

6.2.3 DA 0260/2014 – Proposed Subdivision (of 3 units) Lot 10 DP 37649, 28 Horatio Street Mudgee

REPORT BY THE MANAGER STATUTORY PLANNING TO 2 APRIL 2014 COUNCIL MEETING

DA0260_2014 horatio st

GOV400038, DA0260/2014

RECOMMENDATION

That:

1. the report by the Manager Statutory Planning on DA 0260/2014 – Proposed Subdivision (of 3 units) Lot 10 DP 37649, 28 Horatio Street Mudgee, Lot 10 DP 37649, 28 Horatio Street Mudgee be received;
2. the variation of the minimum lot size by 10% for proposed Lots 2 and 3 be supported in the proposed plan of subdivision of Lot 10 DP 37649, 28 Horatio Street Mudgee;
3. Council approve DA 0260/2014 – Proposed Subdivision (of 3 units) Lot 10 DP 37649, 28 Horatio Street Mudgee, Lot 10 DP 37649, 28 Horatio Street Mudgee subject to the following conditions:

APPROVED DEVELOPMENT

1. Development is to be carried out generally in accordance with stamped plans (Drawing Number 20377_L01) and Statement of Environmental Effects dated February 2014 by Barnson Pty Ltd. 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. Access to all proposed lots is to be via Denison Lane in accordance with Development Consent 278/01.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. Prior to development the applicant shall advise Council's Development and Community Services Department, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council's property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
4. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
5. Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be sighted and to be shown to Mid-Western Regional Council as an interested party. All work is to be at no cost to Council.

6. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, and a detailed construction plan. These plans are to be approved by the Council prior to the issue of a Construction Certificate.
7. A detailed engineering design (including sediment and erosion control) supported by plans, and an "Autocad compatible" Plan, (in dwg format including pen-map), material samples, test reports and specifications are 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*.
8. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
9. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
10. All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.
11. Engineering plans of the water mains extension are to be submitted to and approved by Council or an accredited certifier prior to the issue of a *Construction Certificate*
Note 1: Council will quote on connecting any sewer or water main extension to the existing "live" main on receipt and approval of engineering plans.
Note 2: Council does not permit other bodies to insert new junctions into 'live' water mains.
12. The developer is to grant Council (or an *Accredited Certifier* on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
13. The subdivision works are to be inspected by the Council (or Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction encompassing the following stages of construction:
 - Installation of sediment and erosion control measures
 - Water and sewer line installation prior to backfilling
 - Establishment of line and level for kerb and gutter placement
 - Road and driveway pavement construction (including excavation, formwork and reinforcement)
 - Road pavement surfacing
 - Practical completion
14. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, 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.

15. All utilities and services including telecommunications, water and sewer reticulation, street lighting and gas shall be installed prior to pavement construction.

Stormwater Drainage

16. A minimum of two (2) roof-water outlets per allotment are to be provided in the kerb and gutter at the time of installation of kerb and gutter. Such outlets shall be located near the projected line of allotment side boundaries and shall be of no less a quality than kerb adaptors kept at Council's Administration Centre as a guide.
17. 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.
18. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.

Roads, Kerbs and Vehicular Access

19. The developer is to upgrade Denison Lane for the full frontage of the proposed subdivision between Horatio Street and the rear (northern) property boundary, such that it has the following characteristics:

Item	Requirement
Pavement Width	Full lane width
Seal	Two-coat flush seal -14/7 mm (Double/ Double) as required
Gutter	Dish drain
Subgrade	CBR>3

20. The developer is to upgrade the intersection between Denison Lane and Horatio Street such that:
- The current kerb layback is removed.
 - Kerb returns be constructed that match the existing profile in Horatio Street and taper into the dish drain along Denison Lane.

Earthworks

21. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.
Note: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.
22. Runoff and erosion controls shall be installed prior to clearing and incorporate:-

- diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
- 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;
- maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.

Water and Sewer

23. The developer is to extend and meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act,1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
24. The applicant is to provide separate water and sewer reticulation services to each lot.
25. Three metre wide easements, including associated Section 88B Instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
26. Pre-existing sewer manholes that are within the pavement area are to be encased with 150mm of concrete with a characteristic strength (f'c) of 20MPa at the developer's expense.
27. The developer must concrete encase any sewer mains that have less than 1000mm of cover.

