

JRPP No:	2010WES001
DA No:	DA 0209/2010
PROPOSED DEVELOPMENT:	Cudgegong Southbank Library, Mudgee, Lot 1 DP 589395 Southbank Site, 4 Short Street, Mudgee
APPLICANT:	Mid Western Regional Council
REPORT BY:	Ben Rourke, Manager Statutory Planning, Planning and Development

Assessment Report and Recommendation

DATE:	Received: 3 February 2010 Completed: 13 April 2010
BUILDING CLASSIFICATION:	9(b)

SITE AND SURROUNDS:

The “Southbank site”, being Lot 1 DP 589395 with address as 4 Short Street, Mudgee is located on the north-western corner of Short Street and Church Street, and bound by Cudgegong River along its northern boundary.

The site has an irregular form, with a southern boundary to Short Street of approximately 200m and eastern boundary to Church Street of approximately 100m.

The site appears relatively flat with a mild crossfall to the north-west, and increases in steepness closer to the river bank. The site is undeveloped and features natural grassland and dispersed stands of trees.

PROPOSED DEVELOPMENT:

Development consent is sought for construction of a one and part two storey community building for use as a public library and outdoor ampitheatre.

The ground floor will feature an open plan main library area with entry forecourt and foyer, circulation desk, study desk spaces, reading lounge areas, youth area, a café with indoor and outdoor seating space, and childrens area with attached outdoor children’s area. Separate rooms attached to this include bathrooms, archive room, mobile library with attached mobile library parking space, toy library, parents room, staff amenity room, staff workroom, and an office. Two outdoor reading areas and an outdoor amphitheatre are also proposed.

The first floor will comprise two meeting rooms with attached terrace, kitchen, bathrooms, and plant room. Lift access from the ground floor will also be provided. The roof of the first floor will extend over part of the ground floor to create a curved void space.

The design of the building adopts a sculptured ‘Y’ like shape, branching out into two wings towards the east side so as to maximise solar access and outlook to its open parkland like setting. Commentary on the design concept and siting of the proposed building are provided in the Statement of Environmental Effects prepared by Tanner Architects, as designers of the proposal.

ASSESSMENT:

The application has been assessed in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979. The main issues are addressed below as follows.

1. REQUIREMENTS OF REGULATIONS AND POLICIES:

(a) Provisions of any Environmental Planning Instrument and any draft EPI

Mid Western Regional Interim Local Environmental Plan 1998

The land is zoned Local Open Space – Public pursuant to Mid Western Local Environmental Plan 1998. The proposed community library building is defined as a “community facility” which is permissible with consent in the zone.

The objectives of the zone that require consideration are provided as follows:

- *To enable land that is or is to be owned by the Council to be used for open space or recreational purposes.*
- *To enable development to be carried out for the recreational needs of the local community.*
- *To enable related uses that will encourage the enjoyment of the land for recreational purposes.*
- *To enhance, restore and protect the natural environment for recreational purposes.*

Comment:

The proposed library building will provide a significant community facility which will provide the existing community and future generations with a place to quietly read, research and relax which are all forms of ‘recreation’. It will be owned by the Council and is intended for community use, with the amphitheatre and landscaped surrounds providing open space for casual recreational use.

As part of the proposal, most existing trees on the site will be retained including the row of culturally significant Poplar trees along the northern side ridge of the site. The 16 trees and shrubs identified for removal are not considered to be significant landscape elements, while the surrounds of the library building will feature some new tree and shrub planting to enhance its parkland setting.

Clause 20 – Height of buildings in certain areas

The site is located within the Mudgee Conservation Area whereby a maximum height of 1 storey and 5m applies. The proposal is part 2 storeys with a maximum height of 7.3m. A variation to the height standard is sought pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (“SEPP 1”), with consideration of this provided under Clause 21 of the LEP, as follows.

Clause 21 – Exceptions to development standards

The proposed variation to the 5m and 1 storey height standard required consideration whereby the applicant is required pursuant to Cl.21(3) to submit a written request demonstrating:

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

Clause 21(4)(a)(ii) requires that:

“the consent authority is to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.”

