

COUNCIL ASSESSMENT REPORT

WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-219 & DA0256/2024 (PAN-411796)
PROPOSAL	Multi-Dwelling Housing (Key Worker Housing comprising 47 dwellings) and associated works.
ADDRESS	Lot 122 DP1074283 10-12 Burrundulla Avenue MUDGEE NSW 2850
APPLICANT	Mid-Western Regional Council
OWNER	Mid-Western Regional Council
DA LODGEMENT DATE	19 March 2024
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 3, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : <i>Council development with a capital investment value exceeding \$5,000,000</i>
CIV	\$20,795,101 (inclusive of GST)
CLAUSE 4.6 REQUESTS	Not applicable
KEY SEPP/LEP	<ul style="list-style-type: none"> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>Mid-Western Regional Local Environmental Plan 2012</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>Four (4) submissions were received during notification of the application. The key issues raised in submissions are:</p> <ul style="list-style-type: none"> Development Density (inconsistent with existing character) Impact on amenity – privacy, noise, light, removal of trees Potential flood impacts to adjoining properties at George Street access

	<ul style="list-style-type: none"> • Safety /property damage as a result of internal road location • Loss of property value
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Architectural Plans • Civil Plans • Landscape Plans, • Noise Impact Assessment • Memorandum re: Stormwater Mitigation on 10-12 Burrundulla Avenue Mudgee – Detailed Design, • Site Contamination Investigation • Traffic and Parking Assessment • Statement of Environmental Effects
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not applicable
RECOMMENDATION	Deferred Commencement
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	25 November 2024
PLAN VERSION	Various – refer to draft conditions relating to approved plan sets.
PREPARED BY	Sarah Hopkins
DATE OF REPORT	12 November 2024

EXECUTIVE SUMMARY

The development application (DA0256/2024) seeks consent for multi dwelling housing to support key workers in the community. The multi dwelling housing development will comprise a total of 47 units ranging in size from one bedroom to four-bedroom units. The development will include internal roads to support the development and landscaped areas.

The subject site is known as 10 – 12 Burrundulla Avenue, Mudgee (and legally described as Lot 122 DP1074283) ('the site'). The site has a total area of 1.666 hectares and has frontage to George Street and Burrundulla Avenue. The elevation of the land ranges from 459.5m AHD on the Burrundulla Avenue side of the lot to a lowest point of 455.2m AHD near the George Street frontage with a change in elevation of around 4m across the site. The site is subject to overland flooding in the 1 in 100 event at the George Street frontage. The site is currently vacant, however a few remaining features of the previous use of the former Mudgee Bowling club, remain including a sealed area on the southwest corner of the site formerly used for car parking and rows of trees which lined the former bowling greens.

The site is located within an established residential area approximately 1.1 km from the Mudgee Post Office. The surrounding dwellings are comprised of a variety of type and age from older style single dwellings with nearby more modern residential dwellings including medium density housing development. Dwellings are mostly single storey with some double storey dwellings scattered throughout the area.

The site is located in the RE2 Private Recreation zone pursuant to Clause 2.2 of the *Mid Western Regional Local Environmental Plan 2012* ('MWRLEP 2012'). However, a Planning Proposal is to be gazetted imminently which will rezone the land to R3 Medium Density Residential, with a 600m² minimum lot size and an 8.5 metre building height limit.

Notwithstanding the rezoning status, the applicant proposes to utilise the requirements of Clause 5.3 Development near zone boundaries of the MWLEP and apply the zone requirements of the adjoining R3 Medium Density Residential zone which are more relevant to the development of the site.

The principle planning controls relevant to the proposal include the *Mid Western Regional Local Environmental Plan 2012* ('MWRLEP 2012') and the Mid-Western Regional Development Control Plan 2013 ('DCP'). The application is considered to be consistent with all of the relevant controls.

The application was referred to external authorities being Essential Energy as part of the application and internally to Council's Health and Building Department and Development Engineering Department.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Section 4.6 of *State Environmental Planning Policy (Resilience and Hazard) 2021* for consideration of whether the land is contaminated.
- Submission of a BASIX certificate in accordance with *State Environmental Planning Policy (Sustainable Buildings) 2022*.
- Referral to the relevant electricity provider in accordance with *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The application was placed on public exhibition from 26 March 2024 to 11 April 2024 with four (4) submissions being received during this period. These submissions raised issues, including the density of the development, car parking, potential flood impacts and impact of internal roads and double storey dwellings. The issues raised are able to be addressed via conditions of consent, as relevant.

The application is referred to the Western Regional Planning Panel ('the Panel') as the development is '*regionally significant development*', with a CIV over \$5 million.

The key issues associated with the proposal which have been addressed during assessment of the proposal via amended plans and conditions of consent include:

1. *Compliance with Private Open Space requirements & Daylight to POS / Living Areas* – Generally addressed via amended plans. Variation requirements under DCP standards are considered acceptable as discussed throughout this report.
2. *Overlooking* – Conditions of consent recommended to protect the privacy of adjoining properties where there is overlooking from double storey dwellings.
3. *Flooding impacts* – Detailed design provided, and conditions of consent recommended.
4. *Easement for the disposal of stormwater* – Arrangements have been made for the creation of a new easement for the legal disposal of stormwater and will be included as a deferred commencement condition.

Following assessment of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State Environmental Planning Policies, the MWRLEP 2012 and the DCP, the proposal is supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA0256/2024 is recommended for approval subject to the conditions of consent contained in **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The subject land comprises one allotment, legally identified as Lot 122 DP1074283 at 10–12 Burrundulla Avenue, Mudgee.

The subject lot is located within an established residential area of Mudgee approximately 1.1 kilometres from the Mudgee Post Office. The subject lot is irregular in shape and has a total area of 1.66 hectares with a 79 metre frontage to Burrundulla Avenue and 14m frontage to George Street. A Location Map is provided below in Figure 1.

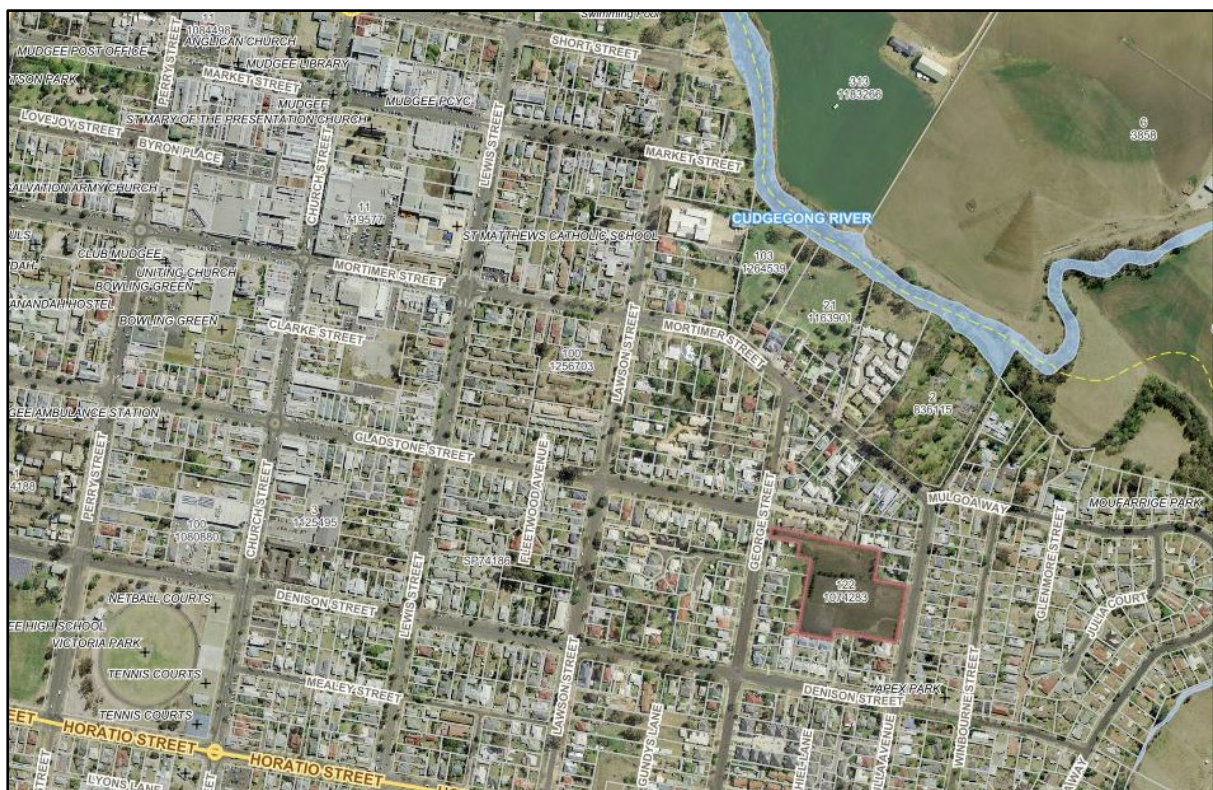


Figure 1: Location Map

The elevation of the land ranges from 459.5m AHD on the Burrundulla Avenue side of the lot to a lowest point of 455.2m AHD near the George Street frontage with a change in elevation of around 4m across the site. The site is subject to overland flooding in the 1 in 100 year event at the George Street frontage. An aerial photo of the subject site is provided in Figure 2.