Prior to the issue of the subdivision certificate

28. Under the Environmental Planning & Assessment Act, 1979, a *Subdivision Certificate* is required before the linen plan of subdivision can be registered with the Land Titles Office.
Note: The fee to issue a *Subdivision Certificate* is set out in Council's Fees and Charges
29. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
30. If the *Subdivision Certificate* is not issued, for any reason whatsoever, by the end of the financial year immediately following the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
31. Underground electricity and telecommunications are to be supplied to the subdivision.
32. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.

- A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.
- all contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or
- an agreement be made between the developer and Council;
 - as to the security to be given to Council that the works will be completed or the contribution paid, and
 - as to when the work will be completed or the contribution paid.

33. Following completion of the subdivision works, one full set of work-as-executed plans, on transparent film suitable for reproduction, and an “Autocad compatible” work-as-executed Plan, (in dwg format including pen-map), is to be submitted to Council. All work-as-executed plans shall bear the Consulting Engineer’s or Consulting Surveyor’s certification stating that all information shown on the plans is accurate.

34. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1650 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE 2 x \$1,650 = \$3,300

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

OR

35. Where the water service has been provided by the developer. The developer is to provide a water meter for each lot in the subdivision. This can be achieved through providing a water service ending with a lockable ball valve to each lot and make a payment to Council of \$370.00 per lot to cover the cost of a 20mm meter and installation.

TOTAL PAYABLE 2 x \$370 = \$740

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

36. The developer is to provide a sewer junction for each dwelling in the subdivision. This can be achieved by making a payment to Council of \$1,450.00 per new junction to cover the cost of Council installing a junction in an existing main.

TOTAL PAYABLE 2 x \$1,450.00 = \$2,900

Note: Council does not permit other bodies to insert new junctions into “live” sewer mains.

Executive summary

Applicant:	Lynch Building Group
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Estimated Cost of Development:	N/A
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Reason for reporting to Council:	Variation to development standard
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Public Submissions:**0**

The proposed development relates to the subdivision of an existing approved multi dwelling housing development under construction. The development was approved in 2001.

The proposed development will present as a dwelling fronting Horatio Street and a dual occupancy facing Denison Lane.

The proposed development has been assessed in accordance with Council's Development Control Plan (DCP) and complies.

The application was notified to adjoining land owners in accordance with Part 1.10 of the DCP and no submissions were received.

Clause 4.1A(2)(b)(ii) of the Mid-Western Regional Local Environmental Plan (LEP) allows for subdivision of multi dwelling housing. The Clause stipulates a minimum area of 400m² per unit. Two lots will fail to meet this requirement and propose a variation of greater than 10 percent, and accordingly the application exceeds staff delegation and is therefore being reported to Council for determination.

This variation is considered acceptable as the development is already approved and under construction. The subdivision of the land would not present any impacts greater than the existing approved development.

Detailed report

1. REQUIREMENTS OF REGULATIONS AND POLICIES:

Mid-Western Regional Local Environmental Plan 2012 (LEP)

The land is zoned R3 Medium Density Residential pursuant to the Mid-Western Regional Local Environmental Plan 2012. Subdivision of multi dwelling housing developments is permissible subject to a minimum lot size of 400m².

The proposal is ancillary to an approved development and is therefore considered consistent with the zone objectives.

The relevant Clauses of the LEP have been considered below:

Clause 4.1B Exceptions to minimum lot sizes for certain residential development

Clause 4.1A(2)(b)(ii) allows for subdivision of multi dwelling housing. The Clause stipulates a minimum area of 400m² per unit. The proposed resulting lots sizes are:

Lot 1 – 516m²

Lot 2 – 284m²

Lot 3 – 265m²

Clause 4.6 Exceptions to Development Standards

Two of the three lots will fail to meet the minimum lot size requirement; therefore the applicant has provided justification for the variation in accordance with this clause. The key to the argument is that the development is already approved and under construction. The applicant could carry out a community title subdivision with a similar end product as a Torrens title subdivision.

It is considered unnecessary to require this standard, especially since the development was approved under a former Environmental Planning Instrument.

Accordingly, support of this variation is considered reasonable as the proposed subdivision will not alter the physical characteristics of the development.

Clause 5.10 Heritage conservation

The subject site is located within the Mudgee Heritage Conservation Area.