The applicant has submitted an objection to the height standard made pursuant to SEPP 1 which addresses these matters and is supported.

As discussed, the proposal is assessed as being consistent with the objectives of the zone, however the height standard of 5m and 1 storey has no stated objectives. To enable an assessment of building height and its potential impacts, the key objectives generally associated with height controls can be summarised as:

- *to achieve a bulk and scale of development that is compatible with its built surrounds;*
- *to maintain view sharing with surrounding development; and*
- *to maintain solar access and privacy to surrounding development*

It is noted that the adjacent Commercial Core zoned land along the south side of Short Street has stated as one of its objectives:

“To protect the historic building character and streetscapes of the town centres, and promote new and infill development that complements the scale and built form of existing buildings”

In response to these general and specific objectives, whilst not strictly applicable to the height standard, the proposed library building is compatible in scale with nearby adjacent buildings along Short Street and Church Street. Buildings of a 5m / 2 storey scale or greater include (from the south-east to the south-west) Lawson Park Hotel, Mudgee Theatre, St.Johns Anglican Church building, and Big W. The Lawson Park Hotel and Big W are both clearly visible in context of the setting of the proposal, with both of these buildings both having a wall height of approximately 8m. Therefore the proposed height at 7.3m is clearly compatible with the height of these buildings, and as such is considered to provide the building with an appropriate visual presence at its street corner location and parkland like setting.

As part of the applicant's SEPP 1 submission, it is stated that the 5m height control was only intended for the nearby historic town of Gulgong, and was limited in application to Gulgong under the previous LEP. The previous LEP identified Mudgee's commercial area as having 'streetscape conservation' status, with no height limit imposed. Accordingly, whilst the 5m height limit applies, it would appear an unreasonable development standard to impose given the height of development in the surrounds as discussed above.

It is also noted that the part 2 storey scale of the proposal assists to achieve a lesser building footprint area than if it were limited to single storey. This benefits the site by ensuring that the maximum area of its parkland surrounds on the site are able to be retained as landscape, which benefits both its visual setting and outlook from within the building. In terms of amenity impacts, no overshadowing or loss of privacy will result to adjacent development. The proposal will enable retention of a significant portion of the outlook and view enjoyed from the Lawson Park Hotel, while from the public domain the design is considered to provide an appealing visual presence to its setting.

If strict compliance with the height standard was required, the proposal would be likely to have an underwhelming presence which is not considered an appropriate outcome for a landmark civic building as intended. In summary then, the variation to the height standard

is considered to be well justified, such that compliance with this standard is unnecessary and would be unreasonable in these circumstances.

Clause 32 – Heritage Conservation

The site is located within the Mudgee Conservation Area, and adjacent to the Lawson Park Hotel and Lawson Park which are both individually identified as heritage items under Schedule 5 of the LEP. Clause 32(4) requires the submission of a Heritage Impact Assessment in circumstances where impacts on the conservation area or adjacent heritage items may result.

The Heritage Impact Assessment prepared by Tanner Architects identifies the proposal as having no adverse impact on the significance of these two heritage items in terms of their visual setting, and no adverse impact on the Conservation Area. The assessment comments that the site in its current vacant state does little to contribute to its environment, and the proposal's sculptured form will have a positive visual impact on its setting. In particular, the contemporary design of the proposal visually distinguishes it as a new building, so that the visual 'gateway' to the heritage streetscape of Church Street as defined by Lawson Park Hotel is preserved. This is considered an appropriate heritage outcome.

Clause 65 - Development on flood prone land

As noted in the Flood Risk Assessment submitted with the proposal and by the NSW Office of Water, the floor level of the proposed building is above the 1:100 flood planning level, however the floor level of the Ampitheatre is not stated. To address this, Council's Engineer has advised a condition of consent requiring a finished floor level of 0.5m above the 1:100 ARI plus a minimum 0.5m freeboard.

(b) Provisions of any Development Control Plan or Council Policy

Car Parking Development Control Plan

The DCP identifies the proposed development as "other uses" whereby the parking generation is assessed based on the individual circumstances of the proposal and its expected traffic generation. The DCP also enables existing parking spaces fronting the site to be credited towards the total number of spaces required.