Figure 2: Aerial image of the site and surrounds

The existing site is currently vacant, however a few remaining features of the previous use of the former Mudgee Bowling club remain, including a sealed area on the southwest corner of the site formerly used for car parking and rows of trees which lined the former bowling greens.

The site is largely unconstrained except for easements to drain water and sewer located at the George Street frontage and across part of the northern boundary. The easement to drain water contains an existing open stormwater drain which generally facilitates the movement of stormwater from the street network to an existing culvert and easement on the adjoining property to the north. Existing sewer mains also partially affect the north of the site from the George Street frontage.

1.2 The Locality

The surrounding land is residential in nature and characterised by the following key features:

The land to the north, south and west is zoned R3 Medium Density and R1 General Residential to the east (on the opposite side of Burrundulla Avenue). The surrounding

dwelling is comprised of a variety of type and age from older style single dwellings with nearby more modern residential dwellings including medium density housing development.

Immediately to the north of the subject site is a double storey dwelling which fronts Burrundulla Avenue. Single storey units are located beyond this. To the south of the subject site, facing Burrundulla Avenue are single storey dwellings with hipped roofs. The opposite side of Burrundulla Avenue is comprised of single storey dwellings.

To the north of the site fronting George Street is a strata unit development. Similar to Burrundulla Avenue, George Street is also characterised as being an established residential area comprising generally of single storey dwellings with some more modern infill development scattered throughout.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

It is proposed to construct a multi-dwelling housing development comprising the construction of 47 dwellings and associated works including internal roads and servicing. The dwellings are a mix of single storey and double storey dwellings ranging from one to four bedroom dwellings and will be used to accommodate key workers in the community, such as nurses, teachers, and police. It should be noted that the proposal has been lodged as multi dwelling housing and accordingly has not been assessed under any “affordable” housing planning controls/provisions.

Overall, the proposal will result in the following dwelling typology:

- 10 x 1 Bedroom
- 25 x 2 Bedroom
- 6 x 3 Bedroom
- 6 x 4+ Bedroom

Specifically, the proposal involves seven different “dwelling types” as follows:

- **Type 1** – 2-bedroom single storey dwelling. Type 1 dwellings each have a garage and second car space. A total of 12 units will be Type 1 being Units 1-3, 9-12, 17-19, 46 and 47. Units 1 and 3 will front Burrundulla Avenue.
- **Type 2** – 4-bedroom double storey dwelling. Type 2 dwellings each have a garage and second car space. Four units will be Type 2 - Units 6, 7, 15 and 16.
- **Type 3** – 3-bedroom double storey dwelling. Type 3 dwellings each have a garage and second car space. Four units will be Type 3 - Units 4, 5, 13 and 14. Units 4 and 5 will front Burrundulla Avenue.
- **Type 4A** – 3-bedroom double storey attached dwellings with additional one bedroom unit above the double garage. Units 40 and 45 will be this type. This is considered as one unit as the dwellings share the same private open space and double garage.
- **Type 4B** – 3-bedroom double storey attached dwellings with double garage. Units 41 and 44 will be this type.
- **Type 5** – 2-bedroom double storey attached dwelling with single garage. Units 42 and 43 will be this type

- **Type 6A, 6B and 6C** - 2-bedroom double storey attached dwelling. 6A, 6B and 6C all have the same floor plan however differ in their external appearance through roof form, window sizes etc.
- **Type 7A, 7B and 7C** – 1-bedroom double storey attached dwellings. 7A, 7B and 7C types all have the same floor plan however differ in their external appearance through roof form, window sizes etc.

Type 6 and 7 dwellings are located in a row of 20 dwellings along the west boundary, identified as Units 20-39. Each dwelling has an associated car space.

Each unit will be provided with private open space with additional landscaped areas and playground equipment located within the site which will be available to all residents.

An internal road network connected to Burrundulla Avenue and George Street will provide vehicular access to all dwellings within the development. The north-western corner of the site adjacent to the George Street frontage is affected by flooding during the 1% AEP overland flood event. Accordingly, stormwater management and flood mitigation works are proposed at the George Street access to ensure that adjacent properties are not adversely impacted as a result of the new access road.

A total number of 93 car spaces will be provided on site. These spaces will comprise of garages and car spaces associated with individual units and 23 spaces available on the internal road network, as common/unallocated car parking spaces.

The development will be connected to reticulated water and sewerage services. Stormwater will be detained onsite in a 100,000L underground tank located in the landscaped area to the west of Units 41-44.

Table 1 below provides an overview of the Development Data and Figures 3 and 4 give extracts of the proposed site plan and elevation fronting Burrundulla Avenue. A complete set of architectural plans is available in **Attachment B**.

Table 1: Development Data

Control	Proposal
Site area	1.666 hectares
GFA	The total GFA of the dwellings excluding garages is 4506.53m ² .
FSR (retail/residential)	Not applicable – no FSR controls under the MWRLEP
Clause 4.6 Requests	Nil
No of apartments	No apartments proposed, the development comprises 47 dwellings comprising: <ul style="list-style-type: none"> • 10 x 1 Bedroom units • 25 x 2 Bedroom units • 6 x 3 Bedroom units • 6 x 4+ Bedroom units

Max Height	7.245m
Landscaped area	42% of the site
Car Parking spaces	A total of 93 car spaces are provided within the site.
Setbacks	Front setback – 4.5m (Burrundulla Avenue) Side setback – 2.0m (north) 2.5m (south) Rear (west) – 6.1m



Figure 3: Extract from Architectural Plans, Proposed Site Plan

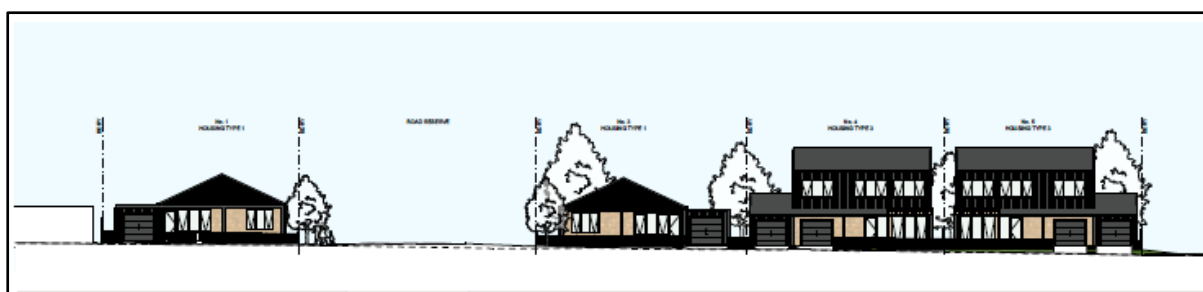


Figure 4: Extract from Architectural Plans – Site Section 01 (Burrundulla Avenue elevation)

2.2 Background

The development application was lodged on **19 March 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
19 March 2024	DA lodged
21 March 2024	Application referred internally to Council Departments - Health and Building, Development Engineering.
26 March 2024	Exhibition of the application.
26 March 2024	Application referred to external authority, Essential Energy (CNR-67091)
11 April 2024	Close of exhibition of the application, four submissions received.
12 April 2024	Request for additional information from Council to applicant.
16 April 2024	Response from Essential Energy received.
1 May 2024	Second request for additional information from Council to applicant relating to Engineering requirements regarding carparking, stormwater discharge onto adjoining land and flooding.
19 June 2024	Applicant provided response to request for additional information resulting in the lodgement of the following documents: <ul style="list-style-type: none">• Covering letter – response to RFI• Revised Engineering / Civil Plans• SEE Version 2• Amended Noise Impact Assessment (Version 2)
27 June 2024	Applicant provided response to engineering further information request submitting the following: <ul style="list-style-type: none">• Stormwater mitigation memo prepared by WMA Water dated 25 June 2024.
1 August 2024	Request for additional information in relation to variation of development standards not addressed in response to RFI.