The proposed development would not alter the character of the Conservation Area as the development is already under construction and the proposal only affects the title of the land.

Clause 6.1 Salinity

The site is not mapped as being subject to salinity; however the Mid-Western Local Government Area is generally prone to dryland salinity. The proposed subdivision would not alter the salinity risk associated with the development.

Clause 6.9 Essential Services

Development consent must not be granted unless the consent authority is satisfied that essential services for the proposed development are available or that adequate arrangements have been made to make them available when required. Due to the sites urban location and suitable conditions included within the recommendation this Clause can be satisfied.

The development will require the extension of water mains to service the units in Horatio Lane.

SEPP 55 – Remediation of Land

The use of the land is existing and approved and the proposed development will not later this. There are no concerns related to the proposed development and the risk for contamination.

SEPP (Infrastructure) 2007

The development fronts a classified road and Clause 101 of the SEPP requires consultation with the Roads and Maritime Services (RMS). The application has not been referred to the RMS as the development is existing and no new accesses are proposed. Access to the lots will be from Denison Lane and no new accesses are proposed as part of the subdivision.

Mid-Western Regional Development Control Plan 2012 (DCP)

Part 7 - Urban Subdivision

Part 7.1 Urban Subdivision	Requirement	Compliance/Comment
Applies to	- land zoned residential - village zones - rural residential lots up to 2 hectares	Yes, R3 and lots less than 2 hectares.
Lot size	- Minimum lot size as determined by MWRC LEP 2012 (400m ²). - all lots have street frontage.	No, discussed above. All lots have frontage to a public road

Part 7.1 Urban Subdivision	Requirement	Compliance/Comment
	lots increase in size relative to slope as follows: - 0-10 degrees: 600m ² - 10-15 degrees: 700m ² - 15-20 degrees: 800m ² - >20: subdivision prohibited	The slope of the land does not exceed 10 degrees.
	- all lots have 16m width at building line in residential and village zones.	N/A for multi dwelling housing subdivision.
	- battle-axe handles in R1, R3 & RU5 Village have width of 4m.	There are no battle axe lots proposed
	- battle-axe handles in R2 & R5 residential zones have width of 6m	
Lot Design	- For infill subdivision lot orientation maximises solar access and takes account of existing pattern of development.	Infill development and solar access maximised.
	- For new release subdivision lot orientation maximises solar access by maximising north-south lots.	Majority of lots are facing North South.
	- For new release subdivision east-west orientated lots have increased width and midpoint.	N/A.
	- Lots generally rectangular in shape.	Complies
	- Lots on southern side of road provide greater frontage width for better solar orientation of future dwelling.	N/A
	- corner lots have sufficient area to allow dual occupancy and independent utility connection points.	N/A
Street Layout & Design	- Traffic Impact statement submitted for 5+ lots	N/A
	- Traffic Impact Statement submitted for all subdivisions where new road required.	N/A
	- Subdivision integrates with existing residential area.	Yes.

Part 7.1 Urban Subdivision	Requirement	Compliance/Comment
	- New roads must provide "through road" connections to surrounding roads and road heads where they exist in the locality.	N/A.
	- Where cul-de-sac treatment unavoidable pedestrian linkages between streets provided.	N/A
	- multiple cul-de-sacs and "no through roads" discouraged.	N/A
	- maximum number of lots in cul-de-sac is 12 lots.	N/A
	- Subdivision >80lots should not require backtracking.	N/A
Road Standards for New Development.	Urban Road Standards required.	N/A, existing road to be upgraded.
	1x1.2m footpath, barrier kerbing.	N/A
	- Commercial & Industrial Subdivision Roads: 22m road reserve, 13m carriageway, 2x4.5m nature strip, 1x1.2m footpath, barrier /roll over kerbing.	N/A
Cycle ways and footpaths	- Cycle ways and pedestrian networks included in new subdivisions.	N/A
	-If subdivision site identified in council cycleway plan or pedestrian strategy subdivision needs to respond to strategy.	
	- New subdivisions provide direct, convenient and safe access to major facilities.	
	- Cul-de-sacs may be required to include 10m wide shared overland flow/pathway.	
	- Developer to provide contribution to council for installation of cycle ways and footpaths prior to release of subdivision certificate.	
Open Space	- Greenfield sites >20 lots ensure that lots are <400m from local park, playground or passive open	N/A