The proposal seeks to utilise a total of 63 existing parallel parking spaces provided along Short Street and Church Street, as well as the public car parking area located adjacent on the south side of Short Street. The Traffic and Parking Assessment contained at Appendix G of the Statement of Environmental Effects provides an analysis of parking demands for both the library and amphitheatre, noting that peak use of these will generally not coincide. As a result, the total calculated peak parking demand is 57 spaces such that a surplus of 6 spaces will be provided by the credited street parking. Consequently the proposal is considered satisfactory from a parking perspective.

Design for Accessibility Development Control Plan

The Statement advises that the proposal has been designed to comply with the access requirements of this DCP, the Building Code of Australia and AS1428.1. Conditions of consent are included requiring compliance with these access provisions.

2. IMPACT OF DEVELOPMENT

The proposed development requires minor clearing of the site with trees and shrubs identified for removal to be offset by replacement planting. No trees identified for removal are identified as

significant species or items of landscape significance, noting that the culturally and visually significant row of Poplar trees along the north side of the site are to be retained. The proposal will require minimal excavation and is not affected by the 1:100 flood level. In terms of amenity impacts, the proposal will not result in loss of any direct sunlight or privacy from adjacent buildings whilst view sharing will be retained. The sculptured design is considered appropriate in context of its parkland setting and will provide the community with a significant asset.

3. SUITABILITY OF SITE FOR DEVELOPMENT

The site is vacant and does not feature any physical constraints to the proposed development, noting that clearing will not be significant, the 1:100 year flood level is below the floor level of the proposal and access is readily achieved between the street and the flat site. The large area of the site in relation to the proposed development also ensures that its design will complement the site and its setting, with no adverse environmental or amenity impacts. The previous use of the site as a TAFE school was preceded by the land being vacant, with no history to suggest any contamination of the land pursuant to *State Environmental Planning Policy No.55 – Remediation of Land*. Consequently the site is considered suitable to accommodate the proposed development.

4. SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS

Notification of the proposal including a Public Notice was carried out for a period of 28 days from 12 February to 12 March, 2010, and resulted in a total of 4 submissions being received. The submissions did not raise any points of objection, however several matters were raised requiring consideration, which are identified and addressed as follows:

Accessibility- including disabled parking, wheelchair accessible pathways, doorways, desks, lift and bathrooms

Comment - Conditions of consent have been advised which require compliance with accessibility provisions as specified in the Building Code of Australia and AS1428.1.

Security of adjacent church – Request for Council to provide a sealed driveway to the church grounds so that cars parking will be less likely to block access to the church grounds

Comment – This request is not relevant to the proposal. Should the Church wish to carry out such work, they are entitled to do so at their own expense subject to obtaining a driveway crossing permit from Council.

5. THE PUBLIC INTEREST

The public interest is well served in this case with a development that will provide a significant cultural asset to the local community, is consistent with the objectives of the zone, and has not raised any public objections.

6. CONSULTATIONS

Pursuant to S.91A of the EP&A Act, the proposal is defined as Integrated Development, based on the site's location on the foreshore of the Cudgegong River. Consequently the matter was referred to the NSW Office of Water (NOW) for comment.

In response, NOW advised that as the proponent (Council) is a public authority, it is exempt from the need to obtain a Controlled Activity Approval. NOW's comments also note from the site plan a proposed jetty on the river, which they do not support. Advice to NOW subsequent to this confirms

that the jetty is excluded from the Development Application, and is not presently the subject of any other Development Application or immediate plan for the river.