29 August 2024	Applicant provided response to request for additional information including the following amended plans: <ul style="list-style-type: none"> • Landscape Plans (submitted on Planning Portal 16/08/2024) • Architectural Plans (submitted on Planning Portal 16/08/2024) • Covering letter – response to RFI (submitted on Planning Portal 29/08/2024)
4 September 2024	Information was not complete – additional request for further information lodged over the Planning Portal.
6 September 2024	Applicant provided amended architectural plans received increasing the size of POS to Units 40-46.
23 September 2024	Applicant provided response to further information request dated 23 September 2024 and prepared by De Witt Consulting.
22 October 2024	Applicant provided additional information regarding agreement from owner for proposed easement over 17 Mortimer Street. All additional information requests complete.
23 October 2024	All referral responses by internal Council departments received.
26 November 2024	Panel Determination meeting scheduled

2.3 Site History

The site was historically used for a bowling club with three bowling greens, club house and car parking located on the site. A historical aerial image from 2009 is provided in Figure 5.



Figure 5: Historical aerial image of the site showing former bowling club use

Development consent DA0117/2016 was issued on the 10th November 2015 for the demolition of the bowling club.

Mid-Western Regional Council purchased the site in 2016 following demolition of the existing club house and associated structures.

A planning proposal was lodged for the part rezoning of the subject site from RE2 Private Recreation to R3 Medium Density Residential. The proposal also included the introduction of a 600m² minimum lot size and an 8.5 metre building height limit. The Planning Proposal is currently within “Stage 6 Finalisation of the LEP making process”, having completed notification and consideration of submissions reported to the August 2024 Council meeting and is expected to be Gazetted imminently.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

- (c) *the suitability of the site for the development,*
(d) *any submissions made in accordance with this Act or the regulations,*
(e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Designated Development (s4.10);
- Crown DA (s4.33); or
- Integrated Development (s4.46);

Integrated development is triggered when a development requires a Controlled Activity Approval under the *Water Management Act 2000*. In this case, the development is within 'waterfront land', as it is land within 40m of a drainage line as shown in **Figure 6** below. However, a Controlled Activity Approval under the *Water Management Act 2000* is not required as it is able to meet the exemption under Section 41 of the Water Management (General) Regulation 2018 which states that a public authority is exempt from a Controlled Activity Approval.

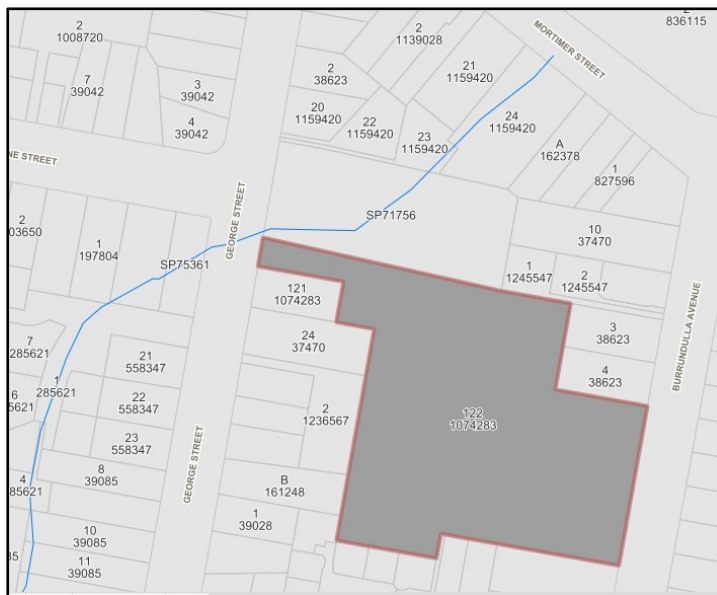


Figure 6 – Natural drainage in the vicinity of the site.

3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Mid-Western Regional Local Environmental Plan 2012*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable State Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 3 of Schedule 6.	Y
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<u>Chapter 4 Koala Habitat Protection 2021</u> The proposed development will only remove non-native trees within an urban context and therefore will not impact on koalas or koala habitat under this Policy.	Y
State Environmental Planning Policy (Resilience and Hazards) 2021	<u>Chapter 4: Remediation of Land</u> Section 4.6 – Contamination and remediation have been addressed through report submitted with the application <i>Site Contamination Assessment</i> prepared by Barnson and dated 9 June 2023. The report concludes the site is suitable for residential development.	Y
State Environmental Planning Policy (Sustainable Buildings)	Relevant BASIX certificate has been provided and shown on architectural plans.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> <u>Part 2.3 Development controls</u> <i>Division 5 Electricity transmission or distribution</i> The application was referred to Essential Energy in accordance with Section 2.48. No objections raised subject to sufficient separation of the development from existing powerlines. <i>Division 17 Roads and Traffic</i> Not applicable – the development is not located adjacent to a classified road and is not identified as traffic-generating development as the size of the residential accommodation is less than 75 dwellings.	Y

Consideration of the relevant State Environmental Planning Policies is outlined below.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) applies to the proposal as it identifies if development is regionally significant development. Pursuant to Section 2.19(1) of the Planning Systems SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 3 of Schedule 6 of the Planning Systems SEPP. That is the proposal is *Council related development* with a CIV over \$5 million as Mid-Western Regional Council is applicant for development consent and the owner of the land for which the development is to be carried out. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4 Koala Habitat Protection 2021

Chapter 4 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity SEPP) applies to the proposal as the development site is greater than 1 hectare and Mid-Western Regional Council is listed within Schedule 2 of the Biodiversity SEPP. The subject land is not identified as potential or core koala habitat and no koala plan of management exists for the area.

The proposed development will only remove non-native trees within an urban context and therefore will not impact on koalas or koala habitat under this Policy. Therefore, no further consideration of the Biodiversity SEPP is considered necessary.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The application was accompanied by a preliminary site contamination investigation report titled *Site Contamination Investigation* and prepared by Barnson which addresses the suitability of the site for residential development. The report follows up on a previous investigation of the subject site undertaken by Barnson in 2016 following the demolition of the bowling club. The previous investigation identified asbestos containing material as well as trace quantities of hydrocarbon and organochlorine pesticides in the surface soils of the subject site but concluded that all contaminants investigated were below screening criteria for residential use.

The current report was undertaken to confirm the findings of the previous report and identify potential contaminants that may have been introduced in the interim. It identified the following potential sources of contamination based on historical and current uses of the site:

- Landscape maintenance (use of pesticides and fertilisers)
- Vehicles and equipment

- Fill material, hazardous materials and unregulated waste disposal.

A site inspection was also conducted where collection and chemical analysis of soil samples was undertaken to confirm the presence and significance of potential contamination associated with the above sources. The samples identified low concentrations of heavy metals and hydrocarbons. The concentrations were below the relevant health-risk based criteria with the report concluding that the surface soils of the Subject Site pose no significant risk to the health of humans or the environment

The report made the following recommendations (summarised):

- That it can be stated with reasonable confidence that the site is suitable for the proposed residential re-development and land use.
- The stockpile of demolition waste located in the northern portion of the site be removed and disposed to a licenced landfill facility.
- An unexpected finds protocol be implemented as part of any future earthmoving or construction activities undertaken at the site.
- Any material excavated from the site be classified in accordance with the Natural Excavated Materials Order and appropriately disposed.

Suitable conditions have been recommended in relation to the above.

State Environmental Planning Policy (Sustainable Buildings) 2022

The provisions of *State Environmental Planning Policy (Sustainable Buildings) 2022* ('Sustainable Buildings SEPP') have been considered in the assessment of the development application.

A suitable BASIX certificate for the proposed multi dwelling development has been provided with the application with relevant commitments shown on the architectural plans submitted with the application.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') have been considered in the assessment of the development application. The following sections of the Transport and Infrastructure SEPP are considered relevant to the application:

Chapter 2: Infrastructure

Part 2.3: Development controls

Division 5 Electricity transmission or distribution

Section 2.48 Determination of development applications—other development

Electricity overhead lines are located in the vicinity of the site on Burrundulla Avenue and George Streets. Pursuant to Section 2.48(2) the application has been referred to the electricity supply authority for the area, Essential Energy for comment about potential safety risks. Essential Energy advised that:

A safe clearance of 4.3m measured horizontally is required to the centre line of the 22000 volt high voltage and 400/230 volt overhead powerlines which run along Burrundulla Avenue and George Street. The attached plans seem to indicate

adequate setback, though we cannot find a formal dimension in the plan sets therefore we have advised the safe clearance above.

