

# Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee  
on 16 September 2020, commencing at 5.32pm and concluding at 6.56pm.

**PRESENT** Cr D Kennedy, Cr S Paine, Cr R Holden, Cr A Karavas, Cr E Martens, Cr J O'Neill, Cr P Shelley, 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 Governance (Tim Johnston) and Executive Assistant (Mette Sutton).

## Item 1: Apologies

An apology was received for Cr Cavalier.

**265/20 MOTION: Kennedy / Shelley**

**That the apology received for Cr Cavalier be accepted.**

*The motion was carried with the Councillors voting unanimously.*

## Item 2: Disclosure of Interest

Councillor D Kennedy declared a significant non-pecuniary conflict of interest in item 8.1 as he has a hotel and restaurant business.

Councillor J O'Neill declared a significant non-pecuniary conflict of interest in item 8.1 as he is an employee of a competitor business.

Councillor E Martens declared a less than significant non-pecuniary conflict of interest in item 8.6 as it mentions DA202/2020 that she has made a submission into.

## Item 3: Confirmation of Minutes

**266/20 MOTION: Shelley / Paine**

**That the Minutes of the Ordinary Meeting held on 12 August 2020 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****5.1 COMMUNITY REPRESENTATIVE ON THE WESTERN REGIONAL PLANNING PANEL**

GOV400087,

**267/20****MOTION: Kennedy****That Council:**

- 1. Endorse John Bentley as a community representative on the Western Regional Planning Panel for DA0288/2019 Electricity Generating Works (2 x 5MW Solar Farm) and Associated Infrastructure (Planning Panel Reference Number PPSWES-2);**
- 2. write to NSW Department of Planning, Industry and Environment to advise of the addition of a community representative for DA0288/2019; and**
- 3. note there is no proposed change to Council's existing representatives on the panel.**

*The motion was carried with the Councillors voting unanimously.*

**268/20****MOTION: O'Neill / Holden****That item 7.1, item 7.2 and item 7.3 be brought forward on the agenda.**

*The motion was carried with the Councillors voting unanimously.*

Councillor Kennedy vacated the Chair. The General Manager proceeded to chair the meeting.

**7.1 DELEGATIONS OF THE MAYOR**

GOV400087, GOV400012, A0110038

**269/20****MOTION: Shelley / O'Neill****That Council:**

- 1. receive the report by the Manager Governance on the Delegations of the Mayor;**
- 2. pursuant to the provisions of Section 377 of the Local Government Act, 1993, delegate to the Mayor authority:**
  - a) to monitor the General Manager in the exercise of the**

**General Manager's powers, duties and functions;**

- b) to authorise expenditure on works approved in the Operational Plan for an amount up to \$20,000;
- c) to authorise work, not approved in the Operational Plan, which in the Mayor's opinion is urgent, at a cost not exceeding \$20,000 except in the case of Bush Fire Emergency where the limit is \$250,000;
- d) to approve the attendance of any Councillor at meetings or functions between Council meetings, that the Mayor would normally attend on behalf of Council;
- e) to approve professional development activities, including conference attendance, within the budget limits of the Professional Development Program.
- f) to affix and witness the Common Seal of Council, in response to a resolution of Council, to any necessary documents in conjunction with the General Manager or another councillor; and

- 3. note the Role of Mayor in accordance with section 226 of the Local Government Act attached.

*The motion was carried with the Councillors voting unanimously.*

## 7.2 ELECTION OF THE MAYOR

GOV400087, GOV400012, A0110038

270/20

### **That Council:**

- 1. receive the report by the Manager Governance on the Election of the Mayor;
- 2. determine that the Ballot for the election of the Mayor be by Open Voting; and
- 3. designate the General Manager as Returning Officer for the election with the election to be conducted by the General Manager and the Manager Governance.

The General Manager, as Returning Officer, announced that only one nomination for the position of Mayor that was true and correct had been received from Councillor Kennedy. **As there were no other nominations, the General Manager declared Councillor Kennedy re-elected unopposed as Mayor from September 2020 to September 2021.**

## 7.3 ELECTION OF DEPUTY MAYOR

GOV400087, GOV400012, A0110038

271/20

**That Council:**

1. receive the report by the Manager Governance on the Election of Deputy Mayor;
2. determine that the Ballot for the election of the Deputy Mayor be by Open Voting; and
3. designate the General Manager as the Returning Officer for the election with the election to be conducted by the General Manager assisted by the Manager Governance.

The General Manager, as Returning Officer, announced that only one nomination for the position of Deputy Mayor that was true and correct had been received from Councillor Paine. **As there were no other nominations the General Manager declared Councillor Paine re-elected unopposed as Deputy Mayor from September 2020 to September 2021.**

Councillor Kennedy resumed the role of Chair.

**Item 6:****Notices of Motion or Rescission**

## 6.1 REPORTING ON NUMBER OF DCP VARIATIONS.

GOV400087, A0100035; GOV40022

272/20

**MOTION: Holden / Shelley****That:**

1. Council staff report each 6 months on the total number of any variations approved to various DCP requirements;
2. two Councillors be required to call up a development application and that Councillors be given five days to call up a development application; and
3. the Community Participation Policy be brought back to Council for review.

*The motion was carried with the Councillors voting unanimously.*

## 6.2 CAR AND PEDESTRIAN BRIDGE OVER THE CUDGEGONG RIVER

GOV400087, A0100035, GOV400022

**MOTION: Thompson / Martens**

That Council get a costing for a car and pedestrian bridge over the Cudgegong River at the northern end of Cox Street to Glen Willow.

*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

### 7.4 COUNCIL ADVISORY COMMITTEES

GOV400087, A0110015

273/20

**MOTION: Shelley / Paine**

**That Council:**

1. receive the report by the Director Community on the Council Advisory Committees; and
2. continue with the current nominated Councillor representatives to Council Advisory Committees and External Bodies until the next Local Government election due to be held on 4 September 2021; and
3. amend the list of Council representatives on External Committees to reflect that Cr Martens is the Council representative for the Crudine Ridge Wind Farm Consultative Committee.

The following recommendations (item 7.5 to item 7.7) 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 a separate resolution number commencing at resolution No. 274/20 and concluding at resolution No. 276/20.

### 7.5 CODE OF MEETING PRACTICE

GOV400087, GOV400009

274/20

**MOTION: Shelley / Paine**

**That Council:**

1. receive the report by the Manager Governance on the Code of Meeting Practice; and
2. endorse the current Code of Meeting Practice.

*The motion was carried with the Councillors voting unanimously.*

## 7.6 AMENDMENTS TO THE MODEL CODE OF CONDUCT AND PROCEDURES

GOV400087, GOV400008

**275/20**

**MOTION: Shelley / Paine**

**That Council:**

1. receive the report by the Manager Governance on the Amendments to the Model Code of Conduct and Procedures;
2. amend the Model Code of Conduct and Procedures to reflect an increase in the value of a token gift from \$50 to \$100; and
3. note the amendments now taking effect.

*The motion was carried with the Councillors voting unanimously.*

## 7.7 MRT QUARTERLY REPORT: APRIL - JUNE 2020

GOV400087, F0770077

**276/20**

**MOTION: Shelley / Paine**

**That Council receive the report by the General Manager on the MRT Quarterly Report: April - June 2020.**

*The motion was carried with the Councillors voting unanimously.*

## **Item 8: Development**

Councillor Kennedy declared a significant pecuniary conflict of interest in item 8.1 as he has a hotel and restaurant business, he left the Chambers at 5:53pm and did not participate in discussion or vote in relation to this matter.

Councillor O'Neill declared a significant pecuniary conflict of interest in item 8.1 as he is an employee of a competitor business, he left the Chambers at 5:53pm and did not participate in discussion or vote in relation to this matter.

Cr Paine proceeded to chair the meeting.

8.1 DA0290/2020 SMALL BAR - DRINK ON PREMISES,  
ANCILLARY PRODUCTION BREW KIT, FOOTPATH DINING  
AND BUSINESS IDENTIFICATION SIGNAGE

GOV400087, DA0290/2020

277/20

**MOTION:** Holden / Shelley

**That Council:**

1. receive the report by the Town Planner on the DA0290/2020 Small bar - drink on premises, ancillary production brew kit, footpath dining and business identification signage;
2. approve DA0290/2020 Small bar - drink on premises, ancillary production brew kit, footpath dining and business identification signage subject to the following conditions, and statement of reasons:

**CONDITIONS**

**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	Plan No.	Rev	Dated	Prepared by
Site Plan	1	-	-	Applicant
Floor Plan	2	-	-	Applicant
Brew house and Venue Space	3	-	-	Applicant

**GENERAL**

2. This development consent provides approval for a change of use – small bar – drink on premise, ancillary production brew kit, footpath dining and business identification signage, only.
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.

**NOISE CONDITIONS**

4. The proponent shall ensure that the noise generated from the small bar, ancillary production brew kit and footpath dining does not exceed the criteria in the Table at any residence on privately owned land. The allowable noise limits are applicable to the development:

**Table – Project Amenity Noise Levels ( $L_{Aeq,15min}$  dBA)**

Time of Day <sup>1</sup>	Noise Levels at Private Residence $L_{Aeq,15min}$
Day	53
Evening	43
Night	38

<sup>1</sup> Day = 7:00am – 6:00pm, evening = 6:00pm – 10:00pm, night = 10:00pm – 7:00am

Noise generated by the Development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the Noise Policy for Industry 2017.

5. A 2.6m high acoustic fence shall be installed as per the recommendation made in the Wilkinson Murray Pty Limited Noise Impact Statement (Report No. 20199 Version A) dated June 2020.
6. The rear doors of the main building shall be fitted with a self-closing device, and are not to be left in the open position during hours of operation.

#### **PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

7. 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.
8. A Construction Certificate for the approved use is not to be issued until any necessary approvals under Section 68 of the Local Government Act 1993 to dispose of waste into a sewer of the council (e.g. liquid trade waste) have been obtained.
9. The developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.

**Note –** As a pre-condition to granting certificate of compliance for development, Council may require the applicant to pay water supply and/or sewerage developer contributions and/or construct water management works to serve the development.

10. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work



involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4674-2004 – “Design, Construction and Fit-Out of Food Premises”, Food Act 2003, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.

**11. Pursuant to clause 94 of the Environmental Planning and Assessment Regulation 2000, the building shall be brought into conformity with the following Performance Requirements of the BCA, Volume 1:**

- DP1 – Access for people with a disability.
- DP2 – Exit doors and associated hardware shall be upgraded.
- DP6 – Paths of travel to an exit shall have dimensions appropriate to the number, mobility and other characteristics of occupants; and the function or use of the building.
- EP1.2 – Fire extinguishers must be installed to the degree necessary to allow occupants to undertake initial attack on a fire appropriate to the function or use of the building; and, any other fire safety systems installed in the building; and, the fire hazard.
- EP4.1 – To facilitate safe evacuation in an emergency, the building must be provided with a system that ensures a level of visibility sufficient to enable exits, paths of travel to exits and any obstacles along a path of travel to an exit to be identified; and activates instantaneously upon the failure of an artificial lighting system, to the degree necessary, appropriate to the function or use of the building; and the floor area of the building; and the distance of travel to an exit.
- EP4.2 – To facilitate evacuation, suitable signs or other means of identification, must, to the degree necessary, be provided to identify the location of exits; and, guide occupants to exits; and, be clearly visible to occupants; and, operate in the event of a power failure of the main lighting system for sufficient time for occupants to safely evacuate.

Plans and specifications demonstrating conformity shall be submitted to and approved by the principal certifying authority prior to the issue of a construction certificate for the building works.

**PRIOR TO COMMENCEMENT OF WORKS**

**12. 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.

13. 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 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**

14. A sign must be erected in a prominent position on any work site on which involved in 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.

15. 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,

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.

16. 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;
- 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.

## **BUILDING CONSTRUCTION**

- 17. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.
- 18. The list of measures contained in the schedule attached to the 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.
- 19. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
- 20. Construction work noise that is audible at other premises is to be restricted to the following times:
  - Monday to Saturday - 7.00am to 5.00pmNo construction work noise is permitted on Sundays or Public Holidays.
- 21. All mandatory inspections required by the Environmental Planning & Assessment Act 1979 and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
- 22. The installation of the solid fuel burning appliance, includes cooking appliances, shall comply Australian Standard AS/NZS 2918:2018. Specifically, the flue from the appliance shall achieve a minimum height so any odour does not adversely affect the amenity of the neighbouring allotments.

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

- 23. 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.

24. 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 New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
25. Prior to use of the development and/or issue of an Occupation Certificate, all works included in the Trade Waste Approval are to be completed.
26. Prior to the issue of an Occupation Certificate, approval shall be obtained from Council pursuant to section 68 of the Local Government Act 1993 and section 125 of the Roads Act 1993, in accordance with Council's Business Use of the Footpath Policy.

#### ONGOING / OPERATIONAL

27. 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.
28. 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 NSW Fire Brigades 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.
29. The premises shall, at all times, be operated and maintained in accordance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 prescribed in chapter 3 of the Australia and New Zealand Food Standards Code.
30. The approved hours of operation for the small bar are:
  - Monday to Thursday 4:00pm to 11:00pm
  - Friday to Saturday 11:00am to 11:30pm
  - Sunday 10:00am to 11:00pm.
31. The 'access to rear yard venue space' adjoining the rear doors of the main building and 'space between main building and rear shed' (as labelled on the approved plans) shall not be

used by patrons after 9pm, before which the number of patrons utilising these areas is limited to:

- Before 6pm - 50 patrons; and
- After 6pm - 31 patrons.

Note: access to the toilets by patrons is permitted.

32. Use of the footpath dining area is restricted between:

- Monday to Friday 5pm – 9pm;
- Saturday to Sunday 11am – 9pm.

Note. Council's Business Use of Footpath Policy does not permit the service of alcohol until after 12 noon.

33. The following areas (as labelled on the approved plans) are not to be open to patrons, and access is to be restricted to ensure the acoustic fence is not compromised:

- 'Rear Yard Space'; and
- 'The space not used for our venue / Café space next door'.

34. The 2.6m high acoustic fence shall be maintained for the life of the development.

35. No alcohol shall be served in the footpath dining area, unless it is served with food.

36. The operation of the footpath dining area must at all times be in accordance with a current approval under Section 125 of the Roads Act 1993.

37. All street furniture is to be removed from the footpath dining area outside approved operating hours.

38. A minimum clear zone (pedestrian area) of 1.8 metres measured outwards from the shop frontage shall be maintained at all times. All furniture is to be placed outside this clear zone.

39. The business proprietor and all personnel must ensure that the footpath dining area (and the immediate vicinity adjacent to the footpath dining area) is maintained in a clean and tidy condition at all times, free of grease, food and litter.

40. Barricades must be 1 metre in height clearly defining the boundaries of the footpath dining area. The barricades must be linked together and constructed so that they cannot be easily moved by patrons and can tolerate wind events.

41. Footpath dining furniture is to be good quality, properly

**maintained and of a colour and design that compliments the heritage building and streetscape. Advertising material and/or product endorsement is not to be displayed on any items of furniture.**

- 42. 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.**
- 43. Live or amplified music is only permitted within the "Current Main Building" (as labelled on the approved plans). No music is to be projected into the rear courtyard. Live or amplified music shall not result in an exceedance of the allowable noise level specified in Condition 4 of this consent.**
- 44. No live or amplified music is to take place from the rear courtyard.**

#### **Signage**

- 45. The approved Business Identification Sign is to only display the name of the business carried out at the premises or the nature of the business carried out at the premises. The signage may include the address of the premises and/or a business logo.**
- 46. The sign must not be illuminated at any time, and shall not include the use of bright or fluorescent colours, or highly reflective materials.**
- 47. The approved signage and related components are to be maintained in a clean, tidy and structurally sound manner, at all times.**
- 48. Any graffiti attacks on the approved signage and related components are to be removed and cleaned as soon as practicable, in order to deter future attacks.**

#### **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 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.
6. The development is to operate so as to not emit offensive noise, as defined in the Protection of the Environment Operations Act 1997.

#### STATEMENT OF REASONS

The determination decision was reached for the following 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 to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. The issues raised in submissions received in response to public notification of the development have been sufficiently addressed as follow:
  - a) Conditions relating to noise management, hours of operation and impacts to the amenity of the area; and
  - b) Conditions have been imposed to regulate the operational management of the site.