RECOMMENDATION:

That Development Consent be granted to DA 0209/2010 for construction of a library building and amphitheatre at 4 Short Street, Mudgee, subject to the following conditions of consent:

APPROVED PLAN

1. Development is to be carried out in accordance with architectural plans numbered AR.DA / 1001, 2001, 2002, 3001, 4001, Issue A, dated 21/1/2010; and Landscape Plan LA.DA.01; except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.
2. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of AS 3500 (National Plumbing & Drainage Code) and the NSW Code of Practice - Plumbing & Drainage. The selected plumber/drainer must provide Council with a drainage diagram detailing the location of the drainage system and the relevant connections.
3. All plumbing and drainage inspections must be carried out by Council prior to the covering of any trenches or wall/ceiling linings.
4. Separate application must be made under Section 68 of the Local Government Act 1993, as amended, to Mid-Western Regional Council for all water supply, sewerage, and stormwater drainage work associated with the development. Full details must be submitted to the Council for approval prior to the issue of the Construction Certificate by the Principal certifying Authority.
5. Any liquid trade wastes from the development, other than stormwater must be discharged to the Council sewerage system and in accordance with the Councils requirements for the discharge of liquid trade waste.
6. All building work must comply with the requirements of the Building Code of Australia 2009, Volume One, in particular, full compliance with the requirements of Sections C, D, E, F and J, together with the relevant Australian Standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations. Full details must be provided with the Construction Certificate application.
7. The building must be provided with adequate means of access for persons with disabilities in order to comply with the Building Code of Australia, the Disability Discrimination Act 1992 and Australian Standard 1428 - Part 1 (2001) and Part 4 (1992).
8. The proposed passenger lift must also comply with Part E3, section E3.6 of the Building Code of Australia. In this regard, the applicant must submit a detailed access design for the proposed building including pathway and parking approaches which has been certified by a qualified Access Advisor* as complying with the above legislation. Full details must be submitted with the application for the Construction Certificate.

NOTE 1: Compliance with the Building Code of Australia only may still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.

NOTE 2: * A qualified Access Advisor is a current member of

Association of Consultants in Access Aust Inc
326 Autumn Street, HERNE HILL, Vic. 3218.
Ph (03) 52212820
www.access.asn.au

NOTE 3: A qualified Access Advisor must carry current and relevant public liability and public indemnity insurances for the practice of their trade.

NOTE 4: The applicant must also consider the requirements of the Disability (Access to Premises-Buildings) Standards which would be applicable to the development.

9. Adequate separately accessible toilet facilities must be provided within the development for persons with disabilities in accordance with Part F.2 of the building Code of Australia. Full details are to be included in the documentation for a Construction certificate.
10. All mandatory inspections required by the Environmental Planning and Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stages of construction.
11. Construction work noise that is audible at other premises is to be restricted to the following times.
Monday to Friday -- 7.00am to 6.00pm
Saturday -- 8.00am to 1.00pm
No construction work is permitted on Sundays and Public Holidays.
12. The site must be provided with a waste enclosure (minimum 1800mm x 1800mm x 1200mm high) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on site. The enclosure is to be emptied periodically to reduce the potential for rubbish to be blown from the site. The Council encourages the separation and recycling of suitable materials.
13. Prior to the occupation of a new building, an Occupation Certificate must be obtained from the Principal Certifying Authority appointed for the erection of the building.
14. During construction, temporary toilet facilities are to be provided at or in the vicinity of the nominated work site and for this purpose provide either a standard flushing toilet or an approved sewage management facility.
15. A sign must be erected in a prominent position on any work site on which the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited, and
 - 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.
16. Runoff and erosion controls must be installed prior to clearing the site 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.
 - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of the development or particular stage of the development.