The minimum front setback of the development is 4.5m, and therefore the development is capable of complying with the required safe clearance setbacks. Notwithstanding this a suitable condition has been recommended in relation to the above.

Essential Energy has also provided general comments in relation to the application which will be included as part of the recommended Advisory Notes of any approval.

Division 17 Roads and Traffic

This Division of the Transport and Infrastructure SEPP has been considered as not relevant to the application as the development is not located adjacent to a classified road nor is it identified as traffic-generating development given the size of the residential accommodation is less than 75 dwellings.

Mid-Western Regional Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Mid-Western Regional Local Environmental Plan 2012* ('the LEP'). The relevant aims of the LEP are as follows:

- (a) *to promote growth and provide for a range of living opportunities throughout Mid-Western Regional,*
- (b) *to encourage the proper management, development and conservation of resources within Mid-Western Regional by protecting, enhancing and conserving—*
 - (i) *land of significance to agricultural production, and*
 - (ii) *soil, water, minerals and other natural resources, and*
 - (iii) *native plants and animals, and*
 - (iv) *places and buildings of heritage significance, and*
 - (v) *scenic values,*
- (d) *to foster a sustainable and vibrant economy that supports and celebrates the Mid-Western Regional's rural, natural and heritage attributes,*
- (d) *to foster a sustainable and vibrant economy that supports and celebrates the Mid-Western Regional's rural, natural and heritage attributes,*
- (e) *to protect the settings of Mudgee, Gulgong, Kandos and Rylstone by—*
 - (i) *managing the urban and rural interface, and*
 - (ii) *preserving land that has been identified for future long- term urban development, and*
 - (iii) *promoting urban and rural uses that minimise land use conflict and adverse impacts on amenity, and*
 - (iv) *conserving the significant visual elements that contribute to the character of the towns, such as elevated land and the rural character of the main entry corridors into the towns,*

- (f) to match residential development opportunities with the availability of, and equity of access to, urban and community services and infrastructure,
- (g) to promote development that minimises the impact of salinity on infrastructure, buildings and the landscape.

The proposal is considered broadly consistent with the relevant aims of the LEP as set out above.

Zoning and Permissibility (Part 2)

The proposal is defined in accordance with the LEP as:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary

The site is partially zoned R3 Medium Density Residential and RE2 Private Recreation Zone pursuant to Clause 2.2 of the LEP. A copy of the zoning map is provided in Figure 7.



Figure 7: Mid-Western Regional LEP 2012 Zoning Map

A planning proposal has been considered concurrently to this development application and proposes to rezone the entirety of the site to R3 Medium Density Residential. Gazettal of the rezoning is imminent, and likely to have been completed by the determination meeting date scheduled for 26 November 2024.

Notwithstanding the imminent rezoning of the site, consideration is given to the permissibility of the development under the current and proposed zoning below:

Under the current partial zoning of RE2 Private Recreation, “multi dwelling housing” is prohibited. The proposal seeks to utilise **Section 5.3 Development near Boundaries** of the LEP to utilise the provisions of the adjoining zoning of R3 Medium Density Residential. This section of the LEP allows for the utilisation of adjoining zoning (within 50m of the site) which would be more logical and appropriate to the site. A full assessment against this Section is provided later in this report.

Under the R3 Medium Density Residential zone, “multi dwelling housing” is permitted with consent. The development is considered to be consistent with the objectives of the R3 Medium Density Residential zone as follows (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a medium density residential environment.*

Comment: The proposal will contribute to the housing needs of the community in accordance with the relevant development standards for multi dwelling housing.

- *To provide a variety of housing types within a medium density residential environment.*

Comment: The proposal will contribute to a variety of housing types available in Mudgee.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: Not applicable to this application, which proposes residential accommodation land use.

- *To encourage higher-density residential development that is sympathetic to and compatible with the existing character of the Mudgee Heritage Conservation Area.*

Comment: Not applicable to this application, the site is not located within the Mudgee Heritage Conservation Area.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Section 4.1A – Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	<i>Planning Proposal: Rezone to R3</i>	Lot size is 1.666ha	Yes

(Note: rezoning to R3 imminent)	Minimum lot size of 1200m ²		
Section 4.3 - Height of Buildings (Note: Height of Buildings control over site is imminent)	Planning Proposal: 8.5 metres	Maximum building height: 7.245m	Yes
Section 5.3 – Development near zone boundaries	Land must be within 50m of 2 zones to utilise the land for a purpose that may be carried out in the adjoining zone.	All parts of the site are located within 50m of the adjoining zone R3 Medium Density Residential. Multi dwelling housing is permitted under the R3 zone and is considered to be a logical and appropriate development for the site.	Yes
Section 5.21 - Flood Planning	Consideration of flood impact as a result of the development where land is located within the flood planning area	Site is impacted by 1% AEP overland flood event. Stormwater management and flood mitigation works at the George Street access are proposed. Detailed design and modelling indicates that there will be no adverse impacts to adjoining dwellings.	Yes
Section 6.3 - Earthworks	Consideration of impact of earthworks on environmental functions, surrounding uses and features of the surrounding land	The development will include earthworks which can be suitably managed to through conditions to prevent adverse impacts to the surrounding area.	Yes
Section 6.4 - Groundwater Vulnerability	Protect groundwater vulnerable systems	No extensive excavations proposed, beyond preparation for road and residential footings. No impact to groundwater expected.	Yes

Section 6.8 - Airspace Operations	No penetration of relevant height limits.	The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.	Yes
Section 6.9 -Essential Services	Essential services available or will be made available.	All essential services that are relevant to the proposal are available or will be available as a result of the development.	Yes

Relevant sections of the LEP are considered below. Those sections not discussed, were considered not specifically applicable to this application.

Section 4.1A - Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings.

This clause applies to land zoned R3. Whilst the site is currently zoned RE2, it is imminent that it will be rezoned to R3 and the development proposes to utilise Section 5.10 Development near boundaries, utilising the land for a purpose permitted in the R3 zone. Accordingly, consideration is given to this Section.

The multi dwelling housing is proposed on a site equal to or greater than 1200m². Accordingly, the proposal complies with this development standard.

Section 4.3 - Height of Buildings

The subject site is proposed to be mapped for a maximum building height limit of 8.5 metres above existing ground level. Whilst the building height limit control has not been implemented at the time of writing, it is imminent and accordingly, consideration is given to this Section.

The development is proposed with a maximum building height of 7.245 metres and therefore complies.

Section 5.3 Development near zone boundaries

The application proposes to utilise the provisions of this Section as the land is partially zoned RE2 Private Recreation but is also within 50m of the R3 Medium Density Housing zone. It should be noted that a planning proposal has also been lodged to rezone the land to R3 Medium Density Housing. This proposal is in the finalisation stage, with its gazettal imminent. Notwithstanding this assessment is given to this Section below:

The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. By subclause (2) the clause applies to so much of any land that is within the relevant distance of a boundary between any two zones, the relevant distance being 50m.

Figure 8 below shows an extract from Sheet DA_0100 of the architectural plans which clearly demonstrates the entire site is within 50 metres of the adjoining R3 Medium Density Residential Zone, note this also includes the part of the site which is currently zoned R3 Medium Density Residential.