AMENDMENT                      Martens / Thompson

That Council:

1. receive the report by the Town Planner on the DA0290/2020 Small bar - drink on premises, ancillary production brew kit, footpath dining and business identification signage;
2. approve DA0290/2020 Small bar - drink on premises, ancillary production brew kit, footpath dining and business identification signage subject to the following conditions, and statement of reasons:

#### CONDITIONS

## 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.

<i>Title/Name</i>	<i>Plan No.</i>	<i>Rev</i>	<i>Dated</i>	<i>Prepared by</i>
Site Plan	1	-	-	Applicant
Floor Plan	2	-	-	Applicant
Brew house and Venue Space	3	-	-	Applicant

## GENERAL

2. This development consent provides approval for a change of use – small bar – drink on premise, ancillary production brew kit, footpath dining and business identification signage, only.
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.

## NOISE CONDITIONS

4. The proponent shall ensure that the noise generated from the small bar, ancillary production brew kit and footpath dining does not exceed the criteria in the Table at any residence on privately owned land. The allowable noise limits are applicable to the development:

Table – Project Amenity Noise Levels ( $L_{Aeq,15min}$  dBA)

Time of Day <sup>1</sup>	Noise Levels at Private Residence $L_{Aeq,15min}$
Day	53
Evening	43
Night	38

<sup>1</sup> Day = 7:00am – 6:00pm, evening = 6:00pm – 10:00pm, night = 10:00pm – 7:00am

Noise generated by the Development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the *Noise Policy for Industry 2017*.

5. A 2.6m high acoustic fence shall be installed as per the recommendation made in the *Wilkinson Murray Pty Limited Noise Impact Statement* (Report No. 20199 Version A) dated June 2020.
6. The rear doors of the main building shall be fitted with a self-closing device, and are not to be left in the open position during hours of operation.



## PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

7. 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.
8. A Construction Certificate for the approved use is not to be issued until any necessary approvals under Section 68 of the *Local Government Act 1993* to dispose of waste into a sewer of the council (e.g. liquid trade waste) have been obtained.
9. The developer shall obtain a *Certificate of Compliance* under the *Water Management Act 2000*, from Council.

Note – As a pre-condition to granting certificate of compliance for development, Council may require the applicant to pay water supply and/or sewerage developer contributions and/or construct water management works to serve the development.

10. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4674-2004 – “Design, Construction and Fit-Out of Food Premises”, *Food Act 2003*, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
11. Pursuant to clause 94 of the Environmental Planning and Assessment Regulation 2000, the building shall be brought into conformity with the following Performance Requirements of the BCA, Volume 1:
  - DP1 – Access for people with a disability.
  - DP2 – Exit doors and associated hardware shall be upgraded.
  - DP6 – Paths of travel to an exit shall have dimensions appropriate to the number, mobility and other characteristics of occupants; and the function or use of the building.
  - EP1.2 – Fire extinguishers must be installed to the degree necessary to allow occupants to undertake initial attack on a fire appropriate to the function or use of the building; and, any other fire safety systems installed in the building; and, the fire hazard.
  - EP4.1 – To facilitate safe evacuation in an emergency, the building must be provided with a system that ensures a level of visibility sufficient to enable exits, paths of travel to exits and any obstacles along a path of travel to an exit to be identified; and activates instantaneously upon the failure of an

artificial lighting system, to the degree necessary, appropriate to the function or use of the building; and the floor area of the building; and the distance of travel to an exit.

- EP4.2 – To facilitate evacuation, suitable signs or other means of identification, must, to the degree necessary, be provided to identify the location of exits; and, guide occupants to exits; and, be clearly visible to occupants; and, operate in the event of a power failure of the main lighting system for sufficient time for occupants to safely evacuate.

Plans and specifications demonstrating conformity shall be submitted to and approved by the principal certifying authority prior to the issue of a construction certificate for the building works.

#### PRIOR TO COMMENCEMENT OF WORKS

12. 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.

13. 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 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**

14. A sign must be erected in a prominent position on any work site on which involved in 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.

15. 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,

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.

16. 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;
  - 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.

#### BUILDING CONSTRUCTION

17. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
18. The list of measures contained in the schedule attached to the 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*.
19. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
20. Construction work noise that is audible at other premises is to be restricted to the following times:
- Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.

21. All mandatory inspections required by the *Environmental Planning & Assessment Act 1979* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.

22. The installation of the solid fuel burning appliance, includes cooking appliances, shall comply Australian Standard AS/NZS 2918:2018. Specifically, the flue from the appliance shall achieve a minimum height so any odour does not adversely affect the amenity of the neighbouring allotments.

#### PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

23. 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.
24. 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 New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
25. Prior to use of the development and/or issue of an Occupation Certificate, all works included in the Trade Waste Approval are to be completed.
26. Prior to the issue of an Occupation Certificate, approval shall be obtained from Council pursuant to section 68 of the *Local Government Act 1993* and section 125 of the *Roads Act 1993*, in accordance with Council's Business Use of the Footpath Policy.

#### ONGOING / OPERATIONAL

27. 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.
28. 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 NSW Fire Brigades 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.
29. The premises shall, at all times, be operated and maintained in accordance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 prescribed in chapter 3 of the Australia and New Zealand Food

## Standards Code.

30. The approved hours of operation for the small bar are:

- Monday to Thursday 4:00pm to 11:00pm
- Friday 4:00pm to 9:00pm
- Saturday 11:00am to 11:30pm
- Sunday 10:00am to 11:00pm.

31. The 'access to rear yard venue space' adjoining the rear doors of the main building and 'space between main building and rear shed' (as labelled on the approved plans) shall not be used by patrons after 9pm, before which the number of patrons utilising these areas is limited to:

- Before 6pm - 50 patrons; and
- After 6pm - 31 patrons.

Note: Access to the toilets by patrons is permitted.

32. Use of the footpath dining area is restricted between:

- Monday to Friday 5pm – 9pm;
- Saturday to Sunday 11am – 9pm.

Note. Council's Business Use of Footpath Policy does not permit the service of alcohol until after 12 noon.

33. The following areas (as labelled on the approved plans) are not to be open to patrons, and access is to be restricted to ensure the acoustic fence is not compromised:

- 'Rear Yard Space'; and
- 'The space not used for our venue / Café space next door'.

34. The 2.6m high acoustic fence shall be maintained for the life of the development.

35. No alcohol shall be served in the footpath dining area, unless it is served with food.

36. The operation of the footpath dining area must at all times be in accordance with a current approval under Section 125 of the *Roads Act 1993*.

37. All street furniture is to be removed from the footpath dining area outside approved operating hours.

38. A minimum clear zone (pedestrian area) of 1.8 metres measured outwards from the shop frontage shall be maintained at all times. All furniture is to be placed outside this clear zone.

39. The business proprietor and all personnel must ensure that the

- footpath dining area (and the immediate vicinity adjacent to the footpath dining area) is maintained in a clean and tidy condition at all times, free of grease, food and litter.
40. Barricades must be 1 metre in height clearly defining the boundaries of the footpath dining area. The barricades must be linked together and constructed so that they cannot be easily moved by patrons and can tolerate wind events.
  41. Footpath dining furniture is to be good quality, properly maintained and of a colour and design that compliments the heritage building and streetscape. Advertising material and/or product endorsement is not to be displayed on any items of furniture.
  42. 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.
  43. Live or amplified music is only permitted within the "Current Main Building" (as labelled on the approved plans). No music is to be projected into the rear courtyard. Live or amplified music shall not result in an exceedance of the allowable noise level specified in Condition 4 of this consent.
  44. No live or amplified music is to take place from the rear courtyard.

#### Signage

45. The approved Business Identification Sign is to only display the name of the business carried out at the premises or the nature of the business carried out at the premises. The signage may include the address of the premises and/or a business logo.
46. The sign must not be illuminated at any time, and shall not include the use of bright or fluorescent colours, or highly reflective materials.
47. The approved signage and related components are to be maintained in a clean, tidy and structurally sound manner, at all times.
48. Any graffiti attacks on the approved signage and related components are to be removed and cleaned as soon as practicable, in order to deter future attacks.

#### 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 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.
6. The development is to operate so as to not emit offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.

#### STATEMENT OF REASONS

The determination decision was reached for the following 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 to be satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning & Assessment Act 1979*.
3. The issues raised in submissions received in response to public notification of the development have been sufficiently addressed as follow:
  - a) Conditions relating to noise management, hours of operation and impacts to the amenity of the area; and
  - b) Conditions have been imposed to regulate the operational management of the site.

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

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

*The motion, on being put, was carried with Councillors voting as follows:*

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

Councillors Kennedy and O'Neill returned to the Chambers at 6:03pm.

Mayor Kennedy resumed the role of Chair.

8.2 MA0035/2020 - MODIFICATION APPLICATION TO 27 LOT  
RESIDENTIAL SUBDIVISION (DA0191/2015) - 196  
ROBERTSON ROAD, MUDGEES

GOV400087, DA0191/2015

278/20

**MOTION: Shelley / Holden**

**That Council:**

- A. receive the report by the Senior Planner on the Modification Application to DA0191/2015 (MA0035/2020) - 196 Robertson Road, Mudgee - 27 Lot Residential Subdivision;**
- B. approve Modification Application to DA0191/2015 (MA0035/2020) - 196 Robertson Road, Mudgee - 27 Lot Residential Subdivision subject to the following conditions and Statement of Reasons:**

**SCHEDULE A: 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) Submission to and approval by Council of a Water Servicing Plan with supporting calculations, prepared by an appropriately qualified engineer, demonstrating that the proposed subdivision will be adequately serviced with sufficient volume and pressure of water. The Water Servicing Plan shall demonstrate compliance with Mid-Western Development Control Plan 2013 and National Specification – Water Supply Code of Australia. The Water Servicing Plan shall show:**



- (i) Volume and location of water storage;
  - (ii) Indicative pipe size and location;
  - (iii) Depth of ground cover over underground infrastructure;
  - (iv) Location of fire hydrants;
  - (v) Details and location of any required pump stations;
  - (vi) Indicative easements for water storage and water pump stations, as required; and
  - (vii) Measures to minimise visual impact of water pumps and storage facilities.
- b) Submission to and approval by Council of a Sewerage Servicing Plan with supporting calculations, prepared by an appropriately qualified engineer, demonstrating that the proposed subdivision will be adequately serviced by sewerage infrastructure. The Sewerage Servicing Plan shall demonstrate compliance with Mid-Western Development Control Plan 2013 and National Specification – Sewerage Code of Australia. The Sewerage Servicing Plan shall show:
- (i) Location, size, and gradient of all sewer lines;
  - (ii) Depth of ground cover over underground infrastructure;
  - (iii) Location and details of manholes and rising mains;
  - (iv) Details and location of any sewer pump stations, if required;
  - (v) Indicative easements for sewer lines and sewer pump stations, as required; and
  - (vi) The impact on Endangered Ecological Communities and Threatened Species, if relevant.
- ~~c) The registration with NSW Land Registry Services of an easement to drain sewer of a minimum 3m wide over the properties that the sewer line for the proposed development will traverse, between the development site and the nearest connection to the reticulated sewerage network. The easement shall burden the lots the sewer line traverses and benefit Mid-Western Regional Council, as per the submitted Sewerage Servicing Plan. The easements shall be over the following properties, or any alternative properties as agreed to by Council should another route be preferable, to achieve a sewer line connection into Council's existing reticulated sewer system:~~
- ~~(i) Lot 3 DP1204702;~~
  - ~~(ii) Lot 1 DP1000497;~~
  - ~~(iii) Lot 2 DP1000497; and~~
  - ~~(iv) Lot 8 DP1221711.~~
- ~~DELETED FROM PART 1 BY MA0035/2020~~
- ~~d) Where required, the registration with NSW Land Registry Services of any easements over private property (other than the subject site) to accommodate water supply infrastructure, such as pump stations and storage tanks.~~

**DELETED FROM PART 1 BY MA0035/2020**

- e) An Ecological Assessment Report be prepared by a suitably qualified ecological consultant to identify any threatened species in:
- (i) the road reserve directly in front of both street frontages of the subject site;
  - (ii) within the area outside of the subject site approved for the sewer line extension; and
  - (iii) within any areas for water line extensions outside of the subject site.

Following the completion and findings of the Ecological Assessment Report, the necessary approvals from other government agencies are to be obtained and a copy provided to Council, to ensure the protection of any Threatened Species. These approvals may include:

- (i) A Controlled Action Approval from the Department of Environment and Energy (DEE); and
  - (ii) Concurrence from NSW Office of Environment and Heritage (OEH).
- f) If a Biodiversity Offset site is required to meet the requirements of sub-condition (e.) above, details of the Biodiversity Offset site and any draft terms of restriction or covenants on title are to be submitted to and approved by Council.

Evidence that will sufficiently enable Council to be satisfied as to the compliance of the above matter/s must be submitted to Council within five (5) years of the date of determination of the original un-modified development consent (ie due date: 20 February 2024).

If sufficient evidence of the satisfaction of the above matter/s is not received by Council within this time-frame, 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 matter/s is received by Council within the above nominated time-frame, Council will notify the applicant/developer in writing of the date the development consent has become operative. The consent will become operative subject to the following conditions of consent.

**Note:** 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.

**AMENDED BY MA0007/2020**

**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 and/or any plan notations.

Title/Name	Drawing Document Ref	No/ Revision/ Issue	Dated	Prepared by
Proposed Subdivision Lot Layout	6242 PS-V10 Sheet 1 of 4	V10	12/06/19	Le Mottee Group
Proposed Subdivision Lot Layout – Aerial Overlay	6242 PS-V10 Sheet 2 of 4	V10	12/06/19	Le Mottee Group
Proposed Subdivision Lot Layout – Aerial Overlay (Contours)	6242 PS-V10 Sheet 3 of 4	V10	12/06/19	Le Mottee Group
Proposed Subdivision Lot Layout (APZ and VRZ)	6242 PS-V10 Sheet 4 of 4	V10	12/06/19	Le Mottee Group
Ecological Assessment for a Residential Subdivision at 196 Robertson Road, Mudgee	-	-	February 2017	Firebird Ecosultants Pty Ltd

**Note: Servicing Strategy plans, as submitted, have not been approved as they require consent and approval for creation of easements.**  
**AMENDED BY MA0007/2020**

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.

**GENERAL****Amended Plan Requirements**

3. Where required by water supply requirements, as approved as part of Deferred Commencement Condition No 1(a), the plan of proposed subdivision must be amended. The amended plan is to provide for the creation of suitably sized reserves, to be vested in Council free of charge, that will provide for both pump station and storage tanks to ensure adequate volume and pressures to meet all requirements, specifically as related to fire-fighting requirements.
4. Where required by sewer design requiring pump station and rising mains, as approved as part of Deferred Commencement Condition No 1(b). The amended plan of the proposed subdivision must be amended to provide for the creation of a suitably sized reserve, to be vested to Council free of charge that will provide for both pump station and any rising main requirements.
5. An amended plan of subdivision must be submitted to:

- a) Create a four (4) metre by four (4) metre corner cut off/splay at the corner of Bruce Road and Robertson Road for road widening purposes; and
  - b) Provide a roll back kerb and gutter return with a radius of 8 metres at the intersection of Bruce and Robertson Roads. The roll back kerb and gutter need only apply to that part of the intersection adjacent to the north-east corner of the subject site.
6. The approved plan of subdivision shall be amended to increase the length of the internal road so that the edge of the cul-de-sac adjoins the western boundary of the subject site.

**Note:** This condition is applied to provide for a possibility of a future through road via the adjoining property to the west.

**Other**

7. The development is to be constructed in 2 stages, as outlined below:

- a) Stage 1: All lots fronting Robertson Road (ie Lots 1 to 6, 25 and 26 – 8 lots) and residue lot, construction of the stormwater detention basin and any upgrade works required to Robertson Road.
- b) Stage 2: Lots 7 to 24 and Lot 27 (ie 19 lots). This stage is to include the construction of:
  - (i) The internal road;
  - (ii) The driveways associated with Lots 11, 23 and 24; and
  - (iii) Any upgrade works required within the Bruce Road road reserve.

All servicing is to be undertaken in accordance with the staging.

