Local Traffic Committee for the Church Street and Meares Street Roundabout with the following conditions:

a) Eastern leg refuge on Meares Street – centre line



Mayor



General Manager

- marking to be at least 2m
- b) Eastern leg refuge on Meares Street – raised delineation on the northern side.
3. approve the event – “Classic Outback Trial”, be classified as a Class 2 Event under the ‘Guide to Traffic and Transport Management for Special Events Version 3.5’ and proceeds with the following conditions:
- a) Events are to be undertaken in accordance with the “Guide to Traffic and Transport Management for Special Events Version 3.5”,
 - b) 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 3.5 and submitted to and approved by Council prior to the event;
 - c) Events are to be undertaken in accordance with the requirements of the NSW Police Force with their approval documentation forwarded to Council for notation;
 - d) Controlling noise as required by the Protection of the Environment Operations (Noise Control) Regulation 2000;
 - e) Reimbursing Council for the cost of damage repairs;
 - f) Complying with any of Council’s Law Enforcement Officers reasonable directives;
 - g) Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;
 - h) Any person directing traffic on a public road is required to possess an appropriate traffic controller’s certificate;
 - i) Council must be provided with a current copy of a public liability insurance policy in the amount of at least \$20 million. Such a policy is to note that Council, Transport for NSW and NSW Police Force is indemnified against any possible action as the result of the event;
 - j) 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;
 - k) Maintain a four-metre wide emergency vehicle lane;
 - l) Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;
 - m) Notify NSW Ambulance and NSW Fire Brigade of the event;
 - n) The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review; and



Mayor



General Manager

- o) Transport for NSW consent required for use of the State and Regional road network.**

New condition:

- p) ensure that all side roads, and /or feeder roads, are closed off to traffic whilst racing.**
- q) gates and driveways need to be locked/secured.**

- 4. approve the event Gulgong ANZAC Day March, held on Sunday 25 April 2021 and classify as a Class 2 event under the “Guide to Traffic and Transport Management for Special Events Version 3.5”, 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 3.5 and submitted to and approved by Council prior to the event.**
- b) A Traffic Control Plan/s (TCP) certified by a person with a ‘Worksite Traffic Control Certificate’ be included in the TMP;**
- c) Any person directing traffic on a public road is required to possess a valid traffic controller’s certificate;**
- d) Events are to be undertaken in accordance with the requirements of the NSW Police Service with their approval documentation forwarded to Council for notation;**
- e) Council must be provided with a current copy of a public liability insurance policy in the amount of at least \$20 million. Such a policy is to note that Council, the Transport for NSW and NSW Police Force are indemnified against any possible action as the result of the event;**
- f) Controlling noise as required by the Protection Of The Environment Operations (Noise Control) Regulation 2000;**
- g) Reimbursing Council for the cost of any damage repairs;**
- h) Complying with any of Council’s Law Enforcement Officers’ directives;**
- i) Maintain areas in a clean and tidy condition. No obstructions are to be left on the roadways or footpaths;**
- j) The event convener is to consult with all affected businesses and residents adjacent to the proposed closure, in writing, indicating the period during which their accesses will be affected at least two weeks prior to event commencement;**
- k) Advertise the proposed event in local newspapers and radio with relevant information at least two weeks prior to the date;**
- l) Maintain a four-metre wide emergency vehicle lane;**


Mayor


General Manager

- m) Notify NSW Ambulance and NSW Fire Brigade of the event;
 - n) The organiser is to debrief with Council and Police with all traffic control documentation and controls tabled for review.
 - o) Traffic Control plan to be in accordance with Traffic for NSW, Traffic Control at Worksites Manual; and
5. Investigate the option of kerb extensions rather than pedestrian refuge for Short Street and refer back to Council.

The motion was carried with the Councillors voting unanimously.

12.3 MUDGEES SPORTS COUNCIL MEETING MINUTES 22 MARCH 2021

GOV400088, A0360013

119/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Director Community on the Mudgee Sports Council Meeting Minutes 22 March 2021; and
2. note the minutes for the Mudgee Sports Council Meeting held 22 March 2021.

The motion was carried with the Councillors voting unanimously.

Item 13: Urgent Business Without Notice

13.1 ACCEPTANCE OF URGENT BUSINESS

GOV400088,

120/21 MOTION: Shelley / Martens

That Council consider the matter as Urgent Business Without Notice.

The motion was carried with the Councillors voting unanimously.