17. All building or site works or other written undertaking or obligation indicated in the submitted plans and supporting documentation or otherwise required under the terms of this consent being carried out or implemented prior to the occupation of the premises.
18. Adequate facilities being provided in a screened location within the development for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for the regular removal and disposal of same. Full details are to be included in documentation for a Construction Certificate application.
19. A Registered Surveyors Certificate showing the boundaries of the site and the proposed development plotted thereon being submitted to the Principal Certifying Authority prior to commencement of construction.
20. A Construction Certificate application for this development is to include a list of fire safety measures proposed to be installed in the development and/or on the land and include a separate list of any fire safety measures that already exist.
21. A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be provided to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
22. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council with a copy of an Annual Fire Safety Statement certifying that specified fire safety measure is capable of performing to it's specification.
23. A Construction Certificate application must include working drawings of the structural elements of the proposed building within the development, prepared and certified by a practising Professional Structural Engineer.
24. 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.
25. The Construction Certificate application must include full details of compliance with Section J (Energy Efficiency) of the Building Code of Australia 2009, Volume One in relation to the non-residential buildings within the development.
26. All areas not provided with natural ventilation in accordance with the provisions of the Building Code of Australia being provided with an approved mechanical ventilation system complying with Australian Standard 1668, Parts 1 and 2. Full details being provided with the Construction Certificate application.
27. The placing of building materials or the carrying out of building operations upon or from Council's footway or roadway is prohibited unless prior consent in writing is obtained from Council.
28. The design and construction of the proposed cafe and kitchen and associated structures within these areas must be fitted out in accordance with the relevant requirements of the Australian Standard 4674 - 2004 "Design, Construction and Fitout of Food Premises" dated 11 February 2004 and the NSW Food Act 2003. Full details of these areas must be submitted for approval prior to the commencement of any work.
29. If the work involved in the erection 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's to be removed when the work has been completed.

- 30. An Application may be made to Council or an accredited certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority monitoring compliance with the approval and issuing any relevant documentary evidence or certificate(s).
- 31. Construction works for the approved development are to commence within 5 years of the date of issue of this development consent.

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

- 32. Engineering plans of stormwater drainage design are to be submitted to and approved by Council or an *Accredited Certifier* prior to the issue of a *Construction Certificate*. 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 or an *Accredited Certifier* prior to the issue of a *Construction Certificate*.
- 33. Contractor's public liability insurance cover for a minimum of \$10,000,000 is to be sighted and to be shown to Mid Western Regional Council as an interested party.
- 34. 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:
- 35. Saving available topsoil for reuse in the revegetation phase of the subdivision;
 - Using erosion control measures to prevent on-site damage;
 - Rehabilitating disturbed areas quickly;
 - Maintenance of erosion and sediment control structures;
 - Approval for discharge of liquid trade waste to the sewer is required prior to the issue of a Construction Certificate. An application form is to be submitted for this purpose, including discharge rate and site plan details.
- 36. Engineering plans for the refuge island to be submitted to Council prior to the issue of the Construction Certificate. The pedestrian refuge is to comply with the RTA Technical Direction TDT 2002/10 - pedestrian refuges. Plans to include line marking details for off street parking and proposed 2hr limited parking signs location.

ENGINEERING CONSTRUCTION

- 37. Habitable floor levels to be equal to or greater than the 1:100 year ARI flood plus a minimum 0.5m freeboard.
- 38. The vehicular entry and exits are to have a minimum width of 4.5 metres (at the kerb line).

39. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided each lot at a suitable location to the development.

These should be constructed in accordance with Aus-Spec #1 and the appropriate Council standard drawings including M524-Urban Access, M525-Rural Access, M526-Industrial Access, M594-Kerb & Gutter Layback, which states:-

Inspections - Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council, giving at least twenty four (24) hours notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.

40. Car parking within the development is to comply with the following:
- (a) Each parking space is to have minimum dimensions of 5.4m x 2.6m along Short St and 6.1m x 2.1m on Church St;
 - (b) Each disabled car parking space is to be in accordance with the provisions of Councils Development Control Plan – Design for Accessibility.
 - (c) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times;
41. Any existing vehicular crossings not utilised by the development shall be removed and the area restored to match the adjoining section of kerb and gutter prior to occupation of the development.
42. The developer is to extend and meet the full cost of water and sewerage reticulations to service the new development plus the cost of connecting to existing services. A quotation can be obtained from Councils Operations Department. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in SDPSC16.
43. The developer is to upgrade Church St for the full frontage of the proposed development, such that it has the following characteristics:

Item	Requirement
Concrete Footpaths	1.2m Wide - matching to the existing footpaths on Short St

44. 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.
45. All vehicles to enter and leave the site in a forward direction at all times.
46. All loading and unloading in connection with the premises shall be carried out wholly within the site.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

47. 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.
48. All car parking and associated driveway works are to be completed prior to occupation of the development.