**AMENDED BY MA0007/2020**

8. Proposed Lot 27 shall not be further subdivided by any future development application for subdivision.

**Note:** Another condition within this development consent will require a restriction on title to be applied to Lot 27, to ensure that proposed Lot 27 is not subdivided.

9. The strength of the concrete used for any concrete components in the development must be a minimum 25 Mpa.
10. No earthworks shall be undertaken within offset areas, environmental protection areas or Vegetated Riparian Zones of the creek.

11. The developer is to engage a registered surveyor at their own expense to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation is to be supplied to NSW Land Registry Services and Council.
12. All road crossings for services and utilities are to cross perpendicular to the road alignment and must be installed prior to the commencement of construction of base course and kerb and channel.
13. All activities on the subject site are to undertaken in accordance with the approved Construction Environmental Management Plan (CEMP) and Plan of Management (PoM).

Note: Conditions 50 and 51 of this development consent require the submission and approval of a CEMP and PoM.

14. As there are known Aboriginal objects within the proposed subdivision, that will be or are likely to be harmed from future residential development, prior to the release of the Subdivision Certificate for any of the lots, an Aboriginal Cultural Heritage Assessment Report must be prepared and submitted to Council for approval.

This report is to be prepared in accordance with the Office of Environment and Heritage's Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW. As per the Guide, the report is required to determine what Aboriginal cultural heritage is in the area, why it is important, what the likely impacts of the development will be, and how the impacts can be avoided, minimised or not avoided.

Where the impacts cannot be avoided, an Aboriginal Heritage Impact Permit (AHIP) is to be obtained.

15. Prior to the release of a Construction Certificate, the developer is to obtain a Controlled Activity approval from the NSW's Water Authority.
16. All General Terms of Approval issued in relation to the approved development, shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- a) General Terms of Approval, issued by NSW Rural Fire Service, for a Bush Fire Safety Authority in accordance with Section 100B of the Rural Fires Act 1997.
- b) General Terms of Approval, issued by NSW's Water Authority, for a Controlled Activity Approval in accordance

**with Section 91 of the Water Management Act 2000.**

17. 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.
18. 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.
19. If the development involves an 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: 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**

20. The developer is to ensure that any defects in the works that become apparent before and within the succeeding six (6) months after the registration of the subdivision plan, are remedied to Council's satisfaction. If these defects are not satisfactorily remedied, Council may use bond money to carry out rectification works.

**Any unspent bond money will be returned to the developer at the end of the six (6) month period, less the cost of any rectification works carried out by Council.**

**Essential Energy**

21. Satisfactory arrangements are to be made with Essential Energy for the re-location of any existing electrical infrastructure or for the creation of easements for any existing

**electrical or new electrical infrastructure.**

**Note: Refer to Essential Energy's Contestable Work Team for requirements.**

- 22. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the property shall be complied with.**

**Transgrid**

- 23. The design, construction, and restrictions on titles shall be undertaken in accordance with the conditions supplied by Transgrid for the proposed subdivision.**

**Note: Refer to Attachment D of this Decision Notice for a copy of the Transgrid conditions.**

**Stormwater**

- 24. The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development.**
- 25. Drainage design must provide for control of runoff from all external upstream catchments.**
- 26. Drainage design must provide for sufficient detention capacity and restricted outlets to limit the rate of runoff from the development to existing un-developed levels for a 1 in 1.5 year ARI storm event. Detention basin capacity must be provided for all large storm events up to and including a 1:100 year ARI storm event. Drainage design for any proposed detention basin must be accompanied by fully detailed runoff calculations certified by a suitably qualified professional engineer.**
- 27. Drainage design must incorporate suitable and appropriate water quality controls to prevent pollution or contamination of downstream environments.**
- 28. Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property.**
- 29. A minimum of two (2) approved roof-water outlets per allotment are to be provided in the kerb and gutter at the time of installation of kerb and gutter. Such outlets shall be located near the projected line of allotment side boundaries.**
- 30. Inter-allotment drainage is to be provided to remove**

stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1 metre wide shall be created over inter-allotment drainage in favour of upstream allotments.

31. Stormwater drainage is to comply with the Mid-Western Regional Council Development Control Plan and the standards referenced in Appendix B and D.

#### **Water and Sewer Services**

32. The applicant is to provide separate water and sewer reticulation services to each allotment within the subdivision.
33. Council does not permit other bodies to insert new junctions into “live” sewer and water mains. Please contact Council’s Operations Water and Waste Department by calling 02 6378 2850 or by emailing [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au) to obtain a quote for the connection of the new sewer extension and water service (Private Works Order).
34. The developer is to extend and meet the full cost of water reticulation to service the development plus the cost of connecting to existing services. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act 1993) and in accordance with the National Specification – Water Supply Code of Australia.
35. The developer is to extend and meet the full cost of sewer reticulation to service the development plus the cost of connecting to existing services. All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act 1993) and in accordance with the National Specification – Sewerage Code of Australia.

Note: The applicant/developer must obtain the necessary consents and approvals for creation of easements prior to the submission of design for Construction approval. Alternatively, a sewer drainage system will require the use of a pump station within the property to pump sewage to a suitable gravity main. The latter option does not require easements over private land.

36. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1,844 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

Note: Council does not permit other bodies to insert new connections into ‘live’ water mains.



37. In the case of any lots that will be serviced by a water main constructed by the developer, a full water service is not required and the developer can elect to pay for a meter assembly only at a cost of \$390 for a 20 mm water meter.
38. In the case of any lots that will be serviced by a sewer main constructed by the developer the sewer junctions and risers required to service the proposed lots must be installed by the developer.

#### Roads

39. The developer is to upgrade Robertson Road for the full frontage of the proposed subdivision, such that it has the following characteristics:

Item	Requirement
Half Road Pavement Width	5.5 m (1 x 3.5m travel land with 1 x 2m sealed shoulder)
Footpath Width	1 x 4.5 m
Concrete Footpaths	Nil
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.

40. The developer is to upgrade Bruce Road for the full frontage of the proposed subdivision, such that it has the following characteristics:

Item	Requirement
Half Road Pavement Width	5.5 m (1 x 3.5m travel land with 1 x 2m sealed shoulder)
Footpath Width	1 x 4.5 m
Concrete Footpaths	Nil
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.
Road surface height above creek crossing	Height sufficient for road surface to be above the 100 year ARI storm event

	flood levels within the creek. Culvert to be of sufficient width to accommodate full width road pavement and provision for future footpaths.
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41. The new roads in the subdivision are to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	9 m
Footpath Width	2 x 4.5m
Concrete Footpaths	1 x 1.2m wide
Seal	Two-coat flush seal -14/7 mm (Double/ Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.

AMENDED BY MA0007/2020

#### PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE (CIVIL WORKS)

The following conditions must be complied with prior to Council issuing a Construction Certificate for the civil works required for the proposed subdivision.

42. A detailed engineering design is to be submitted to and approved by Council prior to the issue of a Construction Certificate. The engineering design is to comply with Council's Development Control Plan and the Standards referenced within Appendix B and D. A Construction Certificate is required for but not limited to the following civil works:
- Extension, as necessary, of water and sewer mains providing connections to each proposed Lot that may or may not require the developer to obtain consent for the creation of easements and approval to carry out works on private land;
  - Stormwater drainage including provision for both detention and water quality improvements to limit the rate of discharge of runoff to pre-development levels for a 1.5 year ARI storm event and detention for a storm event up to 1:100 year ARI;
  - Road construction for the new internal road;
  - Road pavement including widening and construction of kerb and channel for the entire lengths of the subject land

- abutting both Bruce Road and Robertson Road;
- e) Footpath and kerb & gutter; and
- f) Landscaping of public reserves.

All design is to be supported by fully detailed documentation including investigation reports and calculations (eg geotechnical investigation, stormwater runoff calculations including an assessment of upstream catchments, etc).

**Note:** No works can commence prior to the issue of the Construction certificate.

- 43. Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993, prior to the issue of a Construction Certificate.
- 44. Details of the internal driveways within the access handles are to be submitted to and approved by the Certifier (ie Council or a private Certifier) as part of the Construction Certificate. The details are to comply with the following:
  - a) A 6m wide concrete crossover is to be provided at the entrance (ie first 6m) to the access handles for proposed Lots 23 and 24.
  - b) A 3m wide concrete crossover is to be provided at the entrance to the access handles for proposed Lot 11.
  - c) A 6m wide sealed (concrete or bitumen) driveway is to extend for the full length of the right of carriageway to be provided over the access handles for proposed Lots 23 and 24. Alternatively, localised pavement widening to a width of 6 metres and over a length of no less than 6 metres may be provided to allow two vehicles to safely pass. Provision must be made for the control of surface runoff (kerb or dish drain).
  - d) A 3m wide sealed (concrete or bitumen) driveway is to extend for the full length of the access handle for proposed Lot 11.
  - e) The design of the driveway and crossover is to comply with Aus-Spec #1 and Council's "Access to Properties Policy".
  - f) Except where varied by the above conditions, the details are to comply with the relevant provisions of AS2890.1-2004.
  - g) Should concrete be used, provide for construction joints and removable panels in the driveway so that the part of the concrete driveway can be removed while maintenance occurs on any underground water, sewer or stormwater

**infrastructure within the access handle.  
AMENDED BY MA0007/2020**

- 45. Prior to the issue of a Construction Certificate a Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.**
- 46. The detailed design plans submitted for the issue of a Construction Certificate must show all finished surface levels. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.**
- 47. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:**
  - a) Saving available topsoil for reuse in the revegetation phase of the development;**
  - b) Using erosion control measures to prevent on-site damage;**
  - c) Rehabilitating disturbed areas quickly; and**
  - d) Maintenance of erosion and sediment control structures.**
- 48. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (Twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.**
- 49. Prior to the issue of the Construction Certificate, Council is to be provided with the certified copies of the Electrical and Telecommunications design for the subdivision.**
- 50. A Construction Environmental Management Plan (CEMP) is to be submitted to and approved by Council and the Department of Environment and Energy, prior to the issue of a Construction Certificate or the commencement of any works/actions on the site. The CEMP is to include the following measures and/or comply with the following requirements:**
  - a) The CEMP is to be prepared by a suitably qualified person.**
  - b) Must provide for the protection of the following during**

**construction:**

- (i) **Leucochrysum albicans var. tricolor (Hoary Sunray);**
  - (ii) **Box-Gum Grassy Woodlands – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland;**
  - (iii) **Acacia Ausfeldii (Ausfeld's Wattle); and**
  - (iv) **Vegetated Riparian Zones as identified on the approved subdivision plans.**
- c) **The CEMP is to satisfy Condition 4 of the Controlled Action Approval, issued by the Department of Environment and Energy, provided as Attachment C to this Development Consent.**
- d) **The CEMP is to address the relevant Transgrid Conditions provided as Attachment D to this development consent.**
- e) **The CEMP is to address relevant matters that arise in the Ecological Assessment Report, additional Controlled Activity Approval and any OEH concurrence requirements or comments required by Condition 1 – Deferred Commencement Consent of this development consent.**
- f) **The CEMP is to include an Erosion and Sediment Control Plan for the development prepared in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater".**
- g) **The CEMP is to include the means of fencing or similarly marking/delineating:**
- (i) **The edge of the riparian buffer zone.**
  - (ii) **The edge of conservation clumps.**
  - (iii) **Construction access for the on-site detention basin.**
  - (iv) **Fencing is to be marked by peg and tape, or similar.**
- h) **Construction works are not to occur outside of the construction zone or within areas fenced in accordance with the previous sub-condition.**
- i) **Detailed measures for protecting vegetation within the near vicinity of the proposed on-site detention basin.**
- j) **Stockpile areas shall be located outside riparian vegetation and at least 10m from native vegetation.**
- k) **Wash down machinery and vehicles before entering the site and before leaving the site, to limit weed spread.**
- l) **Areas proposed for disturbance where noxious weeds are present shall be managed according to the weed class.**

**m) Traffic management, including details of:**

- (i) Ingress and egress of vehicles to the site;**
- (ii) Management of loading and unloading of materials;**
- (iii) The location of heavy vehicle parking off-site; and**
- (iv) Designated routes for vehicles to the site.**

**n) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences.**

**o) Scour protection, points of construction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the site, are to be suitably protected against scour. Designs of scour protection works are to be based on predicted velocities and scour potential. Methods of construction are to be detailed.**

**p) The CEMP must state the responsible person, including their position or status as a separate contractor, for implementation of these aspects of the CEMP.**

**51. A Plan of Management (PoM) is to be submitted to and approved by Council and the Department of Environment and Energy, prior to the issue of a Construction Certificate or the commencement of any works/actions on the site. The PoM is to include the following measures and/or comply with the following requirements:**

**a) The PoM is to be prepared by a suitably qualified person.**

**b) The PoM must specify actions for the protection of the following in perpetuity:**

- (i) Leucochrysum albicans var. tricolor (Hoary Sunray);**
- (ii) Box-Gum Grassy Woodlands – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland;**
- (iii) Acacia Ausfeldii (Ausfeld's Wattle);**
- (iv) Vegetated Riparian Zones as identified on the approved subdivision plans; and**
- (v) Species identified in the Ecological Assessment Report that could potentially use the site.**

**c) The PoM is to satisfy Condition 6 of the Controlled Action Approval, issued by the Department of Environment and Energy, provided as Attachment C to this Development Consent.**

**d) The PoM must address the recommendations of the Ecological Assessment for a Residential Subdivision at 196**

**Robertson Road, Mudgee (Firebird Ecosultants P/L, February 2017)**

- e) **The PoM is to address relevant matters that arise in the Ecological Assessment Report, additional Controlled Activity Approval and any OEH concurrence requirements or comments required by Condition 1 – Deferred Commencement Consent of this development consent.**
- f) **The PoM shall include the following measures, as a minimum:**
  - (i) **Maintenance of identified Vegetated Riparian Zones (VRZ's) with long grass, groundcovers and mature vegetation, in accordance with the relevant riparian zone guidelines prepared by DPI Water.**
  - (ii) **Appropriate fencing be erected to protect the ecologically sensitive areas.**
  - (iii) **A native vegetation restoration strategy be implemented, with a focus on regeneration of Box-Gum Grassy Woodlands and *L. albicans* var. *tricolor* (Hoary Sunray). This should involve an integrated approach to weed management and revegetation and should be developed in consultation with the relevant experts in native grassy vegetation restoration.**
  - (iv) **A weed management plan, with a focus on controlling noxious weeds on the site.**
  - (v) **Artificial nest boxes should be erected within the Box-Gum grassy Woodlands, at the recommended density of 8 nest boxes/ha (a minimum of 9 nest boxes, for 1.2 ha of Box Gum Woodlands). The replacement nest boxes should cater for a range of hollow dependent fauna types, including birds, arboreal mammals and microchiropteran bats. An experienced ecologist is required to install the nest boxes.**
  - (vi) **A monitoring plan be incorporated to ensure that the requirements of the PoM are being adhered to.**
  - (vii) **Consideration of the need for burning of the conservation areas and measures to control each burn over the long term. Measures to control each burn are required to stimulate germination of dormant AA seed while minimising damage/attrition rate of existing AA stems. The burning regime is to be determined in consultation with the Office of Environment and Heritage (OEH). It is recommended that any plans for burning areas supporting threatened species be discussed with and approved by OEH prior to each burn being undertaken, as there remains uncertainty regarding the impacts of burning regimes on some species and vegetation communities.**

- g) **Boundaries of riparian areas and conservation clumps are to be clearly marked.**
        - h) **Sediment erosion control measures are to be employed to ensure the riparian zones, conservation clumps and large trees are not impacted.**
        - i) **A monitoring plan, to ensure that the requirements of the PoM are adhered to.**
        - j) **Provide an indicative list appropriately qualified personnel to undertake monitoring, maintenance, replanting, weeding activities and monitoring/maintenance schedule.**
        - k) **Provide a draft linen plan and draft terms of restriction to protect and manage protected vegetation, ecological communities and riparian vegetation.**
- 52. Prior to the issue of a Construction Certificate or the commencement of any works/actions on the site, the developer shall register protective covenant/s under Section 88B, 88D or 88E of the Conveyancing Act 1919. A draft of the Section 88B, 88D or 88E instrument is to be submitted to and approved by Council, prior to registration. The Section 88B, 88D or 88E instrument is to:**
  - a) Provide protection for the following in perpetuity:**
    - (i) The offset area identified on the approved subdivision plan (coloured pink);**
    - (ii) Leucochrysum albicans var. tricolor (Hoary Sunray) conservation areas;**
    - (iii) Box-Gum Grassy Woodlands – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland conservation area;**
    - (iv) Acacia Ausfeldii (Ausfeld's Wattle) within the biodiversity offset area; and**
    - (v) Vegetated Riparian Zones as identified on the approved subdivision plans.**
  - b) Satisfy Condition 5 of the Controlled Action Approval, issued by the Department of Environment and Energy, provided as Attachment C to this Development Consent.**
  - c) Link to the Plan of Management (PoM) approved in accordance with the previous condition of this consent.**
  - d) Include a term to the effect that all buildings, as defined in the 10/50 Vegetation Clearing Code of Practice for NSW, must be built a minimum of 10 metres from vegetation identified as Box Gum Woodland.**