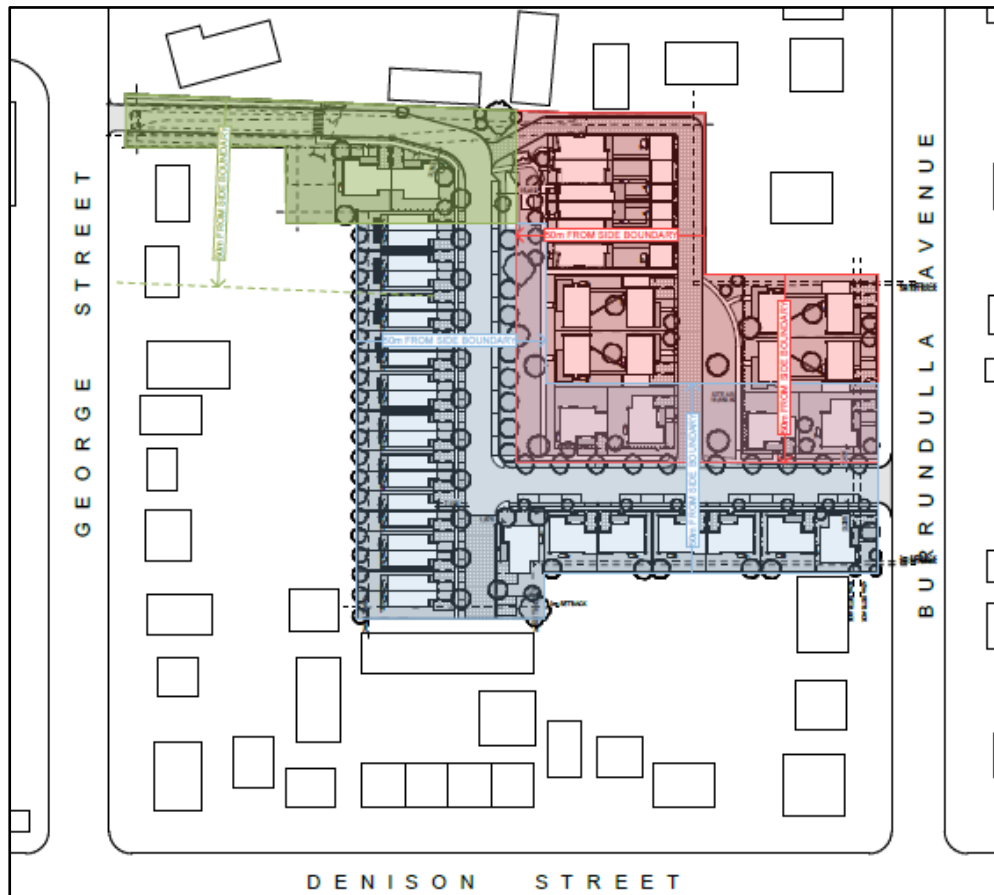


Figure 8: Extract from Sheet DA-0100 (Rev E) which shows site is within 50m of R3 zone.

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

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

The applicant has provided a suitable assessment which demonstrates that the development is not inconsistent with the objectives for development in both zones.

In accordance with Part (b), the development of the site for multi dwelling housing consisting of one and two storey dwellings is compatible with the surrounding established residential area with existing services available and will allow for the efficient and timely development of the land for key worker housing in the community.

Section 5.4 Controls relating to miscellaneous permissible uses

Not applicable - The proposal does not include any of the listed uses under this Section.

Section 5.10 Heritage Conservation

No items of aboriginal significance or a heritage item / heritage conservation are recorded on the site or in the vicinity. Notwithstanding this, a condition will be placed upon the consent ensuring that work is ceased should an item be discovered.

Section 5.21 – Flood Planning

Mudgee Flood Study 2021 mapping indicates that the site is affected by overland flooding during the 1% AEP flood event and PMF flood event as shown in Figure 9 below.

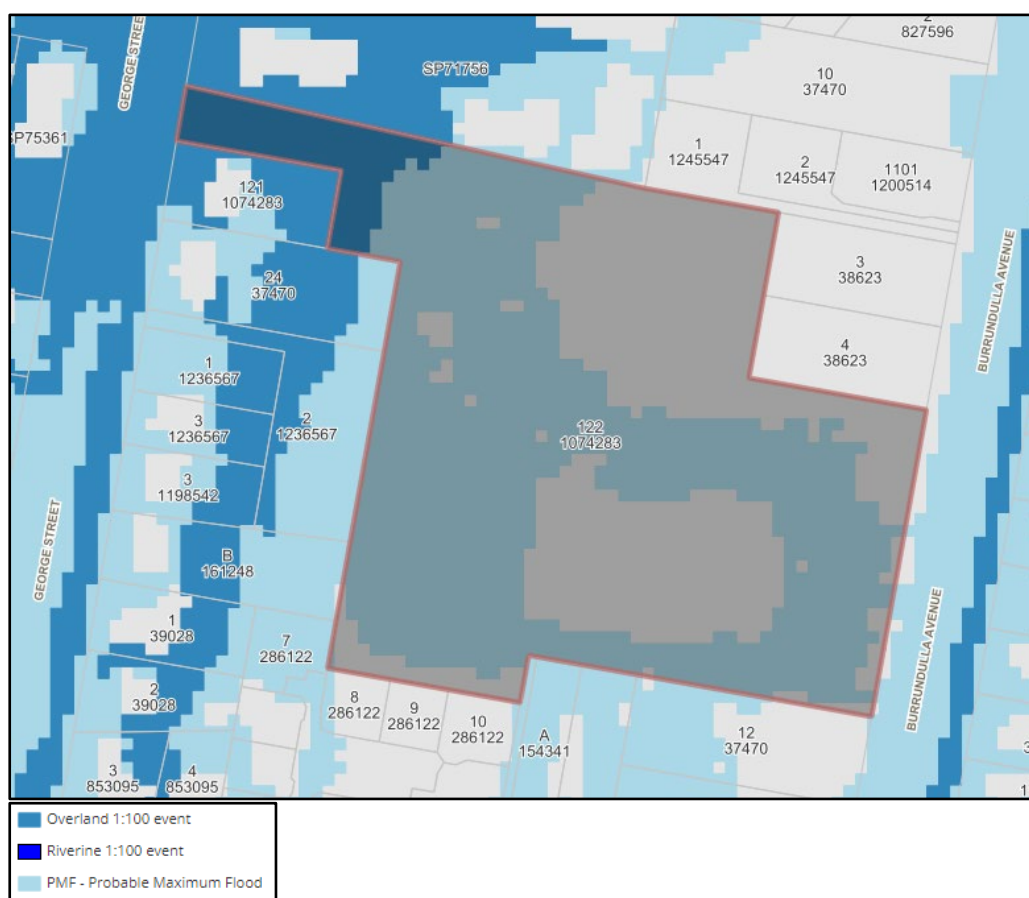


Figure 9: Extract from Mudgee Flood Study 2021

The north-western corner of the site adjacent to the George Street frontage is affected by flooding during the 1% AEP overland flood event. There is existing stormwater infrastructure within the flood affected area on the site which conveys stormwater to the northern adjoining site via existing easements. The development proposes to construct a new access road within the flood affected area including changes to the existing stormwater infrastructure. Accordingly, a detailed flood assessment with a detailed design was required to be provided to ensure that these works would not adversely affect adjoining properties.

Figure 10 shows an extract of the civil plans and the detailed design. A culvert is proposed under the new access road as well as an open drain and small detention basin located on the

- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*

Comment: The Flood Assessment provided with the application demonstrates that the proposed development will not result in detrimental increases in the potential flood affectation of other development or properties.

- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*

Comment: The proposed dwellings are not located within the area affected by the 1% AEP flood event. The George Street access road will be impacted in this event. Safe evacuation from the site is available from the Burrundulla Avenue access point. Conditions will be included as per the Flood Assessment report for the adoption of an evacuation strategy for the site in larger flood event and the installation of warning signage at the George Street site entry.

- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*

Comment: As discussed above, no dwellings will be constructed within the area affected by the 1% AEP flood event and conditions will be included to ensure safe evacuation in the event of a flood is undertaken from the Burrundulla Avenue access.

- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment: Suitable measures will be required as a condition of consent to manage avoidable erosion or siltation as a result of stormwater. The proposal will not impact on riparian vegetation or the stability of river banks or watercourses.

Given the above, the proposal is considered to be consistent with the requirements of Section 5.21 subject to the inclusion of recommended conditions.

Section 6.1 – Salinity

The proposal only involves minimal earthworks and is not expected to significantly affect the process of salination.

Section 6.3 - Earthworks

The proposal involves only minor earthworks to prepare the site for development. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Section 6.4 - Groundwater Vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within Clause 6.4(3) is expected as a result of the proposed development. Give the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Section 6.5 – Terrestrial biodiversity

Not applicable – The proposal is not located in any area identified as “Moderate or High Biodiversity Sensitivity”.

Section 6.7 – Active Street Frontages

Not applicable – The site is not located within the area mapped as “Active street frontage”.