13.2 KANDOS CHARITY SHOP

GOV400088, P1543811

121/21 MOTION: Shelley / Martens


Mayor


General Manager

That Council supports the Kandos Charity Shop and contribute \$60,000 from unrestricted cash for the purpose of the Kandos Charity Shop purchase of the building.

The motion was carried with the Councillors voting unanimously.

Item 14: Confidential Session

122/21 MOTION: Shelley / Martens

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

The motion was carried with the Councillors voting unanimously.

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

14.1 FlyPelican Regional Service Subsidy

The reason for dealing with this report confidentially is that it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it in accordance with Section 10A(2)(d)(i) 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 FlyPelican's business operations and financial position.

14.2 Mudgee Airport Development

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

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of information which is commercially sensitive surrounding land development details which would result in Council's disadvantage in future negotiations, if it were made public at this time..

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

14.1 FLYPELICAN REGIONAL SERVICE SUBSIDY

GOV400088, ECO8000028

123/21 MOTION: Holden / Paine


Mayor


General Manager

That Council:

1. receive the report by the Director Development on the FlyPelican Regional Service Subsidy;
2. authorise the General Manager to negotiate an extension of the air service subsidy agreement with FlyPelican from 23 April to 1 October 2021 inclusive;
3. amend the 2020/21 Budget to provide a regional flight subsidy of \$15,000, to be funded from the COVID-19 Response budget;
4. amend the Delivery Program in 2021/22 to provide a regional flight subsidy of \$57,000 to be funded from unrestricted cash;
5. place its intention to provide financial support up to \$72,000 for the FlyPelican RPT service between Mudgee and Sydney on public exhibition for a period of 28 days;
6. provide financial support to FlyPelican as above; if no objections are received during the public exhibition period;
7. receive a further report, if any objections are received during the public exhibition period; and
8. receive a further report at the May Council meeting with updated passenger numbers and to consider a 6 week ramp-up schedule.

The motion was carried with the Councillors voting unanimously.

14.2 MUDGEE AIRPORT DEVELOPMENT

GOV400088, DA0218/2019, F0470025

124/21**MOTION: Shelley / Martens****That Council:**

1. receive the report by the Chief Financial Officer on the Mudgee Airport Development;
2. note that authority has been previously approved for the General Manager to negotiate and approve 25 year leases for Lots 1-14 in the proposed Airport Subdivision;
3. note that it is recommended to do rental valuations on the lots including for the proposed improved lot with hangar and studio; and
4. not approve the sale of lots 1-14 on the proposed Airport



Mayor



General Manager

Subdivision at this time.

AMENDMENT: Karavas / nil

That Council:

1. receive the report by the Chief Financial Officer on the Mudgee Airport Development;
2. note that authority has been previously approved for the General Manager to negotiate and approve 25 year leases for Lots 1-14 in the proposed Airport Subdivision;
3. note that it is recommended to do rental valuations on the lots including for the proposed improved lot with hangar and studio;

*The amendment was lost for want of a seconder.**The motion was put and carried with Councillors voting as follows:*

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Holden	✓	
Cr Karavas		✓
Cr Martens	✓	
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson	✓	

Director Development, Julie Robertson, left the Chambers at 6.21pm and did not return.

Item 15: Urgent Confidential Business Without Notice

15.1 ACCEPTANCE OF URGENT BUSINESS

GOV400088,

125/21 MOTION: Kennedy / Holden**That Council consider the matter as Urgent Confidential Business Without Notice.***The motion was carried with the Councillors voting unanimously.*

15.2 PURCHASE OF LAND OPPORTUNITY

GOV400088,

126/21 MOTION: Shelley / Martens


Mayor



General Manager

That Council:

1. receive the report by the Chief Financial Officer on the Purchase of Land Opportunity;
2. agree to purchase the property identified in this report;
3. authorise the Mayor and General Manager to negotiate and execute the completion of the property purchase, including signing of a purchase contract and any relevant documents, up to the value specified in this report;
4. amend the 2020/21 Budget to allocate \$8,000 to obtain a valuation for the property as cited in this report, funded from the Land Development Reserve;
5. amend the 2020/21 Budget to allocate a budget amount as specified in this report for the purchase of land identified in this report, to be funded from the Land Development Reserve; and
6. note that the details around this property purchase are to remain confidential until the purchase is confirmed or until the opportunity passes, after which the details in this report will become available to the public

The motion was carried with the Councillors voting unanimously.

Item 16: Open Council

127/21 MOTION: Shelley / Holden

That Council move to Open Council.

The General Manager announced the decisions taken in Confidential Session.

Item 17: Closure

There being no further business the meeting concluded at 6.34pm.


Mayor


General Manager