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#### **PRIOR TO THE COMMENCEMENT OF WORKS**

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- 53. Prior to the commencement of construction of infrastructure, the Developer must obtain a Subdivision Construction Certificate.**
- 53A The registration with NSW Land Registry Services of an easement to drain sewer of a minimum 3m wide over the properties that the sewer line for the proposed development will traverse, between the development site and the nearest connection to the reticulated sewerage network. The easement shall burden the lots the sewer line traverses and benefit Mid-Western Regional Council, as per the submitted Sewerage Servicing Plan. The easements shall be over the following properties, or any alternative properties as agreed to by Council should another route be preferable, to achieve a sewer line connection into Council's existing reticulated sewer system:**
- (i) Lot 3 DP1204702;**
  - (ii) Lot 1 DP1000497;**
  - (iii) Lot 2 DP1000497; and**
  - (iv) Lot 8 DP1221711.**
- ADDED BY MA0035/2020**
- 53B Where required, the registration with NSW Land Registry Services of any easements over private property (other than the subject site) to accommodate water supply infrastructure, such as pump stations and storage tanks.**
- ADDED BY MA0035/2020**
- 54. Any necessary alterations to, or relocations of, public utility services are 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.**
- 55. Prior to commencement of works, the submission of three possible street/road names in order of preference, for the proposed new road within the subdivision, are to be submitted to Council for approval.**
- 56. Prior to the commencement of subdivision works, the following actions are to be carried out:**
- a) A site supervisor is to be nominated by the applicant;**
  - b) Council is to be provided with two (2) days' notice of works commencing; and**
  - c) Council is to be notified in writing of any existing damage to Council's infrastructure.**
- Note: Failure to comply with these conditions may result in damage to Council's infrastructure. Any damage will be rectified at the applicant's cost.**

- 57. Runoff and erosion controls shall be installed prior to clearing and incorporate:**
- a) Diversion of uncontaminated upsite runoff around cleared and /or disturbed areas and areas to be cleared and/or disturbed;**
  - b) Sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water; and**
  - c) Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond completion of construction.**
- 58. 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.**
- 59. 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.**
- 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.**
- 60. 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 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.**

**DURING CONSTRUCTION**

61. The subdivision works are to be inspected by a Certifier (i.e. Council or a private certifier) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures;
  - b) Water and sewer line installation prior to backfilling;
  - c) Establishment of line and level for kerb and gutter placement;
  - d) Road pavement construction (proof roll and compaction testing of all pavement layers, sub-grade, sub-base, and base prior to sealing);
  - e) Road pavement surfacing;
  - f) Stormwater culvert and drainage pipe installation prior to backfilling; and
  - g) Practical Completion.
62. The developer is to grant Council unrestricted access to the site at all times to enable inspections to enable inspections or testing of the subdivision works.
63. Unless specifically identified in Deferred Commencement or Construction Certificate Approval requirements, no trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction of the subdivision works including the erection of any fences or hoardings.  
**AMENDED BY MA0007/2020**
64. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the NSW Land Registry Services and Council.
65. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
66. 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.
67. All required earthworks for roads associated with the subdivision must have compaction testing in compliance with RMS Q4 and AUS-SPEC CQS-A.
68. Street trees of a species approved by Council are to be provided at a minimum rate of two trees per allotment.

69. 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.
70. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.
71. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
- ~~72. 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.~~  
DELETED BY MA0007/2020
73. The licensed demolition contractor and/or principal contractor must comply with the following specific requirements in respect of the proposed demolition works:
- a) Demolition work is not be undertaken until:
    - Council has been provided with a copy of any required Hazardous Substances Management Plan;
    - The licensed demolition contractor and/or principal contractor has inspected the site and is satisfied that all measures are in place to comply with the provisions of such Plan;
  - b) The removal, handling and disposal of any asbestos material (in excess of 10m<sup>2</sup>) is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW, and in accordance with the requirements of WorkCover NSW, the Work Health and Safety Act 2011 and Australian Standard 2601-2001
  - c) All asbestos and other hazardous materials are to be appropriately contained and disposed of at a facility holding the appropriate license issued by the NSW Environmental Protection Agency;
  - d) Seven working days' notice in writing is to be given to Council prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor.
74. The removal of any asbestos material (less than 10m<sup>2</sup>) during

the demolition phase of the development is to be in accordance with the requirements of the SafeWork NSW and disposed of at an approved waste facility.

75. Construction work noise that is audible at other premises is to be restricted to the following times:
- Monday to Saturday - 7.00am to 5.00pm
- No construction work noise is permitted on Sundays or Public Holidays.
76. Should any contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the applicant and contractor shall ensure the appropriate regulatory authority (eg Office of Environment and Heritage (OEH), WorkCover Authority, Council, Fire and Rescue NSW etc) is notified, and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority.
- Note: Such materials cannot be disposed of to landfill unless the facility is specifically licenced by the EPA to receive that type of waste.
77. 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.

#### **PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE**

Under the Environmental Planning & Assessment Act 1979, a Subdivision Certificate is required before the linen plan of subdivision can be authorised for registration with NSW Land Registry Services.

78. An application for Subdivision Certificate, application fee and two (2) copies of the linen plans are to be submitted to Council for approval and endorsement by the General Manager (or their delegate).
79. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager (or their delegate).
80. Prior to the issue of a Subdivision Certificate, the developer

must provide for the construction of all of the following works, relevant to the stage of subdivision. Such works are to be completed to the satisfaction of Council.

- a) road widening;
- b) provision of stormwater drainage infrastructure for the development; and
- c) extension and connection of water and sewer services and utilities as necessary to provide for individual service connections for each proposed Lot.

81. Prior to the issue of a Subdivision Certificate, a survey drawing is to be submitted to Council, demonstrating that all private water services, sewer services and water meters are located wholly within the lot that they serve.

Where lots are nominated to be development in future for dual occupancy development, dual services for water, sewer and stormwater are to be provided for the nominated lots.

82. Following completion of the subdivision works, work-as-executed plans (WAE) are to be provided to Council in the following formats:

- a) PDF; and
- b) Dwg format or "Autocad compatible"

All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.

83. Street trees for the relevant subdivision stage are to be provided in accordance with the approved landscape plan for the subdivision.

Note: Condition 42(f) of this development consent required the submission and approval of a landscape plan for the public areas within the subdivision.

84. Any fencing nominated in the approved Plan of Management (PoM) to be established around areas of vegetation to be protected, are to be erected prior to the issue of a Subdivision Certificate.

85. A sealed, all-weather access driveway is to be provided within the access handles and right of carriageway within proposed Lots 11, 23 and 24.

Note: Detailed plans for driveways were required to be submitted and approved in accordance with Condition 44.

AMENDED BY MA0007/2020

86. The adjustment of existing services or installation of new

services and metres, 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.

87. The developer must provide Council and land purchasers with a site classification for each vacant lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause 2.2.3 of Australian Standard AS 2870 – 2011: Residential Slabs and Footings. Results are to be submitted to Council prior to issue of the Subdivision Certificate.
88. The finished surface of all nature strips and verges must be graded to fall toward the kerb and channel and formed with a minimum 100 mm thick layer of clean topsoil free of stones and other impurities. Nature strips and verges are to be seeded or hydro-mulched with an approved grass prior to the issue of a Subdivision Certificate.

#### **Defects Liability Bond**

89. Prior to the release of the Subdivision Certificate, a defects liability bond of 5% of the construction costs for all civil engineering work (not carried out by Council), shall be lodged with Council.

The defects liability bond will be held by Council for a period of six (6) months from the completion of works, to ensure that any defects that become apparent during that time are remedied by the developer.

For the purposes of defining defects liability period, the works are considered to be completed when the subdivision certificate is registered with NSW Land Registry Services.

The bond may be provided by way of a monetary deposit with the Council or a bank guarantee to the satisfaction of the Council. The bank guarantee must not specify any time limitations on the operation of the guarantee.

#### **Developer Contributions**

90. In accordance with the provisions of section 7.11 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94 Development Contributions Plan 2005-2021, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of a Subdivision Certificate for the relevant stage or number of lots to be created. Contributions are subject to increase in accordance the consumer price index and are

payable at the rate applicable at the time of payment.

Section 94 Contributions		
The rates shown below are current up to 30 June 2019		
26 Additional Lots (credit for existing)		
	Per Lot	26 Additional Lots
Mudgee (Catchment 2)		
Transport Management		
Traffic Management	\$1,282.00	\$33,332.00
Open Space		
Local Open Space	\$2,013.00	\$52,338.00
District Open Space	\$2,732.00	\$71,032.00
Community Facilities		
Library Buildings	\$263.00	\$6,838.00
Library Resources	\$316.00	\$8,216.00
Drainage		
Drainage Works	\$0.00	0
Administration		
Plan Administration	\$614.00	\$15,964.00
Total	\$7,220.00	\$187,720.00

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: Council's Section 94 Development Contributions Plan 2005-2021 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au) under Council Documents/Strategies and Plans.

91. Any unpaid Contributions or charges nominated in the development consent will be indexed to CPI at the beginning of each new financial year.

#### Certificate of Compliance

92. 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.

#### Restrictions on Title

93. In the case where any Subdivision Certificate is sought prior to the commencement of any works or actions on the site, the



developer shall register protective covenant/s under Section 88B, 88D or 88E of the Conveyancing Act 1919. A draft of the Section 88B, 88D or 88E instrument is to be submitted to and approved by Council, prior to registration. The Section 88B, 88D or 88E instrument is to:

- a) Provide protection for the following in perpetuity:
  - (i) The offset area identified on the approved subdivision plan (coloured pink);
  - (ii) *Leucochrysum albicans* var. *tricolor* (Hoary Sunray) conservation areas;
  - (iii) Box-Gum Grassy Woodlands – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland conservation area;
  - (iv) *Acacia Ausfeldii* (Ausfeld's Wattle) within the biodiversity offset area; and
  - (v) Vegetated Riparian Zones as identified on the approved subdivision plans.
- b) Satisfy Condition 5 of the Controlled Action Approval, issued by the Department of Environment and Energy, provided as Attachment C to this Development Consent.
- c) Link to the Plan of Management (PoM) approved in accordance with the previous condition of this consent.
- d) Include a term to the effect that all buildings, as defined in the 10/50 Vegetation Clearing Code of Practice for NSW, must be built a minimum of 10 metres from vegetation identified as Box Gum Woodland.

Note: Condition 51 requires the matters addressed in this condition to be satisfied prior to the issue of a Construction Certificate. Should a Construction Certificate be issued prior to the application for a Subdivision Certificate, then the matters addressed in this condition may already be satisfied.

- 94. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision, where necessary.
- 95. Where the stormwater drainage arrangements for the subdivision result in an on-site detention system within proposed Lot 27, as identified in the approved plans, a drainage easement with an access handle to a public road, over land not containing threatened species, is to be created over the on-site detention basin. The terms of the easement or restriction are to provide Council with maintenance access to the drainage reserve. The instrument shall identify Council as

**the sole party to vary the restriction.  
AMENDED BY MA0007/2020**

- 96. Easements not less than 1 metre wide shall be created over any inter-allotment drainage in favour of upstream allotments. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements.**
- 97. A Section 88B instrument, providing a reciprocal right of carriageway over the access handles for proposed Lots 23 and 24, for the benefit of Lots 23 and 24, is to be submitted to Council, prior to the issue of a Subdivision Certificate. The reciprocal right of carriageway (ROW) is to comply with the following:**
- a) The reciprocal right of carriageway is to be in accordance with the approved plan of subdivision.**
  - b) The location of the reciprocal right of carriageway is to be shown on the linen plans submitted with the application for Subdivision Certificate.**
  - c) The terms of the reciprocal right of carriageway are to include the following:**
    - (i) State that both the burdened/ benefitted lots are to pay an equal share of the maintenance costs of any works, including driveway surfacing, within the right of carriageway.**
- 98. Easements for electricity purposes, as required by the electricity supply authority, shall be created. The Section 88B instrument and linen plans submitted with the application are to include details of any required electricity easements or restrictions on title required to imposed by electricity authorities/suppliers.**
- Note: Refer to Attachment D for a copy of the conditions supplied by Transgrid.**
- 99. An instrument providing restrictions on title limiting the erection of dwellings, outbuildings and swimming pools to the locations identified in approved amended subdivision plan, is to be submitted to Council, prior to the issue of a Subdivision Certificate. The instrument shall identify Council as the sole party to vary the restriction.**
- 100. An instrument providing any necessary easements or restrictions to ensure compliance with the “General Terms of Approval” issued by the NSW Rural Fire Service, attached to this development consent. The instrument shall burden proposed allotments as is appropriate, to the satisfaction of**

**Council. The instrument shall identify Council as the sole party to vary the restriction.**

- 101. For any stage that creates proposed Lot 27 or leaves it as a residue lot, an instrument providing restrictions on title preventing any further subdivision of proposed Lot 27 is to be submitted to Council, prior to the issue of a Subdivision Certificate. The instrument shall identify Council as the sole party to vary the restriction.**

#### **Road Dedication**

- 102. The owner must dedicate for road purposes, free of cost to Council, a road widening along the site frontage to Robertson Road, to be detailed in a plan of subdivision/consolidation of the land. This road widening shall be delineated on the final plan of subdivision submitted with the application for a Subdivision Certificate.**
- 103. The proposed road within the subdivision shall be dedicated as a public road at no cost to Council. The public road shall be delineated on the final plan of subdivision submitted with the application for a Subdivision Certificate.**
- 104. The owner must dedicate for road purposes, free of cost to Council, a 4m by 4m splay at the intersection of Bruce Road and Robertson Road, to be detailed in a plan of subdivision/consolidation of the land.**

#### **Electricity and Telecommunication Certificates**

- 105. Prior to issue of the Subdivision Certificate, Council is to be supplied with:**
- a) A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and**
  - b) Satisfactory evidence that arrangements have been for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and**
  - c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or**
  - d) As an alternative to b) or c), satisfactory evidence that a**

carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas mapped by NBN Co as being in a designated Fixed Wireless areas, as opposed to a mapped Fibre to the Node area.

106. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authority's standards. Each allotment is to be provided with a service point/connection to an underground electricity supply.

#### **SCHEDULE B: STATEMENT OF REASONS**

1. The proposed development generally complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. Sufficient justification has been provided for the Clause 4.6 variation to the minimum lot size requirement in Clause 4.1 of Mid-Western Local Environmental Plan 2012, on the basis that an over-sized lot will be created to accommodate the biodiversity conservation obligations for the whole subdivision.
3. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment Act 1979.
4. The proposed development satisfactorily addresses the issues raised by the electricity providers, Transgrid and Essential Energy.
5. The proposed modifications (MA0007/2020 and MA0035/2020) are considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the Environmental Planning and Assessment Act 1979.  
**MODIFIED BY MA0035/2020**
6. The proposed modifications (MA0007/2020 and MA0035/2020) comply with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.  
**MODIFIED BY MA0035/2020**
7. The proposed modifications (MA0007/2020 and MA0035/2020) are considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment

**Act 1979.**  
**MODIFIED BY MA0035/2020**

**SCHEDULE C:       ADVISORY NOTES**

**Mid-Western Regional Council**

~~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".~~  
**DELETED BY MA0007/2020**

**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       Sections 8.2, 8.3, 8.4 and 8.5 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 Planning and Development Department for more information or advice.**

**4       If you are dissatisfied with this decision Sections 8.7 and 8.10 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 date upon which the consent becomes effective, refer to Sections 4.20 and 8.13 of the EP&A Act.**

**6       To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.**

**7       The attached General Terms of Approval issued by NSW's Water Authority do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to NSW's Water Authority for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.**

**A completed application form must be submitted to NSW's Water Authority together with any required plans, documents, application fee, security deposit or bank guarantee (if required) and proof of Council's Development Consent. Finalisation of an approval can take up to eight (8) weeks from the date the**

application and all required supporting documentation is received.