Section 6.8 - Airspace Operations

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

Section 6.9 - Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development as follows:

- a) The supply of water – Reticulated water is available to the site. Private water mains to be provided within the site to service each dwelling.
- b) The supply of electricity – Electricity is available to the site
- c) The disposal and management of sewage – Reticulated sewer is available to the site. private sewer mains to be provided within the site to service each dwelling.
- d) Stormwater drainage or on-site conservation – Adequate stormwater drainage including on-site detention has been proposed as discussed throughout this report. Suitable conditions are recommended including the requirement for detailed design.
- e) Suitable road access – Road access to the development will be provided from adjoining streets, Burrundulla Avenue and George Street. An internal road network will provide access to each dwelling.

Section 6.10 – Visually sensitive land near Mudgee

Not applicable – the land is not identified within the visually sensitive land map.

Section 6.12 – Development in a designated buffer area

Not applicable – the development is identified within the “Sewage Treatment Plant Buffer” map.

3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

The site is the subject of a planning proposal that has been the subject of public consultation under the EP&A Act. The proposal includes the following:

1. Rezone the land from RE2 Private Recreation to R3 Medium Density Residential;
2. Introduce a Building Height limit of 8.5m to the subject site; and
3. Introduce a Minimum Lot Size of 600m²

The planning proposal is expected to be gazetted imminently. The implications of this Planning Proposal have been considered throughout this report.

3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Mid-Western Regional Development Control Plan 2013 (Amendment No. 6)* ('the DCP')

An assessment is made of the relevant chapters and section of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 4.1 Multi Dwelling Housing

A full assessment of the development standards required under this Part has been undertaken and is provided in **Attachment C**.

The development is generally consistent with the development standards under this Part with the exception of the following variations:

1. Setbacks – The side setback of the development is required to be 3m. A 2m setback is provided on the north and south side setbacks facing Burrundulla Avenue, representing a variation of 33.3%
2. Development density - The site requirements are 1.79ha and the site is 1.66ha, representing a variation of 7%.
3. Site coverage and Private open space – Unit 46 does not meet minimum POS requirements of 40sqm with a minimum dimension of 5m. 15% of dwellings (i.e 7 out of the 47 units) will not receive a minimum of 3 hrs daylight to at least 75% to the private open space area and 11% of dwellings (i.e 8 out of the 47 units) will not receive a minimum of 3 hrs daylight to living areas.

The variations to the development standards are considered acceptable in this case as discussed at the end of the table in **Attachment C**.

Part 5.1 Car Parking

In accordance with Council's DCP, Section 5.1 – Car Parking, the following car parking is required:

Multi Unit Housing	1 space per 1 bedroom flat
• Resident Parking	2 spaces per 2 bedroom flat (other than in the Conservation Areas of Mudgee and Gulgong and Village Zones ion Rylstone and Kandos where the provision is 1 space per 2 bedroom flat)
	2 spaces per 3 bedroom flat or cluster dwelling
• Over flow parking Parking	1 space per 5 units – not required for developments of 3 or less units

10 x 1 bedroom = 10 spaces

25 x 2 bedroom = 50 spaces

6 x 3 bedroom = 12 spaces

6 x 4 bedroom	= 12 spaces
Total	= 84 spaces
Visitor spaces	= 9.4 spaces
Overall total	= 93.4 spaces

The plans provided detail the provision of a total of 93 spaces on-site, comprising garages and car spaces associated with individual units and 23 spaces available on the internal road. This arrangement is considered acceptable. Suitable conditions in relation to car parking have been recommended.

Part 5.2 Flooding

As discussed previously, Council's Mapping system indicates the northwestern corner of the site adjacent to the George Street frontage is affected by flooding during the 1% AEP overland flood event. A new access road and stormwater mitigation measures are proposed within the flood affected area. No new dwellings are proposed within the 1% AEP flood mapped area. A flood impact assessment report was provided with the application. The flood impact assessment found that "it is possible to reduce / mitigate the flooding on the site without negatively impacting adjacent properties and even reducing flooding on properties located downstream (to the north) of the site for all AEPs up to and including the 1% AEP. There is a small area of afflux observed on the adjoining property to the north of up to 25 mm. This area is already flooded under baseline conditions of up to 200 mm". The assessment also found that the access road will still be inundated during a flood event and accordingly, the report has recommended the adoption of an evacuation strategy for the site for larger flood events and the installation of warning signage to the George Street entry.

Suitable conditions have been recommended.

Part 5.3 Stormwater Management

The applicant has provided an appropriate stormwater management strategy with the application for the overall development.

Drains modelling indicates that approximately 150,000L is required of on-site detention. This is proposed to be provided through the provision of a 100,000L on site detention tank (to be located in the landscaped area to the west of Units 41-44) with the remaining 50,000L onsite detention to come from the rainwater tanks associated with each unit (approximately 1000L each).

Revised stormwater mitigation works / flood impact assessment and revised civil design plans have also been provided from the applicant during the application assessment process. The revised plans have satisfactorily proven that the proposed development will not have an undesirable impact on any adjoining or downstream property from a stormwater drainage or flooding perspective and is considered acceptable for DA purposes.

Full details and supporting calculations will be required at Construction Certificate stage, suitable conditions have been recommended.

Stormwater from the site currently drains across two properties to the north within existing infrastructure, 11-13 George Street (SP71756) and 17 Mortimer Street (Lot 24 DP1159420). Stormwater from the proposed development will also utilise this pathway. An existing

easement to drain water is available over the lot immediately to the north, however an easement does not currently exist over Lot 24 DP1159420 and will need to be obtained.

Council is currently undertaking discussions with the relevant landholder to secure this easement and the applicant has provided an email which confirms that the landholder has agreed to the creation of such an easement. However, as the easement is not currently in place, it is recommended that a deferred commencement condition be imposed, to ensure that the easement has been obtained prior to any approval becoming operational and any commencement of works.

Part 5.4 Environmental Controls

- ***Protection of Aboriginal Archaeological Items***

A AHIMS search returned no Aboriginal places within 200m of the development site. Recommended conditions have been included for any unexpected finds.

- ***Bushfire Management***

The subject site is not mapped as being bushfire prone.

- ***Riparian and Drainage Line Environments***

The proposed development is not considered integrated development. It is noted that development on 'waterfront land' (being land within 40m of a watercourse) requires a Controlled Activity Approval under the *Water Management Act 2000* which would also trigger integrated development under section 4.46 of the EP&A Act. However, Section 41 of the Water Management (General) Regulation 2018 provides that a public authority is exempt from this requirement. Mid-Western Regional Council, being a public authority, is there exempt from requiring a Controlled Activity Approval and the proposed development is not integrated development

- ***Pollution and Waste Management***

Waste management during construction and operation of the facility is able to be managed through recommended conditions of consent.

- ***Threatened Species and Vegetation Management***

No native vegetation / trees are proposed to be removed to facilitate the development.

- ***Building in Saline Environments***

The subject land is not considered to have high levels of salinity.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions:

- ***Mid-Western Regional Contributions Plan 2019***

The Mid-Western Regional Contributions Plan 2019 (Contributions Plan) has been considered and the following Section 7.11 Contributions based on 47 new dwellings (comprising 10 x 1-

bedroom dwellings and 37 x 2 or more-bedroom dwellings). A credit for the existing lot has also been applied. The total contribution is \$421,372.00.

- ***Developer Servicing Plans for Water and Sewer (August 2008)***

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the proposed development will be required to obtain a Certificate of Compliance under the Water Management Act 2000. A suitable condition has been included.

3.4 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

No planning agreements have been entered into in relation to this site.

3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

These provisions have been considered and addressed in the draft conditions (where necessary).

3.6 Section 4.15(1)(b) - Likely Impacts of Development

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – As discussed throughout this report, the proposal is considered to be appropriate to its surrounding context and locality. The surrounding area is residential in nature and the development will provide a mix of double and single storey dwellings ranging from 1 to 4 bedrooms appropriate to the surrounding residential area.
- Access and traffic – The application is supported by a Traffic and Parking Assessment prepared by Transport and Traffic Planning Associates and has also been considered by Council's Development Engineer.

Access

Access to the site will be from Burrundulla Avenue and George Street with an internal road network providing vehicular access to each unit within the proposed development, also of sufficient size to accommodate Council waste collection trucks. Pedestrian footpaths are also proposed throughout the development.

Car Parking

A total of 93 car spaces will be provided on site. As discussed previously in this report, this meets the car parking rates for multi dwelling housing required under Section 5.1 of Council's Development Control Plan. The provision of car parking is considered to be acceptable.

Traffic

The traffic and parking assessment prepared by Transport and Traffic Planning Associates (TTPA) provided an assessment with respect to traffic generation. Council's Development Engineer has also reviewed the application and provided the following assessment:

The RTA Guide to Traffic Generating Developments (2002) prescribes the following trip generation rates for a dwelling during weekday peak periods of 0.85 vehicle trips per dwelling. Based upon 47 dwellings a total of 40 vehicle trips per hour could be generated during peak weekday periods.

The RTA have also since undertaken a further study in 2010 specifically focusing on “Low Density Residential” (LDR) development which included surveys across various NSW regional and country centres. This study found that average am and pm peak trip generation rates of 0.73 and 0.77 vehicle trips per dwelling respectively. Based upon 47 dwellings a total of 35 am and 37 pm vehicle trips per hour could be generated during peak weekday periods.

Given the latter LDR trip generation rates are based upon more recent survey information, these figures will be adopted.

Given the proposed site layout and the site's frontage to both George Street and Burrundulla Avenue, it is expected that these movements would be distributed between both existing roads depending on the location of the individual dwelling and the trip generation. Assuming a 60:40 split between George Street and Burrundulla Avenue, the following additional peak hour trips are generated:

- George Street AM = 21 vtph
- George Street PM = 22 vtph
- Burrundulla Avenue AM = 14 vtph
- Burrundulla Avenue PM = 15 vtph

These rates equate to approximately 1 vehicle trip per 3 minutes in George Street and 1 vehicle trip per 4 minutes in Burrundulla Avenue. Both of these rates would be considerably less than that previously occurring on-site during the previous use as a Bowling Club.

Given the current standard of George Street and Burrundulla Avenue, the surrounding road network and the minimal number of vehicle trips generated, the application can be supported from a traffic perspective and no specific infrastructure upgrades or engineering conditions are required.

- Public Domain – The proposed development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.
- Utilities – All relevant utilities that are relevant to the proposal are available or will be available as a result of the development as discussed throughout this report.
- Heritage – The subject site is not identified as a heritage item and is not located within the Mudgee Heritage Conservation Area.

No aboriginal heritage items have been identified on the site or immediate surrounds, notwithstanding this a condition will be included for unexpected finds.

- Other land resources – No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.
- Water/Air/Soil impacts - No significant impact expected. The operation of the development is not expected to impact water / air quality or microclimatic conditions, recommended conditions are included to minimise dust during construction. The land

is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

- Flora and fauna impacts - No native vegetation / trees are proposed to be removed to facilitate the development and accordingly, no adverse impacts to threatened species are anticipated.
- Noise and vibration – The application was supported by a Noise Impact Assessment prepared by Muller Acoustic Consulting Pty Ltd. The purpose of the report was to quantify potential noise impacts associated with the construction and operation of the development (particularly in regard to generation of road traffic noise) associated with the development.

Construction

The results found that during construction periods noise is anticipated to exceed the relevant noise levels in the surrounding residential area. The noisiest activities are identified as earthworks / site clearing and construction of internal roads. It is noted that this noise will only be temporary with recommendations provided as part of the assessment to minimise noise impacts during this period.

Recommended conditions have been included in **Attachment A** for compliance with the recommendations of the acoustic report.

Traffic Noise

An assessment was undertaken to assess the impact of internal vehicle movement to the nearest residential receivers at 17 George Street, 11-13 George Street and 14 Burrundulla Avenue. The results found that the noise would be below the maximum noise trigger levels at all assessed receivers.

An assessment was also taken of the road traffic noise levels from predicted traffic generated from the project to the nearest receivers / residents on Burrundulla Avenue and George Street. The results of the assessment demonstrated that road traffic noise levels, comprised of existing traffic and projected generated traffic would remain below the relevant criteria at all the assessed receiver locations.

- Natural hazards – The site is not mapped as bushfire prone land.

As discussed previously in this report, the site is mapped as being partially flood prone. The overland flooding impacts during the 1% AEP event impacts the north-west side of the site at the George Street access. A flood assessment provided with the application has confirmed that the new access road and stormwater mitigation works will not adversely impact on adjoining properties. Suitable conditions have been recommended in **Attachment A** for the preparation of a flood evacuation and management plan for the development and the provision of flood signage at the George Street access.

- Safety, security and crime prevention – The proposal will result in increased passive / natural surveillance as a result of the additional dwellings on a vacant site. Appropriate landscaping, fencing and lighting have also been incorporated into the design to provide for clear access and sight lines.
- Social impact – The proposal is considered to have a positive social impact on the locality, the housing is intended to provide affordable housing to key workers in the community who may otherwise find it difficult to secure such accommodation.

- Economic impact – The proposal will have a positive economic impact on the locality providing affordable housing to key workers in the community and provide for additional employment opportunities during construction.
- Site design and internal design – The internal design and layout of the development has been considered throughout this report. The development has been designed to mitigate potential impacts through flooding, overlooking and overshadowing whilst achieving suitable on-site amenity for units and access to essential services.
- Construction – All construction, including roads and buildings must comply with the applicable Australian Standards, Council Policies and Building Code of Australia (BCA) where relevant.

A condition will be included regarding the suppression and mitigation of dust to be employed during works on the site, and the implementation of erosion and sedimentation control measures.

- Cumulative impacts – The proposal is generally consistent with all relevant planning controls and an assessment of potential cumulative impacts has not generated any significant concerns. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.7 Section 4.15(1)(c) - Suitability of the site

Does the proposal fit in the locality?

The proposal is considered to be appropriate for the locality. There are no hazardous land uses or activities nearby that would impact the operations of development in the future. There are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

Are the Site Attributes conducive to Development?

The sites attributes are not considered to adversely affect the development proceeding. The site is not subjected to any significant natural hazards that cannot be managed appropriately through design methods, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

3.8 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.9 Section 4.15(1)(e) - Public interest

The proposed development is considered to be within the public interest as a result of the significant economic and social benefits of the proposal, with minimal environmental impacts that can be appropriately mitigated.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
Rail authority for the rail corridor	CI 86(3) - <i>State Environmental Planning Policy (Infrastructure) 2007</i>	N/A	N/A
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire prone land	N/A	N/A
Electricity supply authority	CI 45 – Infrastructure SEPP Development near electrical infrastructure	Development is to be setback a minimum of 4.3m from the centre line of the 22000 volt high voltage and 400/230 volt overhead powerlines which run along Burrundulla and George Streets. The development will be setback a minimum of 4.5m from the front boundary. Notwithstanding this, suitable condition included	Y

Rail authority	CI 85 – Infrastructure SEPP Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	CI 104 – Infrastructure SEPP Development that is deemed to be traffic generating development in Schedule 3.	N/A	N/A
Transport for NSW	CI 18 - SEPP 64 Advertisement within 250m of classified road any part of which is visible from the classified road and subject to CI 17.	N/A	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	N/A	N/A
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	N/A	N/A
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	N/A - as discussed previously in this report, public authorities are exempt from the requirement to obtain a Controlled Activity Approval.	N/A

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineering	Council's Engineering Officer reviewed the submitted application information including: <ul style="list-style-type: none"> - Statement of Environmental Effects (V2) - Civil Design documentation (Revision D) - Letter from WMA water dated 25 June 2024 	Y

	<p>Comments have been provided in relation to access to the development, car parking, stormwater, traffic, flooding impacts and servicing of the development.</p> <p>No objections raised subject to the inclusion of recommended conditions.</p>	
Building Surveyor	No objections subject to the inclusion of recommended conditions	Y

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 26 March 2024 until 11 April 2024. The notification included the following:

- Notification on Council's website; and
- Notification letters sent to adjoining and adjacent properties.

A total of four (4) unique submissions were received during the notification period. The planning issues raised in these submissions included the following:

- Development inconsistent with the surrounding area particularly in relation to dwelling density and double storey development / appearance.
- Impact on amenity – privacy
- Internal road design
- Property values
- Retention of trees.

Details of the issues raised in the submissions and response is provided in Table 7.