Application forms are available from the NSW's Water Authority website at:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au) > Water Licensing > Approvals.

- 8 This development consent requires a Certificate of Compliance under the Water Management Act 2000 to be obtained prior to the issue of a Subdivision 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:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable). The contributions amount to be paid will be the pro-rata amount for the relevant stage or number of lots to be created.

Section 64 Contributions				
The rates shown below are current up to 30 June 2019				
26 Additional Lots (credit for existing)				
	ET/Unit	Value	Per Lot	26 Additional Lots
Water Headworks	1.5	\$8,407.00	\$12,610.50	\$327,873.00
Sewer Headworks	1.05	\$3,838.00	\$4,029.90	\$104,777.40
Total Headworks				\$432,650.40

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.

- 9 Any future development application lodged within this subdivision under section 79BA of the Environmental Planning and Assessment Act 1979 will be subject to requirements as set out in Planning for Bush Fire Protection 2006 and the Australian Standard AS3959 - Construction of buildings in bushfire prone areas.
- 10 Proposed residential Lot 27 include patches of:

- **Leucochrysum albicans var. tricolor (Hoary Sunray)** – an endangered species under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act);
- **Box-Gum Grassy Woodlands – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland** – a critically endangered ecological community (EEC) under the EPBC Act; and
- **Acacia Ausfeldii (Ausfeld's Wattle)** – threatened species under the Threatened Species Conservation Act 1995 (TSC Act).

These areas on the lots are precluded from any form of development or earthworks. It is an offence to harm the threatened species. These identified areas are to be protected and maintained in accordance with the approved Plan of Management for the subdivision.

#### **Advice from Essential Energy**

- 11 If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- 12 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 within Electricity Easements and Close to Infrastructure.
- 13 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).
- 14 Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://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 Lines.

#### **SCHEDULE D: OTHER APPROVALS**

1. **General Terms of Approval – Natural Resource Access Regulator (Attachment A).**
2. **General Terms of Approval – NSW Rural Fire Service (Attachment B).**

3. **Controlled Action Approval – Department of Environment and Energy (Attachment C).**
4. **Conditions of Consent from Transgrid (Attachment D).**

*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	✓	

8.3 MA0031/2019 - MODIFICATION APPLICATION TO INDUSTRIAL SUBDIVISION (DA0180/2011) - 10 TOOLE ROAD, ULAN

GOV400087, P055093

279/20

**MOTION:** Holden / Paine

**That Council:**

- receive the report by the Senior Planner on the MA0031/2019 - Modification Application to Industrial Subdivision DA0180/2011 - 10 Toole Road, Ulan;
- approve MA0031/2019 - Modification Application to Industrial Subdivision DA0180/2011 - 10 Toole Road, Ulan subject to the following conditions and statement of reasons:

**MODIFIED CONDITIONS OF CONSENT:**

~~1. This consent relates to the subdivision of land to create 38 allotments, 2 common land allotments and the associated civil engineering works, as illustrated on the plans, statement of environmental effects and supporting documentation received by Council stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.~~

1. This development consent relates to the subdivision of land to create 20 allotments. Allotments will include nineteen (19) lots zoned for heavy industrial with a minimum lot size of 6000m<sup>2</sup> and one (1) residue lot, being proposed Lot 20 on the approved plan.

MODIFIED BY MA0031/2019

~~2. The development is to be carried out generally in accordance with the stamped approved plans Reference: H059MU, Sheet: 1 of 1, Dated: 4/1/11, Prepared by: R J Crooks & Associates and the supporting Statement of Environmental Effects Titled: Proposed 38 Lot Staged Heavy~~



~~Industrial Subdivision Prepared by: MINESPEX, Dated: December 2010 as Amended 27 January 2011.~~

2. 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 and/or any plan notations:

Title/Name	Drawing Document Ref	No/ Revision / Issue	Dated	Prepared by
Lot Layout Plan	C1002	D	25/05/2020	Cardno
General Arrangement Key Plan	C1003	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 1 of 6	C1004	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 2 of 6	C1005	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 3 of 6	C1006	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 4 of 6	C1007	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 5 of 6	C1008	D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 6 of 6	C1009	D	25/05/2020	Cardno
Typical Road Sections	C1010	D	25/05/2020	Cardno
Long Road Sections Sheet 1 of 2	C1011	D	25/05/2020	Cardno
Long Road Sections Sheet 2 of 2	C1012	D	25/05/2020	Cardno
Stormwater Concept Layout Plan Sheet 1 of 2	C1013	D	25/05/2020	Cardno
Stormwater Concept Layout Plan Sheet 2 of 2	C1014	D	25/05/2020	Cardno
Bulk Earthworks Layout Plan	C1015	D	25/05/2020	Cardno
Bulk Earthworks Sections	C1016	D	25/05/2020	Cardno
Vehicle Turning Path Layout Plan	C1017	D	25/05/2020	Cardno
Soil and Water Management Layout Plan and Details	C1018	D	25/05/2020	Cardno
Water and Sewer Servicing Layout Plan	C1019	D	25/05/2020	Cardno
Stormwater Management Report – Industrial Subdivision – 10 Toole Road, Ulan	82019291-01			Cardno

#### MODIFIED BY MA0031/2019

3. ~~The approved subdivision is to be carried out in the following stages. Each stage shall require the approval of a separate subdivision certificate prior to the registration of the allotments.~~

~~Stage 1 Creation of 22 Industrial Lots and 1 common land Lot in addition to the development of all servicing including new water and sewerage infrastructure. The construction of a bridge over the internal water course.~~

~~Stage 2 Creation of 16 Industrial Lots and 1 common land Lot and required extension of Road and Utility networks.~~

#### Notes:

~~Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.~~

~~Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.~~

**DELETED BY MA0031/2019**

3A. The development is to be undertaken generally in accordance with the proposed Lot Layout Plan Drawing Number 82019291-01 C1002 Rev D but amended to show Road 3 as part of Proposed Lot 20, thereby providing Lot 20 with a legal road abuttal.

**ADDED BY MA0031/2019**

3B. The development is to be undertaken generally in accordance with the proposed Water and Sewer Servicing Layout Plan Drawing Number 82019291-01 C1019 Rev D, excluding the proposed 1500L septic holding tanks. Development of each lot will be subject to site specific waste water assessments to include an appropriately sized sewer (pump-out) holding tank only upon each lot, excluding proposed Lot 019 (being the approved Service Station allotment).

**ADDED BY MA0031/2019**

**GENERAL**

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

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

- ~~5. The Community Management Statement pursuant to the Community Land Development Act 1989 is to include all aspects of the Development Consent of DA0180/2011 and is to be maintained in accordance with the Development Consent of DA0180/2011.~~

~~The Community Management Statement pursuant to the Community Land Development Act 1989 is to be approved by Council. Council is to be a signatory of the Statement.~~

5. A Community Management Statement, pursuant to the Community Land Development Act 1989, is to be approved by Council for future management of all separate land parcels provided for the control and dispersal of stormwater runoff. The Statement must also include provisions for all stormwater related land areas, infrastructure and features held in Common Property ownership to be maintained to the satisfaction of Council at all times. Council is to be a signatory to the Statement.

**MODIFIED BY MA0031/2019**

6. Where the conditions of this consent conflict with the provisions of a Controlled Activity Approval, the provisions of the Controlled Activity Approval shall prevail to the extent of the inconsistency.

7. The applicant shall register a Positive Covenant and/or a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the following matters are adhered to by development on the newly created allotments ~~with the exception of the common land lots;~~

- a) External lighting is not to interfere with the safe and efficient operation of the Gulgong to Sandy Hollow Railway or Ulan Road.

- b) A 3 metre minimum vegetative buffer is to be provided along the boundaries of all lots that join the Ulan Road reserve.
- c) No direct vehicular access is to be permitted to Ulan Road from any allotment.
- d) Material utilised in the construction of buildings or the storage of materials external to buildings are not to interfere with the safe and efficient operation of the Gulgong to Sandy Hollow Railway or Ulan Road due to the reflection of light.
- e) Where an allotment abuts the Gulgong to Sandy Hollow Railway corridor any building must address the relevant provisions of the Australian Standard 'AS 2107:2000 Recommended design sound levels and reverberation times for building interiors'.
- f) All fencing of lot boundaries that adjoin the Ulan Road reserve must be constructed of pre-coloured wire.
- g) Each industrial allotment is to be managed as an inner protection area as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- h) ~~Any industry within this development is required to satisfy the Consent Authority that its water and waste water requirements will not exceed the relevant lot's entitlement with respect to the water reticulation system and sewerage reticulation system provided for under the Community Management Statement and the Community Development Contract for the Community Scheme unless otherwise approved by the Consent Authority and the Community Association.~~
- i) Solid waste collection and disposal will be the responsibility of each individual land owner.
- j) The management of sewerage for future developments upon each lot (excluding proposed Lot 019) are limited to pump out systems appropriately designed and sited by a suitably qualified waste water consultant and subject to future approval of Council pursuant to Section 68 of the Local Government Act 1993.
- k) Future development of each allotment must provide tanks or other approved devices for the detention and control of stormwater runoff such that the rate of discharge from the site does not exceed the rate from the previously un-developed site.

MODIFIED BY MA0031/2019

**7A** Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.

ADDED BY MA0031/2019

**7B** No accesses to Ulan Road are to be provided for Lots 001, 024, 011, 012, 013, 014, 023 and 018.

ADDED BY MA0031/2019

**7C** All accesses to the lots, with the exception of proposed Lots 019 and 020, are to be provided by the internal road identified as "Road 01" on

the approved plan titled 'Lot Layout Plan', date 25/05/2019.  
ADDED BY MA0031/2019

- 7D Street trees of an approved species are to be provided at a rate of two street trees per allotment.  
ADDED BY MA0031/2019

#### PRIOR TO THE COMMENCEMENT OF WORKS

- 8 A ~~Construction Certificate~~ Subdivision Works Certificate is to be obtained from Council prior to the commencement of work.  
MODIFIED BY MA0031/2019
- 9 An Environmental Management Plan (EMP) is to be submitted to Council prior to the commencement of work detailing the ongoing management of the ~~Conservation E3 – Environmental Management zoned areas of the site and stormwater drainage system. sewerage reticulation system and the water reticulation system.~~  
MODIFIED BY MA0031/2019

#### PRIOR TO THE ISSUE OF ~~CONSTRUCTION CERTIFICATE~~ A SUBDIVISION WORKS CERTIFICATE

- 10 A ~~Construction Certificate~~ Subdivision Works Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.  
MODIFIED BY MA0031/2019
- 11 ~~The NSW Office of Water has issued General Terms of Approval in relation to approved subdivision. These General Terms of Approval are included as Schedule 1 of this consent and are to be taken as conditions of this consent.~~

The attached General Terms of Approval issued by the Natural Resources Access Regulator (NRAR) do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to NRAR for a Controlled Activity Approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application is made and all required supporting documentation is received.

Application forms are available from the NRAR website at:  
[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au) > Water > Licensing & Trade > Approvals.  
MODIFIED BY MA0031/2019

- 11A WaterNSW have issued General Terms of Approval for Water Supply Work and Use under the Water Management Act 2000 which are attached. The consent holder must submit to WaterNSW office, a completed application form for a water supply works approval/s prior to the commencement of any development / works for new or modified works required to be regulated.  
ADDED BY MA0031/2019

- 12 Engineering plans of the water, ~~sewerage~~ and stormwater reticulation systems are to be submitted to and approved by Council or an Accredited Certifier prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.  
MODIFIED BY MA0031/2019

- 13 A detailed engineering design supported by plans, and an “Autocad compatible” Plan, (in dwg format including pen-map), material samples, test reports and specifications is to be prepared in accordance with AUS-SPEC #1 (as modified by Mid Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.

Note: Stormwater is to be treated for the removal of grit, oil and floatables prior to discharging into the receiving waters.  
MODIFIED BY MA0031/2019

- 14 The applicant must prepare and submit a Construction and Environmental Management Plan (CEMP), including:
- a) Detailed information on any approvals required from other authorities prior to or during construction,
  - b) Traffic management, including, details of:
    - a. ingress and egress of vehicles to the site,
    - b. management of loading and unloading of materials,
    - c. the location of heavy vehicle parking off-site, and,
    - d. designated routes for vehicles to the site.
  - c) Erosion and sediment control, detailing measures and procedures consistent with the requirements of ‘Managing Urban Stormwater – Soils & Construction Volume 1 2004 (Landcom)’, including:
    - e. the collection and treatment of stormwater and wastewater generated on site prior to discharge, and
    - f. procedures to prevent run-off of solid material and waste from the site,
  - d) Waste management, including:
    - g. details of the types and estimated volumes of waste materials that will be generated,
    - h. procedures for maximising reuse and recycling of construction materials, and
    - i. details of the off-site disposal or recycling facilities for construction waste,
  - e) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences, and
  - f) Scour protection, points of constriction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the site, are to be suitably protected against scour. Designs of scour protection works are to be based on predicted velocities and scour potential. Methods of construction are to be detailed.
  - g) Soil and groundwater protection methods including details of

methods of construction in relation to the minimisation of the impact on soil and groundwater in accordance with the recommendations of the Statement of Environmental Effects.

- 15 The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication 'Australian Rainfall and Run-off' to Council for approval prior to the release of the ~~Construction Certificate~~ Subdivision Works Certificate. The report must demonstrate that stormwater run off from the site is not increased beyond the existing undeveloped state up to and including a 100-year ARI and also include a site specific Flood Study and Flood Risk Management Plan. All stormwater detention details including analysis shall be included with the drainage report.

MODIFIED BY MA0031/2019

- 16 The applicant is to submit a Hydraulic Analysis Flood Impact Assessment. The Assessment must demonstrate that the unnamed watercourse running through the development has the capacity to contain flood waters up to and including the 1:100yr ARI plus 0.5m freeboard. Water profile and channel construction details are to be submitted prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate. Controlled Activity Approvals from NRAR must also be obtained and provided prior to the issue of a Subdivision Works Certificate.

MODIFIED BY MA0031/2019

- 17 The submission to Council of engineering design plans for any road works. Such plans shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, a detailed construction plan. These plans are to be approved by the Council prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.

MODIFIED BY MA0031/2019

- 17A All road and access facilities shall be designed by a suitably qualified and experienced person to the satisfaction of both Transport for NSW and Council as the roads authority. The design is to be undertaken in accordance with 'Austroads Guide to Road Design' and any relevant Transport for NSW supplements. The bridge on the internal road over the watercourse must be designed and constructed with sufficient waterway capacity to comply with Transport for NSW design requirements.

ADDED BY MA0031/2019

#### ENGINEERING CONSTRUCTION

- 18 A vegetated riparian buffer with a width of 10m is to be constructed running parallel either side of the unnamed water course. Plant species to include but not limited to Grey Box/Yellow Box Woodland and associated under stories. Details are to be provided prior to the issue of the ~~Construction Certificate~~ Subdivision Works Certificate.

MODIFIED BY MA0031/2019

- 19 A vegetated riparian buffer with a width of 40m is to be constructed running parallel to Sportsman Hollow Creek. Plant species to include but not limited to Grey Box/Yellow Box Woodland and associated under stories. Details are to be provided prior to the issue of the ~~Construction Certificate~~ Subdivision Works Certificate.

MODIFIED BY MA0031/2019



- 20 Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with AusSpec #1.
- 21 All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
22. The developer is to upgrade Toole Road from Ulan Road to 70 metres past the intersection of Toole Road and the new road (western intersection), such that it has the following characteristics:

Item	Requirement
Full Road Pavement Width	12 m
Kerb & Gutter	Roll back concrete kerb & gutter (Northern side) Table drain (Southern side)
Footpath Width	4m on the Northern side of Toole Rd
Seal	Primer seal, plus asphalt
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5 metres during minor events or adjacent to intersections.
Other	8m on the Southern side of Toole Rd including shoulder, verge, table drain and footpath area.

- 22(a). The developer is to upgrade Toole Road from 70 metres past the intersection of the new road and Toole Road (western intersection) to the rail way line, such that it has the following characteristics:

Item	Requirement
Full Sheeted Road Pavement Width	8 m
Surface	Compacted Gravel
Kerb & Gutter	Table drains to be provided
Other	7.5m each side of Toole Rd including shoulder, verge, table drain and footpath area.

- 23 The new roads in the subdivision are to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	13 m
Footpath Width	5.5 m
Seal	Primer seal, plus asphalt
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5 metres during

	<b>minor events or adjacent to intersections.</b>
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24 The applicant is to construct the access driveway to service lot 274 20 to Council's minimum standard for a rural road as set out in the Mid-Western Regional Council policy "Road Classifications and Standards", and as indicated below, for a Local Access:

- A minimum formed width of 4.5m-8 metres comprised of 6 metre wide pavement and 1 metre wide shoulders.
- The road should be an all weather access formed using natural materials if suitable or otherwise an approved road base material.
- Erosion and drainage control measures such as; 4-6% cross-fall, table drains, mitre drains and culverts where necessary.

MODIFIED BY MA0031/2019

~~25 The driveway access to the sewerage storage tank is to have a minimum width sufficient to allow manoeuvring access in accordance with Roads & Traffic Authority standards and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times.~~

DELETED BY MA0031/2019

~~26 The intersection of Toole Rd and Ulan Rd is to be upgraded to a AUL/CHR(S) type intersection treatment in accordance with Roads & Traffic Authority Road Design Guidelines – Intersections at Grade.~~

The developer is to construct an Auxiliary Left Turn Treatment Short [AUL(S)] and Channelised Right Turn Treatment [CHR] at the intersection of Ulan Road (MR215) and Toole Road in accordance with Figures 8.3 and 7.7 of 'Part 4A Austroads Guide to Road Design' respectively and Transport for NSW supplements.

MODIFIED BY MA0031/2019

26A All intersection works are to be designed and constructed to accommodate the largest vehicle accessing the intersection and for the current speed zone of 100km/h, match existing road levels and not interfere with existing road drainage.

ADDED BY MA0031/2019

26B Safe Intersection Sight Distances (SISD) requirements outlined in 'Part 4A of Austroads Guide to Road Design' and relevant Transport for NSW supplements are to be provided in both directions at the vehicular access point servicing the proposed service station (ie Lot 019). For a 100km/h speed zone the minimum SISD is 250 metres.

ADDED BY MA0031/2019

26C Landscaping, signage or fencing must not impede sight lines of traffic and/or pedestrians within the development, or when entering or leaving the development.

ADDED BY MA0031/2019

26D A Road Occupancy Licence (ROL) may be required prior to any works commencing within three (3) metres of the travel lanes of a Classified Road, or work that has potential to impact the traffic flow. Please contact Transport for NSW Field Traffic Manager on 1300 656 371 to obtain a ROL.

ADDED BY MA0031/2019



~~27 The sewerage storage tank is to have a minimum capacity of 70,000L to ensure a three day storage capacity for down time with pump out contractors.~~

~~DELETED BY MA0031/2019~~

28 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.

**PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE FOR EACH RESPECTIVE STAGE**

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

~~30 Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Titles Office NSW Land Registry Services.~~

~~MODIFIED BY MA0031/2019~~

~~31 The applicant is to provide separate water and sewer reticulation services to each lot with all necessary easements provided.~~

~~MODIFIED BY MA0031/2019~~

~~31A The applicant must ensure that all required Positive Covenants and/or a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate are adhered to in accordance with condition 7 of this consent.~~

~~ADDED BY MA0031/2019~~

~~32 All water and sewerage work relevant to the current stage is required to be completed in accordance with the requirements of Mid-Western Regional Council and in accordance with the National Specification – Water & Sewerage Codes of Australia.~~

~~DELETED BY MA0031/2019~~

~~33 Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 Council standards. Street signs are to be provided at the full cost of the developer.~~

~~MODIFIED BY MA0031/2019~~

34 Following completion of the subdivision works, one full set of work-as-executed plans, in pdf and dwg format, which is "Autocad compatible" is to be submitted on disk to Council. All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.

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

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

~~b) A certificate from a communication provider indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.~~ Satisfactory evidence that arrangements

have been made for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and

- c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or
- d) As an alternative to b) or c), satisfactory evidence that a carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas mapped by NBN Co as being in a designated Fixed Wireless area, as opposed to a Fibre to the Node area.

MODIFIED BY MA0031/2020

- 36 Prior to issue of the Subdivision Certificate all road and stormwater drainage works are to be completed. ~~relevant to each stage.~~  
MODIFIED BY MA0031/2020

#### STATEMENT OF REASONS

- 1. The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the Environmental Planning and Assessment Act 1979.  
ADDED BY MA0031/2020
- 2. The proposed modification complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.  
ADDED BY MA0031/2020
- 3. The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment Act 1979.  
ADDED BY MA0031/2020

#### 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 Section 82A 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 Planning and Development Department for more information or advice.

- 4 If you are dissatisfied with this decision section 97 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.
- 5 To ascertain the date upon which the consent becomes effective, refer to Section 83 of the EP&A Act.
- 6 To ascertain the extent to which the consent is liable to lapse, refer to Section 95 of the EP&A Act.
- 7 Development applications for the future development of each lot must include details of an acceptable waste water treatment system designed to provide for the control and disposal of any and all industry specific liquid waste and contaminants generated by the proposed use. This may also include a requirement for Trade Waste approval to be obtained.
8. No approval is granted for works within the Rail Corridor. Should any works be required in the Rail Reserve/ Corridor, separate approval or endorsement may be required of the appropriate Rail Authority.

#### OTHER APPROVALS

- General Terms of Approval – Natural Resource Access Regulator (Attachment A).
- General Terms of Approval – Water NSW (Attachment B).

AMENDMENT Martens / Thompson

That Council:

- receive the report by the Senior Planner on the MA0031/2019 - Modification Application to Industrial Subdivision DA0180/2011 - 10 Toole Road, Ulan;
- approve MA0031/2019 - Modification Application to Industrial Subdivision DA0180/2011 - 10 Toole Road, Ulan subject to the following conditions and statement of reasons:

#### MODIFIED CONDITIONS OF CONSENT:

- ~~1. This consent relates to the subdivision of land to create 38 allotments, 2 common land allotments and the associated civil engineering works, as illustrated on the plans, statement of environmental effects and supporting documentation received by Council stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.~~
1. This development consent relates to the subdivision of land to create 20

allotments. Allotments will include nineteen (19) lots zoned for heavy industrial with a minimum lot size of 6000m<sup>2</sup> and one (1) residue lot, being proposed Lot 20 on the approved plan.

MODIFIED BY MA0031/2019

- ~~2. The development is to be carried out generally in accordance with the stamped approved plans Reference: H059MU, Sheet: 1 of 1, Dated: 4/1/11, Prepared by: R J Crooks & Associates and the supporting Statement of Environmental Effects Titled: Proposed 38 Lot Staged Heavy Industrial Subdivision Prepared by: MINESPEX, Dated: December 2010 as Amended 27 January 2011.~~
2. 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 and/or any plan notations:

Title/Name	Drawing Document Ref	No/	Revision / Issue	Dated	Prepared by
Lot Layout Plan	C1002		D	25/05/2020	Cardno
General Arrangement Key Plan	C1003		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 1 of 6	C1004		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 2 of 6	C1005		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 3 of 6	C1006		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 4 of 6	C1007		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 5 of 6	C1008		D	25/05/2020	Cardno
General Arrangement Layout Plan Sheet 6 of 6	C1009		D	25/05/2020	Cardno
Typical Road Sections	C1010		D	25/05/2020	Cardno
Long Road Sections Sheet 1 of 2	C1011		D	25/05/2020	Cardno
Long Road Sections Sheet 2 of 2	C1012		D	25/05/2020	Cardno
Stormwater Concept Layout Plan Sheet 1 of 2	C1013		D	25/05/2020	Cardno
Stormwater Concept Layout Plan Sheet 2 of 2	C1014		D	25/05/2020	Cardno
Bulk Earthworks Layout Plan	C1015		D	25/05/2020	Cardno
Bulk Earthworks Sections	C1016		D	25/05/2020	Cardno
Vehicle Turning Path Layout Plan	C1017		D	25/05/2020	Cardno
Soil and Water Management Layout Plan and Details	C1018		D	25/05/2020	Cardno
Water and Sewer Servicing Layout Plan	C1019		D	25/05/2020	Cardno
Stormwater Management Report – Industrial Subdivision – 10 Toole Road, Ulan	82019291-01				Cardno

MODIFIED BY MA0031/2019

- ~~3. The approved subdivision is to be carried out in the following stages. Each stage shall require the approval of a separate subdivision certificate prior to the registration of the allotments.~~

~~Stage 1 – Creation of 22 Industrial Lots and 1 common land Lot in addition to the development of all servicing including new water and sewerage infrastructure. The construction of a bridge over the internal water course.~~

~~Stage 2 – Creation of 16 Industrial Lots and 1 common land Lot and required extension of Road and Utility networks.~~

Notes:

~~Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development~~

~~application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.~~

~~Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.~~

DELETED BY MA0031/2019

3A. The development is to be undertaken generally in accordance with the proposed Lot Layout Plan Drawing Number 82019291-01 C1002 Rev D but amended to show Road 3 as part of Proposed Lot 20, thereby providing Lot 20 with a legal road abuttal.

ADDED BY MA0031/2019

3B. The development is to be undertaken generally in accordance with the proposed Water and Sewer Servicing Layout Plan Drawing Number 82019291-01 C1019 Rev D, excluding the proposed 1500L septic holding tanks. Development of each lot will be subject to site specific waste water assessments to include an appropriately sized sewer (pump-out) holding tank only upon each lot, excluding proposed Lot 019 (being the approved Service Station allotment).

ADDED BY MA0031/2019

#### GENERAL

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

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

- ~~5. The Community Management Statement pursuant to the Community Land Development Act 1989 is to include all aspects of the Development Consent of DA0180/2011 and is to be maintained in accordance with the Development Consent of DA0180/2011.~~

~~The Community Management Statement pursuant to the Community Land Development Act 1989 is to be approved by Council. Council is to be a signatory of the Statement.~~

5. A Community Management Statement, pursuant to the *Community Land Development Act 1989*, is to be approved by Council for future management of all separate land parcels provided for the control and dispersal of stormwater runoff. The Statement must also include provisions for all stormwater related land areas, infrastructure and features held in Common Property ownership to be maintained to the satisfaction of Council at all times. Council is to be a signatory to the Statement.

MODIFIED BY MA0031/2019

- 6 Where the conditions of this consent conflict with the provisions of a Controlled Activity Approval, the provisions of the Controlled Activity Approval shall prevail to the extent of the inconsistency.

- 7 The applicant shall register a Positive Covenant and/or a Restriction as to User, under section 88E and or section 88B of the *Conveyancing Act* as appropriate in favour of Council ensuring the following matters are adhered to by development on the newly created allotments ~~with the exception of the common land lots;~~

- a) External lighting is not to interfere with the safe and efficient operation of the Gulgong to Sandy Hollow Railway or Ulan Road.
  - b) A 3 metre minimum vegetative buffer is to be provided along the boundaries of all lots that join the Ulan Road reserve.
  - c) No direct vehicular access is to be permitted to Ulan Road from any allotment.
  - d) Material utilised in the construction of buildings or the storage of materials external to buildings are not to interfere with the safe and efficient operation of the Gulgong to Sandy Hollow Railway or Ulan Road due to the reflection of light.
  - e) Where an allotment abuts the Gulgong to Sandy Hollow Railway corridor any building must address the relevant provisions of the Australian Standard 'AS 2107:2000 Recommended design sound levels and reverberation times for building interiors'.
  - f) All fencing of lot boundaries that adjoin the Ulan Road reserve must be constructed of pre-coloured wire.
  - g) Each industrial allotment is to be managed as an inner protection area as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
  - h) ~~Any industry within this development is required to satisfy the Consent Authority that its water and waste water requirements will not exceed the relevant lot's entitlement with respect to the water reticulation system and sewerage reticulation system provided for under the Community Management Statement and the Community Development Contract for the Community Scheme unless otherwise approved by the Consent Authority and the Community Association.~~
  - i) Solid waste collection and disposal will be the responsibility of each individual land owner.
  - j) The management of sewerage for future developments upon each lot (excluding proposed Lot 019) are limited to pump out systems appropriately designed and sited by a suitably qualified waste water consultant and subject to future approval of Council pursuant to Section 68 of the *Local Government Act 1993*.
  - k) Future development of each allotment must provide tanks or other approved devices for the detention and control of stormwater runoff such that the rate of discharge from the site does not exceed the rate from the previously un-developed site.  
MODIFIED BY MA0031/2019
- 7A Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.  
ADDED BY MA0031/2019
- 7B No accesses to Ulan Road are to be provided for Lots 001, 024, 011, 012, 013, 014, 023 and 018.  
ADDED BY MA0031/2019



7C All accesses to the lots, with the exception of proposed Lots 019 and 020, are to be provided by the internal road identified as "Road 01" on the approved plan titled 'Lot Layout Plan', date 25/05/2019.  
ADDED BY MA0031/2019

7D Street trees of an approved species are to be provided at a rate of two street trees per allotment.  
ADDED BY MA0031/2019

#### PRIOR TO THE COMMENCEMENT OF WORKS

8 A ~~Construction Certificate~~ Subdivision Works Certificate is to be obtained from Council prior to the commencement of work.  
MODIFIED BY MA0031/2019

9 An Environmental Management Plan (EMP) is to be submitted to Council prior to the commencement of work detailing the ongoing management of the ~~Conservation E3 – Environmental Management~~ zoned areas of the site and stormwater drainage system. ~~sewerage reticulation system and the water reticulation system.~~  
MODIFIED BY MA0031/2019

#### PRIOR TO THE ISSUE OF ~~CONSTRUCTION CERTIFICATE~~ A SUBDIVISION WORKS CERTIFICATE

10 A ~~Construction Certificate~~ Subdivision Works Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.  
MODIFIED BY MA0031/2019

11 ~~The NSW Office of Water has issued General Terms of Approval in relation to approved subdivision. These General Terms of Approval are included as Schedule 1 of this consent and are to be taken as conditions of this consent.~~

The attached General Terms of Approval issued by the Natural Resources Access Regulator (NRAR) do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for a Controlled Activity Approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application is made and all required supporting documentation is received.

Application forms are available from the NRAR website at:  
[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au) > Water > Licensing & Trade > Approvals.  
MODIFIED BY MA0031/2019

11A WaterNSW have issued General Terms of Approval for Water Supply Work and Use under the *Water Management Act 2000* which are attached. The consent holder must submit to WaterNSW office, a completed application form for a *water supply works approval/s* prior to the commencement of any development / works for new or modified works required to be regulated.  
ADDED BY MA0031/2019

- 12 Engineering plans of the water, ~~sewerage~~ and stormwater reticulation systems are to be submitted to and approved by Council or an Accredited Certifier prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.  
MODIFIED BY MA0031/2019

- 13 A detailed engineering design supported by plans, and an "Autocad compatible" Plan, (in dwg format including pen-map), material samples, test reports and specifications is to be prepared in accordance with AUS-SPEC #1 (as modified by Mid Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.

Note: Stormwater is to be treated for the removal of grit, oil and floatables prior to discharging into the receiving waters.