Table 7: Community Submissions

Issue	No of submissions	Council Comments
Density of housing too high and inconsistent with surrounding area	2	<p>Two submissions raised concerns in relation to dwelling density. One submission stated that the density of the 2 storey dwellings is approximately three times the density of typical housing in the vicinity, advising that the design of the development has a heavy concentration of 2 storey development which represent significant percentages of the development. A second submission also raised that the dwelling density is a lot higher than the existing character giving examples of 11 George Street with 12 dwellings or 12 Denison Street with 9 dwellings. Based on this, they would expect the proposed development to have half the number of dwellings proposed.</p> <p><i>Response:</i></p>

		<p>Whilst the development does have a higher dwelling density than typical developments in the surrounding area, it is within the parameters of the development standards for height limits under the MWLEP (permitted up to 8.5m). The development is also generally compliant with the development standards for multi dwelling housing under the DCP including off-site impacts such as overshadowing and privacy, as well as on-site amenity, with each dwelling provided with appropriate onsite amenity including private open space, car parking, site coverage and landscaped areas.</p>
Insufficient car parking.	1	<p>One submission raised concerns that there was not sufficient allowance for garages, carports and carparking spaces for residents / visitors.</p> <p><i>Response:</i> The application will provide a total of 93 car spaces. Each dwelling will be allocated at least one space. Additional parking will be available on the internal road network. The provided car parking spaces meets the requirements of Council's DCP and is therefore considered to be suitable.</p>
Loss of property value	2	<p>Two submissions raised the issue of a loss of property value as a result of the development.</p> <p><i>Response:</i> Whether the adjoining properties will be devalued as a result of the development is not a matter for consideration under Section 4.15 of the EP&A Act. Furthermore, no evidence has been provided to substantiate such a claim.</p>
MWRC have a conflict of interest	1	<p>One submission raised concerns that Council had a conflict of interest as they are proposing the development and the owner. Concerns were also raised in relation to the proposed rezoning of the site, to suit their own development.</p> <p><i>Response:</i> In this case, it was determined that there is no conflict of interest given the development application will not be determined by Council, but the Western Regional Planning Panel.</p> <p>Whilst the rezoning is not a consideration of this application, it is noted that this is ultimately approved by the State Government.</p>

Concerns around affordable housing	1	<p>One submission raised concerns around the potential future subdivision and sale of the development as affordable housing and whether the development would suit long periods of residence.</p> <p><i>Response:</i> It is important to note that whilst the development is intended for key workers, it has not been assessed under affordable housing provisions. The development has been assessed under the provisions for multi dwelling housing, and is considered to be generally compliant and therefore suitable for this purpose and long-term occupation.</p>
Potential flooding issues to surrounding properties	1	<p>One submission raised concerns that the proposed access from George Street will impact on existing causeway and create potential flooding issues to surrounding properties.</p> <p><i>Response:</i> As discussed throughout this report, a flood assessment has been provided which assesses the impact of the new road and stormwater mitigation works to adjoining properties. Following a review by Council's Development Engineers, a further detailed design assessment was required to be submitted. This additional information demonstrated that the development will not result in adverse flooding impacts to adjoining properties.</p> <p><i>Outcome:</i> Detailed design and flood assessment indicated that there will be no adverse flooding impacts to adjoining properties. Suitable conditions have been included as recommended by Council's Development Engineers.</p>

Impact to 21 George Street (privacy, noise, dust) not considered as building is not shown on plans.	1	<p>Concerns were raised by one submission that their property identified as 21 George Street has not been shown on the plans and therefore the impacts have not been considered. 10 double storey dwellings will adjoin the property and there is no buffer such as green space or pathing. Also concerns that privacy and whether noise and dust assessments consider impacts to them.</p> <p><i>Response:</i> It is noted that this dwelling has not been identified on site plans, recent aerial images indicate that there is a dwelling and swimming pool on this property. Assessment of the application has given consideration of the impacts of the development on this property particularly in relation to privacy. Upper storey bedroom windows of the development facing this property will require treatment to protect from overlooking (refer to assessment against DCP standards for multi-dwelling housing in Attachment C).</p> <p>The internal road network is appropriately set back from this development so as not to be impacted by noise. Whilst not specifically addressed in the noise assessment report, dwellings located adjacent to the George Street access were found to be below the relevant noise criteria and therefore given the location of the site in relation to the internal road network, it is anticipated that this would also be below the noise threshold. Conditions will be included to manage noise during the construction phase of the development.</p> <p>Conditions have been recommended in relation to the management of dust, particularly during the construction phase.</p> <p><i>Outcome:</i> Conditions have been recommended:</p> <ul style="list-style-type: none"> • to prevent overlooking into 21 George Street from upper storey bedroom windows of the development. • To manage dust during the construction phase of the development. • Conditions have been included for the management of noise during the construction phase of the development.
Loss of established trees	1	<p>Concern was raised by one submission in relation to the loss of established trees on the site. Should new trees be planted on the common boundary concerns were raised in relation to the impact of the root systems on the fence and pool on the adjacent property.</p>

		<p><i>Response:</i> Whilst some existing trees will be removed, new landscaping is proposed throughout the development and in the vicinity of the boundary where the established trees will be removed. This outcome is considered acceptable.</p> <p><i>Outcome:</i> Landscaping plans submitted with the application will be included as an approved document with all landscaping work to be completed prior to occupation of the development.</p>
Concern regarding internal road design.	1	<p>Concerns were raised by one submission in relation to one of the internal roads located at the common fence line with 6/12 Denison Street. This road has a dead-end and provides access to units 19-24. In particular, the objection raised concerns with the location of the road leading to:</p> <ul style="list-style-type: none"> - safety / property damage; - Noise impacts from vehicles; and - Light impacts <p><i>Response:</i> The internal road at the rear of Units 19-24 will only be utilised by a small number of vehicles to access these properties. Vehicles are expected to be travelling at low speeds with the boundary fence providing a visual barrier. The acoustic report provided with the application indicated the vehicular noise from the development would be below the required levels. Conditions can be included in relation to managing obtrusive light.</p> <p><i>Outcome:</i> A condition has been included to ensure that exterior lighting is designed so that it does not impact on adjoining properties.</p>
Other concerns raised	1	<p>One submission acknowledged the development on site, but raised that they currently are able to access the rear of their site as MWRC has provided a key. He also requests that consideration is given to the impacts to his property (fencing and the like).</p> <p><i>Response:</i> Access to this property will continue to be available from Denison Street. Appropriate conditions will be included in relation to fencing to ensure privacy to the rear yard is maintained.</p>

5. KEY ISSUES

The following key issues were identified during the assessment of this application and consideration of the relevant planning controls and the proposal in detail:

5.1 Compliance with Private Open Space requirements

The development as initially lodged included a number of variations to Council's DCP relating to multi dwelling housing, variations of concern related to the insufficient provision of private open space to units.

Resolution: This issue has largely been addressed through the provision of amended plans during the application process with the majority of dwellings now complying with DCP provisions. Only one dwelling does not achieve a POS with a minimum dimension of 5m and 85% of dwellings will achieve the required daylight to POS on the winter solstice.

The availability of extensive landscaped areas (including playground equipment) which can be utilised by occupants is considered appropriate where these standards have not been able to be fully achieved as discussed within this report.

5.2 Overlooking

As a result of submissions and detailed assessment of the application, it was identified that some upper storey windows overlooked adjacent properties, particularly in relation to property at 21 George Street which has a dwelling and swimming pool close to the common boundary.

Resolution: Conditions of consent recommended to protect the privacy of adjoining properties where there is overlooking from double storey dwellings.

5.3 Flooding Impacts

The new access road from George Street is located within an area affected by the 1% AEP overland flooding event. Concept plans were provided with the application to demonstrate new access road and stormwater mitigation works. Council's Development Engineers identified that a detailed design and modelling was required to ensure that there would be no adverse impacts to adjoining properties.

Resolution: The applicant provided a detailed design and flood assessment in response to the further information request. The detailed design and flood assessment satisfactorily demonstrated no adverse impacts to adjoining property.

5.4 Legal disposal of stormwater from the development

The development will dispose stormwater to an already established stormwater system across two adjoining lots to the north identified as 11-13 George Street (SP71756) and 17 Mortimer Street (Lot 24 DP1159420).

An easement is already in place over 11-13 George Street, however no easement has been created over 17 Mortimer Street even though an open channel runs through the site. An easement is required to be created over this land to ensure the legal discharge from the development site.

It is understood that the owner of the affected land has agreed to the creation of a drainage easement

Resolution: A deferred commencement condition is recommended to ensure that the easement is in place prior to the development consent becoming operational.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported, subject to conditions.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA0256/2024 for Multi-Dwelling Housing (Key Worker Housing comprising 47 dwellings) and associated works at Lot 122 DP1074283 10-12 Burrundulla Avenue, Mudgee be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- **Attachment A:** Draft Conditions of consent
- **Attachment B:** Architectural Plans (reduced in size)
- **Attachment C:** Assessment: Development Control Plan - Multi Dwelling Housing