MODIFIED BY MA0031/2019

- 14 The applicant must prepare and submit a Construction and Environmental Management Plan (CEMP), including:
- a) Detailed information on any approvals required from other authorities prior to or during construction,
  - b) Traffic management, including, details of:
    - a. ingress and egress of vehicles to the site,
    - b. management of loading and unloading of materials,
    - c. the location of heavy vehicle parking off-site, and,
    - d. designated routes for vehicles to the site.
  - c) Erosion and sediment control, detailing measures and procedures consistent with the requirements of '*Managing Urban Stormwater – Soils & Construction Volume 1 2004* (Landcom)', including:
    - e. the collection and treatment of stormwater and wastewater generated on site prior to discharge, and
    - f. procedures to prevent run-off of solid material and waste from the site,
  - d) Waste management, including:
    - g. details of the types and estimated volumes of waste materials that will be generated,
    - h. procedures for maximising reuse and recycling of construction materials, and
    - i. details of the off-site disposal or recycling facilities for construction waste,
  - e) Dust control, outlining measures to minimise the generation and off-site transmission of dust and fine particles, such as watering or damp cloth fences, and
  - f) Scour protection, points of constriction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the site, are to be suitably protected against scour. Designs of scour protection works are to be based on predicted velocities and scour potential. Methods of construction are to be detailed.
  - g) Soil and groundwater protection methods including details of methods of construction in relation to the minimisation of the impact on soil and groundwater in accordance with the recommendations of the Statement



## of Environmental Effects.

- 15 The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication 'Australian Rainfall and Run-off' to Council for approval prior to the release of the ~~Construction Certificate~~ Subdivision Works Certificate. The report must demonstrate that stormwater run off from the site is not increased beyond the existing undeveloped state up to and including a 100-year ARI and also include a site specific Flood Study and Flood Risk Management Plan. All stormwater detention details including analysis shall be included with the drainage report.  
MODIFIED BY MA0031/2019
- 16 The applicant is to submit a Hydraulic Analysis Flood Impact Assessment. The Assessment must demonstrate that the unnamed watercourse running through the development has the capacity to contain flood waters up to and including the 1:100yr ARI plus 0.5m freeboard. Water profile and channel construction details are to be submitted prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate. Controlled Activity Approvals from NRAR must also be obtained and provided prior to the issue of a Subdivision Works Certificate.  
MODIFIED BY MA0031/2019
- 17 The submission to Council of engineering design plans for any road works. Such plans shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, a detailed construction plan. These plans are to be approved by the Council prior to the issue of a ~~Construction Certificate~~ Subdivision Works Certificate.  
MODIFIED BY MA0031/2019
- 17A All road and access facilities shall be designed by a suitably qualified and experienced person to the satisfaction of both Transport for NSW and Council as the roads authority. The design is to be undertaken in accordance with 'Austroads Guide to Road Design' and any relevant Transport for NSW supplements. The bridge on the internal road over the watercourse must be designed and constructed with sufficient waterway capacity to comply with Transport for NSW design requirements.  
ADDED BY MA0031/2019

## ENGINEERING CONSTRUCTION

- 18 A vegetated riparian buffer with a width of 10m is to be constructed running parallel either side of the unnamed water course. Plant species to include but not limited to Grey Box/Yellow Box Woodland and associated under stories. Details are to be provided prior to the issue of the ~~Construction Certificate~~ Subdivision Works Certificate.  
MODIFIED BY MA0031/2019
- 19 A vegetated riparian buffer with a width of 40m is to be constructed running parallel to Sportsman Hollow Creek. Plant species to include but not limited to Grey Box/Yellow Box Woodland and associated under stories. Details are to be provided prior to the issue of the ~~Construction Certificate~~ Subdivision Works Certificate.  
MODIFIED BY MA0031/2019
- 20 Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with AusSpec #1.
- 21 All earthworks, filling, building, driveways or other works, are to be designed

and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.

22. The developer is to upgrade Toole Road from Ulan Road to 70 metres past the intersection of Toole Road and the new road (western intersection), such that it has the following characteristics:

Item	Requirement
Full Road Pavement Width	12 m
Kerb & Gutter	Roll back concrete kerb & gutter (Northern side) Table drain (Southern side)
Footpath Width	4m on the Northern side of Toole Rd
Seal	Primer seal, plus asphalt
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5 metres during minor events or adjacent to intersections.
Other	8m on the Southern side of Toole Rd including shoulder, verge, table drain and footpath area.

- 22(a). The developer is to upgrade Toole Road from 70 metres past the intersection of the new road and Toole Road (western intersection) to the rail way line, such that it has the following characteristics:

Item	Requirement
Full Sheeted Road Pavement Width	8 m
Surface	Compacted Gravel
Kerb & Gutter	Table drains to be provided
Other	7.5m each side of Toole Rd including shoulder, verge, table drain and footpath area.

- 23 The new roads in the subdivision are to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	13 m
Footpath Width	5.5 m
Seal	Primer seal, plus asphalt
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5 metres during minor events or adjacent to intersections.

- 24 The applicant is to construct the access driveway to service lot 274 20 to Council's minimum standard for a rural road as set out in the Mid-Western Regional Council policy "Road Classifications and Standards", and as indicated below, for a Local Access:

- A minimum formed width of 4.5m–8 metres comprised of 6 metre wide pavement and 1 metre wide shoulders.
- The road should be an all weather access formed using natural materials if suitable or otherwise an approved road base material.
- Erosion and drainage control measures such as; 4-6% cross-fall, table drains, mitre drains and culverts where necessary.

MODIFIED BY MA0031/2019

- 25 ~~The driveway access to the sewerage storage tank is to have a minimum width sufficient to allow manoeuvring access in accordance with Roads & Traffic Authority standards and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times.~~

DELETED BY MA0031/2019

- 26 ~~The intersection of Toole Rd and Ulan Rd is to be upgraded to a AUL/CHR(S) type intersection treatment in accordance with Roads & Traffic Authority Road Design Guidelines – Intersections at Grade.~~

The developer is to construct an Auxiliary Left Turn Treatment Short [AUL(S)] and Channelised Right Turn Treatment [CHR] at the intersection of Ulan Road (MR215) and Toole Road in accordance with Figures 8.3 and 7.7 of 'Part 4A Austroads Guide to Road Design' respectively and Transport for NSW supplements.

MODIFIED BY MA0031/2019

- 26A All intersection works are to be designed and constructed to accommodate the largest vehicle accessing the intersection and for the current speed zone of 100km/h, match existing road levels and not interfere with existing road drainage.

ADDED BY MA0031/2019

- 26B Safe Intersection Sight Distances (SISD) requirements outlined in 'Part 4A of Austroads Guide to Road Design' and relevant Transport for NSW supplements are to be provided in both directions at the vehicular access point servicing the proposed service station (ie Lot 019). For a 100km/h speed zone the minimum SISD is 250 metres.

ADDED BY MA0031/2019

- 26C Landscaping, signage or fencing must not impede sight lines of traffic and/or pedestrians within the development, or when entering or leaving the development.

ADDED BY MA0031/2019

- 26D A Road Occupancy Licence (ROL) may be required prior to any works commencing within three (3) metres of the travel lanes of a Classified Road, or work that has potential to impact the traffic flow. Please contact Transport for NSW Field Traffic Manager on 1300 656 371 to obtain a ROL.

ADDED BY MA0031/2019

- 27 ~~The sewerage storage tank is to have a minimum capacity of 70,000L to ensure a three day storage capacity for down time with pump out contractors.~~

DELETED BY MA0031/2019

- 28 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.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE FOR EACH RESPECTIVE STAGE

- 29 A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
- 30 Under the *Environmental Planning & Assessment Act, 1979*, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the ~~Land Titles Office~~ NSW Land Registry Services.  
MODIFIED BY MA0031/2019
- 31 The applicant is to provide separate water and ~~sewer~~ reticulation services to each lot with all necessary easements provided.  
MODIFIED BY MA0031/2019
- 31A The applicant must ensure that all required Positive Covenants and/or a Restriction as to User, under section 88E and or section 88B of the *Conveyancing Act* as appropriate are adhered to in accordance with condition 7 of this consent.  
ADDED BY MA0031/2019
- 32 ~~All water and sewerage work relevant to the current stage is required to be completed in accordance with the requirements of Mid-Western Regional Council and in accordance with the National Specification – Water & Sewerage Codes of Australia.~~  
DELETED BY MA0031/2019
- 33 Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 Council standards. Street signs are to be provided at the full cost of the developer.  
MODIFIED BY MA0031/2019
- 34 Following completion of the subdivision works, one full set of work-as-executed plans, in pdf and dwg format, which is “Autocad compatible” is to be submitted on disk to Council. All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.
- 35 Prior to issue of the Subdivision Certificate, Council is to be supplied with:
- a) A certificate from an energy provider indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.
  - b) ~~A certificate from a communication provider indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.~~ Satisfactory evidence that arrangements have been made for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and
  - c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or
  - d) As an alternative to b) or c), satisfactory evidence that a carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas

mapped by NBN Co as being in a designated Fixed Wireless area, as opposed to a Fibre to the Node area.  
MODIFIED BY MA0031/2020

- 36 Prior to issue of the Subdivision Certificate all road and stormwater drainage works are to be completed. ~~relevant to each stage.~~  
MODIFIED BY MA0031/2020

#### STATEMENT OF REASONS

1. The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the *Environmental Planning and Assessment Act 1979*.  
ADDED BY MA0031/2020
2. The proposed modification complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.  
ADDED BY MA0031/2020
3. The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.  
ADDED BY MA0031/2020

#### 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 Section 82A 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 Planning and Development Department for more information or advice.
- 4 If you are dissatisfied with this decision section 97 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.
- 5 To ascertain the date upon which the consent becomes effective, refer to Section 83 of the EP&A Act.
- 6 To ascertain the extent to which the consent is liable to lapse, refer to Section 95 of the EP&A Act.
- 7 Development applications for the future development of each lot must

include details of an acceptable waste water treatment system designed to provide for the control and disposal of any and all industry specific liquid waste and contaminants generated by the proposed use. This may also include a requirement for Trade Waste approval to be obtained.

8. No approval is granted for works within the Rail Corridor. Should any works be required in the Rail Reserve/ Corridor, separate approval or endorsement may be required of the appropriate Rail Authority.

#### OTHER APPROVALS

- General Terms of Approval – Natural Resource Access Regulator (Attachment A).
- General Terms of Approval – Water NSW (Attachment B).

*The amendment 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	✓	

*The motion, on being put, was 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		✓

#### 8.4 PLANNING PROPOSAL LOT 2 DP 1079362, 134 LIONS DRIVE, BURRUNDULLA

GOV400087, LAN900104

280/20

**MOTION: Holden / Karavas**

**That Council:**

1. receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 2 DP 1079362, 134 Lions Drive, Burrundulla;
2. provide initial support for a Planning Proposal in relation to the rezoning of 5.37 hectares to B5 Business Development,

**change the minimum lot size to 2000 square metres for the area to be zoned B5 Business Development and map / overlay a 25 metre 'no development' buffer area fronting the Castlereagh Highway;**

- 3. forward the Planning Proposal to amend the Mid-Western Regional Local Environmental Plan 2012 to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979; and**
- 4. undertake community consultation as outlined within any approved Gateway Determination.**

AMENDMENT: Martens /

That Council:

1. receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 2 DP 1079362, 134 Lions Drive, Burrundulla;
2. provide initial support for a Planning Proposal in relation to the rezoning of 3 hectares to B5 Business Development, change the minimum lot size to 2000 square metres for the area to be zoned B5 Business Development and map / overlay a 25 metre 'no development' buffer area fronting the Castlereagh Highway;
3. forward the Planning Proposal to amend the Mid-Western Regional Local Environmental Plan 2012 to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979; and
4. undertake community consultation as outlined within any approved Gateway Determination.

*The amendment lapsed 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	✓	

## 8.5 ACCEPTANCE OF GRANT FUNDING FOR SMALL BUSINESS MONTH

GOV400087, GRA600044

**281/20 MOTION: Shelley / Paine**

**That Council:**

- 1. receive the report by the Manager Economic Development on the Acceptance of Grant Funding for Small Business Month;**
- 2. accept \$2,000 in grant funding from the NSW Government Small Business Month program;**
- 3. amend the 2020/21 Budget to increase grant funding received by \$2,000 and increase expenditure by \$2,000 for Young Entrepreneurs Summit; and**
- 4. authorise the General Manager to finalise and sign the funding agreement with NSW Government.**

*The motion was carried with the Councillors voting unanimously.*

Councillor E Martens declared a less than significant non-pecuniary conflict of interest in item 8.6 as it mentions DA202/2020 that she has made a submission into, and she did not leave the Chambers.

## 8.6 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING AND DETERMINED

GOV400087, A0420109

**282/20 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.*

The following recommendations (item 9.1 to item 9.15, excluding item 9.5 and 9.7 – see after 9.15) were adopted as a whole, being moved by Cr Shelley, seconded by Cr Holden and carried with Councillors voting unanimously. Each recommendation is recorded with a separate resolution number commencing at resolution No. 283/20 and concluding at resolution No. 292/20.

## **Item 9: Finance**

### 9.1 LIGHT FLEET POLICY

GOV400087, PLA500009:GOV400047



**283/20**                      **MOTION:**     Shelley / Holden

**That Council:**

- 1.            receive the report by the Procurement Manager on the Light Fleet Policy;**
- 2.            place the new Light Fleet Policy on exhibition for 28 days; and**
- 3.            adopt the new Light Fleet Policy if no submissions are received.**

*The motion was carried with the Councillors voting unanimously.*

**9.2     POLICY REVIEW - PROCUREMENT POLICY**

GOV400087, GOV400047

**284/20**                      **MOTION:**     Shelley / Holden

**That Council:**

- 1.            receive the report by the Procurement Manager on the Policy Review - Procurement Policy;**
- 2.            place the revised Procurement Policy on public exhibition for 28 days; and**
- 3.            adopt the revised Procurement Policy if no submissions are received.**

*The motion was carried with the Councillors voting unanimously.*

**9.3     POLICY REVIEW - CATEGORISATION OF LAND AS FARMLAND FOR RATING PURPOSES POLICY**

GOV400087, A0340007, A0340049

**285/20**                      **MOTION:**     Shelley / Holden

**That Council:**

- 1.            receive the report by the Revenue and Property Manager on the Policy Review - Categorisation of Land as Farmland for Rating Purposes Policy;**
- 2.            place the revised Policy Review - Categorisation of Land as Farmland for Rating Purposes Policy on public exhibition for 28 days; and**

3. **adopt the revised Policy Review - Categorisation of Land as Farmland for Rating Purposes Policy if no submissions are received.**

*The motion was carried with the Councillors voting unanimously.*

9.4 **POLICY REVIEW - LEASES AND LICENCES OF COUNCIL OWNED AND MANAGED LAND AND REAL PROPERTY**

GOV400087, A0010008

**286/20**

**MOTION: Shelley / Holden**

**That Council:**

1. **receive the report by the Revenue and Property Manager on the Policy Review - Leases and Licences of Council Owned and Managed Land and Real Property;**
2. **place the revised Leases and Licences of Council Owned and Managed Land and Real Property on public exhibition for 28 days; and**
3. **adopt the revised Leases and Licences of Council Owned and Managed Land and Real Property if no submissions are received.**

*The motion was carried with the Councillors voting unanimously.*

9.6 **DRAFT FINANCIAL STATEMENTS 2019/20**

GOV400087, FIN300135

**287/20**

**MOTION: Shelley / Holden**

**That Council:**

1. **receive the report by the Financial Accountant on the Draft Financial Statements 2019/20;**
2. **resolve that in its opinion the General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2020:**
  - 2.1 **have been drawn up in accordance with the provisions of the Local Government Act 1993, the Local Government (General) Regulation 2005, the Australian Accounting Standards, and the Local Government Code of Accounting Practice and Financial Reporting;**

- 2.2 present fairly the Council's financial position and operating result for the year;
        - 2.3 accord with the Council's accounting and other records; and
        - 2.4 do not contain any known matter that would make the financial statements false or misleading in any way
  3. authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer (CFO) to sign the Statement by Councillors and Management on its opinion of the General Purpose Financial Report 2019/20 and Special Purpose Financial Report 2019/20;
  4. authorise the General Manager to issue the 2019/20 Financial Reports immediately upon receipt of the Auditors Report, subject to there being no material audit adjustments or audit issues; and
  5. authorise the General Manager to finalise the date at which the Auditors Report and Financial Statements for 2019/20 are to be presented to the public.

*The motion was carried with the Councillors voting unanimously.*

9.8 GRANTS COMMISSION FINANCIAL ASSISTANCE GRANT  
2020-21

GOV400087, GRA600041

288/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Manager Financial Planning on the Grants Commission Financial Assistance Grant 2020-21;
2. note the correspondence received from the Local Government Grants Commission attached to this report;
3. amend the 2020/21 Budget to recognise a transfer from other internal restrictions due to the advance payment of part of the 2020/21 financial assistance grant being a general purpose component of \$2,175,370 and local roads component of \$1,307,966 and offset with an equal amount of reduction in grant income;
4. amend the 2020/21 Budget to decrease grant income for the general purpose component by \$47,749 and the roads

component by \$19,365; and

5. amend the 2020/21 Budget to decrease the Rural Sealed Road Rehabilitation Budget Only expenditure budget by the decreased roads component grant amount of \$19,365, with the balance of funds to reduce General Fund unrestricted cash by \$47,749.

*The motion was carried with the Councillors voting unanimously.*

#### 9.9 SUSTAINABLE CHOICE NSW COUNCIL MEMBERSHIP

GOV400087, COR400065

289/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Chief Financial Officer on the Sustainable Choice NSW Council Membership;
2. confirm a commitment to implement sustainable procurement practices across council using the framework provided by Sustainable Choice; and
3. approve becoming a Local Government Procurement Sustainable Choice member.

*The motion was carried with the Councillors voting unanimously.*

#### 9.10 COUNCIL LOCALITY BOUNDARY ADJUSTMENT BETWEEN MID-WESTERN REGIONAL COUNCIL AND WARRUMBUNGLA SHIRE COUNCIL

GOV400087, GOV400003, R0790121, P03877

290/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Property Support Officer on the Council Locality boundary adjustment between Mid-Western Regional Council and Warrumbungle Shire Council;
2. approve the boundary adjustment transferring part of Lot 1 DP 1072945 totalling 2.05ha to Mid-Western Regional Council from Warrumbungle Shire Council;
3. approve the amendment of rates related to Lot 1 DP 1072945 from the date the boundary adjustment is proclaimed in the Government Gazette and raise any

**rates applicable from the date the land becomes rateable within the Mid-Western Regional Council area;**

- 4. confirms no rates arrears relating to that part of Lot 1 DP 1072945, totalling 2.05ha, will be accepted by Mid-Western Regional Council upon Proclamation;**
- 5. confirms no provision for rates will need to be made in the Council boundary adjustment Proclamation;**
- 6. approves the minor Locality adjustment between the Localities of Tallawang and Dunedoo to include the entirety of Lot 1 DP 1072945 in the Locality of Tallawang;**
- 7. authorises making an application for the proposed boundary change to the Minister and the Governor; and**
- 8. confirms the matters listed in the Local Government Act 1993 Section 263 (3) (a) through (f) are not applicable in this instance.**

*The motion was carried with the Councillors voting unanimously.*

**9.11 NAMING OF A BRIDGE ON NULLO MOUNTAIN ROAD OVER CUDGEGONG RIVER OLINDA**

GOV400087, ROA100071

**291/20**

**MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Revenue Officer and Property Support Officer on the naming of a Bridge on Nullo Mountain Road over Cudgegong River OLINDA; and**
- 2. name this bridge Eames Bridge.**

*The motion was carried with the Councillors voting unanimously.*

**9.12 NAMING OF A REST AREA ON THE CASTLEREAGH HIGHWAY**

GOV400087, PAR300020

**292/20**

**MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Revenue Officer on the naming of a Rest Area on the Castlereagh Highway; and**

**2. support the name of Aunty Mary Hooker Rest Area.**

*The motion was carried with the Councillors voting unanimously.*

**9.13 QUARTERLY BUDGET REVIEW JUNE 2020**

GOV400087, FIN300201

**293/20****MOTION: Shelley / Holden****That Council:**

- 1. receive the report by the Manager Financial Planning on the Quarterly Budget Review June 2020; and**
- 2. note the opinion of the Responsible Accounting Officer regarding the satisfactory financial position of Council.**

*The motion was carried with the Councillors voting unanimously.*

**9.14 MONTHLY BUDGET REVIEW - AUGUST 2020**

GOV400087, FIN300240

**294/20****MOTION: Shelley / Holden****That Council:**

- 1. receive the report by the Manager Financial Planning on the Monthly Budget Review - August 2020; and**
- 2. amend the 2020/21 budget in accordance with the variations as listed in the Monthly Budget Review attachment to this report.**

*The motion was carried with the Councillors voting unanimously.*

**9.15 MONTHLY STATEMENT OF INVESTMENT AND BANK BALANCES AS AT 31 AUGUST 2020**

GOV400087, FIN300053

**295/20****MOTION: Shelley / Holden****That Council:**

- 1. receive the report by the Manager Financial Planning on the Monthly Statement of Investment and Bank Balances as at 31 August 2020; and**
- 2. note the certification of the Responsible Accounting**

**Officer.**

*The motion was carried with the Councillors voting unanimously.*

**9.5 POLICY REVIEW - COMMUNITY GRANTS PROGRAM**

GOV400087, GRA600009

**296/20**

**MOTION: Holden / Shelley**

**That Council:**

- 1. receive the report by the Chief Financial Officer on the Community Grants Program Policy Review;**
- 2. amend the Community Grants Program Policy to reduce the annual amount for each business association per financial year to a maximum of \$5,000;**
- 3. place the revised Community Grants Program Policy on public exhibition for 28 days; and**
- 4. adopt the revised Community Grants Program Policy if no submissions are received.**

*The motion was carried with the Councillors voting unanimously.*

**9.7 COMMUNITY GRANTS PROGRAM - AUGUST 2020**

GOV400087, FIN300159

**297/20**

**MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Manager Financial Planning on the Community Grants Program - August 2020; and**
- 2. provide financial assistance to the following applications in accordance with the criteria and guidelines of the Community Grants Policy;**

<b>Kandos Museum Inc</b>	<b>\$1,500</b>
<b>Gulgong RSL Sub-Branch</b>	<b>\$1,733</b>
<b>Community Capers</b>	<b>\$5,000</b>

*The motion was carried with the Councillors voting unanimously.*

**Item 10: Operations****10.1 UNMAINTAINED GRIMSHAW LANE & WELCOME REEF LANE  
- REQUEST TO BE MAINTAINED**

GOV400087, R0790192

**298/20 MOTION: Shelley / Karavas****That Council:**

- 1. receive the report by the Manager Works on the Unmaintained Grimshaw Lane & Welcome Reef Lane - Request to be Maintained; and**
- 2. include the 1.8km Grimshaw Lane & 265m Welcome Reef Lane to the Roads Asset Management Plan as maintained roads.**

*The motion was carried with the Councillors voting unanimously.***10.2 UNMAINTAINED ROAD - SPRING VIEW LANE - REQUEST  
FOR MAINTENANCE**

GOV400087, R0790192

**299/20 MOTION: Holden / Karavas****That Council:**

- 1. receive the report by the Manager Works on the Unmaintained Road - Spring View Lane - Request for Maintenance; and**
- 2. add the remaining 450m of Spring View Lane into the Roads Asset Management Plan as maintained road.**

*The motion was carried with the Councillors voting unanimously.***10.3 MUDGEES AIRPORT RUNWAY PAVEMENT**

GOV400087, F0470025

**300/20 MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the Director Operations on the Mudgee Airport Runway Pavement; and**
- 2. amend the 2020/21 budget for Mudgee Airport Runway to increase expenditure budget by \$395,560 funded by**



**Asset Replacement Reserve.**

*The motion was carried with the Councillors voting unanimously.*

**10.4 ROAD RECLASSIFICATION AND TRANSFER**

GOV400087, ROA100080

**301/20****MOTION: Thompson / Shelley****That Council:**

- 1. receive the report by the Director Operations on the Road Reclassification and Transfer;**
- 2. make a submission to the independent Panel regarding the Road Reclassification Review and Transfer nominating;**
  - 2.1 Bylong Valley Way be reclassified from a Regional Road to a State Road;**
  - 2.2 Gollan Road be reclassified from a Regional Road to a State Road;**
  - 2.3 Cudgegong Road be reclassified from a Local Road to a Regional Road; and**
- 3. consider a further report in the future following feedback from the Independent Panel.**

*The motion was carried with the Councillors voting unanimously.*

**Item 11: Community****11.1 CLANDULLA PUBLIC TOILETS**

GOV400087, COU500034

**302/20****MOTION: Shelley / Martens****That Council:**

- 1. receive the report by the Director Community on the Clandulla Public Toilets;**
- 2. develop an amenities block on the Clandulla Recreation Park (Sportsground);**
- 3. acknowledge that the \$40,000 proceeds from sale of the Clandulla Progress Association block be invested in this facility, which meets the requirement of being in the**

**Rylstone Shire area;****4. amend the 2020/21 Budget:**

- 4.1 reduce the budget for upgrade to Clandulla public toilets by \$15,000 (funded from asset replacement reserve);**

**5. amend the 2021/22 Budget:**

- 5.1 allocate budget of \$120,000 for development of an amenities block as part of the Clandulla Recreation Park (Sportsground) funded from:**

**5.1.1 \$40,000 Land Development Reserve; and**

**5.1.2 \$80,000 Capital Program Reserve.**

*The motion was carried with the Councillors voting unanimously.*

**11.2 NAMING OF THE MUDGEES ART GALLERY**

GOV400087, FIN300228

**303/20**

**MOTION: Paine / Karavas**

**That Council:**

- 1. receive the report by the Director Community on the Naming of the Mudgee Art Gallery; and**
- 2. determine the name of the gallery to be the Mudgee Art Gallery.**

**AMENDMENT O'Neill / Kennedy**

**That Council:**

- 1. receive the report by the Director Community on the Naming of the Mudgee Art Gallery; and**
- 2. determine the name of the gallery to be H.E.ART Mudgee.**

*The amendment 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		✓

## FORESHADOWED AMENDMENT

Shelley / Martens

That Council:

1. receive the report by the Director Community on the Naming of the Mudgee Art Gallery; and
2. determine the name of the gallery to be Mudgee Regional Art Gallery.

*The foreshadowed amendment was won 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 foreshadowed amendment, on becoming the motion, was carried with the Councillors voting unanimously.*

The following recommendations (item 11.3 to item 12.6, excluding item 12.5 – duplicate report) were adopted as a whole, being moved by Cr Shelley, seconded by Cr O'Neill and carried with Councillors voting unanimously. Each recommendation is recorded with a separate resolution number commencing at resolution No. 304/20 and concluding at resolution No. 309/20.

## 11.3 LIBRARY SERVICES - QUARTERLY REPORT

GOV400087, F0620020

304/20

**MOTION: Shelley / O'Neill**

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

*The motion was carried with the Councillors voting unanimously.*

**Item 12: Reports from Committees**

## 12.1 MID-WESTERN REGIONAL COUNCIL ACCESS COMMITTEE

GOV400087, COS3000797

**305/20 MOTION: Shelley / O'Neill**

**That Council:**

- 1. receive the report by the Manager, Community Services on the Mid-Western Regional Council Access Committee; and**
- 2. note the minutes of the Mid-Western Regional Council Access Committee meeting held on 4 August 2020.**

*The motion was carried with the Councillors voting unanimously.*

## 12.2 CULTURAL DEVELOPMENT COMMITTEE

GOV400087, REC800019

**306/20 MOTION: Shelley / O'Neill**

**That Council:**

- 1. receive the report by the Manager, Community Services on the Cultural Development Committee;**
- 2. note the minutes of the Cultural Development Committee meetings convened on 22 July and 26 August 2020; and**
- 3. decline the two offers of gifted artworks.**

*The motion was carried with the Councillors voting unanimously.*

## 12.3 GULGONG SPORTS COUNCIL MEETING MINUTES 13 JULY 2020

GOV400087, A0360003

**307/20 MOTION: Shelley / O'Neill**

**That Council:**

- 1. receive the report by the Director Community on the Gulgong Sports Council Meeting Minutes 13 July 2020; and**
- 2. note the minutes for the Sports Council Meeting held 13 July 2020**

*The motion was carried with the Councillors voting unanimously.*

## 12.4 AUDIT RISK AND IMPROVEMENT COMMITTEE MINUTES 21 AUGUST 2020

GOV400087, COR400236

**308/20 MOTION: Shelley / O'Neill**

**That Council:**

- 1. receive the report by the Executive Manager, Human Resources on the Audit Risk and Improvement Committee Minutes 21 August 2020;**
- 2. endorse the minutes and recommendations of the Audit Risk and Improvement Committee meeting 21 August 2020; and**
- 3. endorse the changes to the Internal Audit Plan for 2020/2021.**

*The motion was carried with the Councillors voting unanimously.*

**12.5 MID-WESTERN REGIONAL ACCESS COMMITTEE**  
GOV400087, COS300797

Duplicate report, refer to report 12.1.

**12.6 LOCAL TRAFFIC COMMITTEE - AUGUST MEETING 2020**  
GOV400087, A0100009

**309/20 MOTION: Shelley / O'Neill**

**That Council:**

- 1. receive the report by the Administration Officer, Operations on the Local Traffic Committee - August Meeting 2020;**
- 2. approve the event – “Mudgee Triathlon Race Season 2020/21”, 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 “Guidelines for Bicycle Road Races”;**
  - 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) A Traffic Control Plan (TCP) certified by a person with a 'Select & Modify' or a 'Design and Audit' Certificate be included in the TMP;
  - i) Any person directing traffic on a public road is required to possess an appropriate traffic controller's certificate;
  - j) 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;
  - k) 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;
  - l) Maintain a four-metre wide emergency vehicle lane;
  - m) Advertise the proposed event in local newspapers with relevant information at least 2 weeks prior to the date;
  - n) The organiser is to have a debrief with Council and Police with all traffic control documentation and controls tabled for review; and
  - o) Transport for NSW consent required for use of the State and Regional road network.
3. further investigate the history regarding the installation of the speed humps in front of 64 & 84 Robertson Street before making the decision to remove them.
4. do not approve the request to replace the "No Stopping" signs with "No Parking" signs at the front of Lifeskills Plus on Oporto Road.

*The motion was carried with the Councillors voting unanimously.*

**Item 13: Urgent Business Without Notice**

Nil

**Item 14: Confidential Session**

**310/20 MOTION: Shelley / Paine**

**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 General Manager's Performance Agreement 2019-2020**

***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 an individual, namely the performance of the General Manager.***

#### **14.2 Water Connection - 36 Tinja Lane Putta Bucca**

***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 Potential legal ramifications.***

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.

All staff left the meeting at 6.51pm, excluding the Executive Manager Human Resources and the Executive Assistant.

#### **14.1 GENERAL MANAGER'S PERFORMANCE AGREEMENT 2019-2020**

GOV400087, GOV400043, A0381418

**311/20**

**MOTION: Shelley / Paine**

**That Council:**

- 1. receive the report by the Executive Manager, Human Resources on the General Manager's Performance Agreement 2019-2020; and**
- 2. assess the General Manager's Performance for the year ending 30 June 2020 at 4 in accordance with the assessment scale included in the General Manager's Performance Agreement for the year ending 30 June 2020.**

*The motion was carried with the Councillors voting unanimously.*

Staff returned to the Chambers at 6.52pm.

## 14.2 WATER CONNECTION - 36 TINJA LANE PUTTA BUCCA

GOV400087, 25209

**312/20 MOTION: Shelley / Holden****That Council receive the report by the Director Operations on the Water Connection - 36 Tinja Lane Putta Bucca.***The motion was carried with the Councillors voting unanimously.***Item 15: Urgent Confidential Business Without Notice****313/20 MOTION: Shelley / Karavas****That Council accept the Urgent Business without Notice***The motion was carried with the Councillors voting unanimously.*

## 15.1 NSW GOVERNMENT FUNDING

GOV400087, RE800038

**314/20 MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the General Manager on the NSW Government Funding;**
- 2. accept funding, if successful, of \$1,500,000 in grant funding from the NSW Government;**
- 3. authorise the General to sign any associated funding deeds; and**
- 4. amend the 2020/21 Budget for the Mudgee Cultural Precinct project to:**
  - 4.1 increase grant funding by \$1,500,000;**
  - 4.2 increase the expenditure budget by \$500,000;**
  - 4.3 return the balance of funds, \$1,000,000, to Capital Program Reserve.**

*The motion was carried with the Councillors voting unanimously.*



**Item 16: Open Council**

**315/20 MOTION: Shelley / Martens**

**That Council move to Open Council.**

*The motion was carried with the Councillors voting unanimously.*

The General Manager announced the decisions taken in Confidential Session.

**Item 17: Closure**

There being no further business the meeting concluded at 6.56pm.

Unconfirmed