Part 7.1 Urban Subdivision	Requirement	Compliance/Comment
	space.	
	- Where on-site detention basins double as open space must include raised level area which incorporates playground or fitness equipment etc and shading landscaping.	N/A
Landscaping	- Landscape plan provided detailing treatment of public domain.	N/A
	- Land dedicated as public reserve top soiled, levelled, turfed prior to release of subdivision certificate and maintained by developer for period of two years.	N/A
Street Trees	- 2 street trees provided per lot.	N/A
	- Developer provides levy to council to provide these trees after 80% of works carried out.	N/A
Utility Services	- servicing plan submitted showing provision of underground electricity, sewer, water, drainage and telecommunications to the development.	Lots to be connected to reticulated water, sewer, electricity and telecommunications.
	- Evidence of consultation with relevant authorities submitted with application.	
Drainage	As per Section 5.3 Stormwater & Drainage.	N/A due to low density of development.

2. IMPACT OF DEVELOPMENT

(a) Context and Setting

The proposed development consists of the subdivision of three units under construction on an allotment of land with frontages to a road and a lane. The development site is located on the fringe of the Conservation Area and is surrounded by varied architecture of no distinct character.

The development site is less than 1 kilometre from the main business centre of Mudgee and is considered to be appropriately located.

(b) Access, transport and traffic

Access to the site is from Denison Lane, although the development also has frontage to Horatio Street. Denison Lane is required to be upgraded under the existing consent and this consent.

The proposed development would not significantly impact on the road network and the local road network is considered to be capable of accepting traffic from the development subject to upgrade of the lane.

(c) Public domain

No negative impacts on the public domain have been identified with this proposal.

(d) Utilities

Reticulated water and sewer are available to the site. Water mains are required to be extended to service the units at the rear of the site.

Electricity and telecommunication services can be connected to the subject site.

(e) Heritage

There are no items of European heritage under in MWRLEP 2012 within the immediate locality; however the development site is within the Conservation Area. European Heritage as been discussed above in this report.

An AHIMs search has been undertaken for the site which did not identify any registered sites. Council's Cultural Heritage mapping does not identify the land has having a high potential for Aboriginal relics. A standard condition requiring appropriate action to be taken should relics be found is required on any determination

(f) Other land resources

There are no other land resources associated with the Development Application.

(g) Water

Stormwater will be harvested to provide water to the dwelling. All lots will be capable of draining to the road.

(h) Soils

The use of the land has already been approved and the proposed subdivision would not alter the risk associated with contamination.

(i) Air and Microclimate

The development will not adversely affect air quality nor will the micro climate be adversely affected.

(j) Flora & fauna

The subject land has been cleared and is located in an urban area. There is no significant flora or fauna on the site.

(l) Energy

There are no energy concerns with this application. Proposed lots can be serviced with underground electricity

(m) Noise & vibration

The subdivision of an approved multi dwelling housing development is unlikely to significantly increase the noise impacts in the locality.

(n) Natural Hazards

The site is not affected by any natural hazards such as flooding and Bushfire risk.

(p) Safety, security and crime prevention

All units are designed to front the public roads and have an outlook to a public place providing security to both the houses and the public space

(q) Economic and Social impact in the locality

The provision of new residential units will provide housing choice in the Mudgee area and potentially increase the population of the area.

(s) Site design and internal design

The development is designed to comply with Council's DCP 2013 including the provision of services and utilities.

3. SUITABILITY OF SITE FOR DEVELOPMENT

(a) Does the proposal fit in the locality?

The immediate locality is characterised by generally middle to late 20th Century dwellings that do not have a particular architectural theme. The proposed development is therefore considered consistent with the locality.

(b) Are the site attributes conducive to development?

The subject site has two road frontages making the site conducive to the development.

4. SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS

(a) Public Submissions

No submissions were received.

(b) Submissions from public authorities

No submissions from public authorities.

5. THE PUBLIC INTEREST

(a) Federal, State and local government interests and community interests

Not applicable.

6. CONSULTATIONS

(a) Health & Building.

No objection subject to conditions included within the recommendation.

(b) Development Engineer.

No objection subject to conditions included within the recommendation.

Financial and Operational Plan implications

Not applicable.

Community Plan implications

The assessment of the development application sits under theme 1 Looking after our Community, Goal 1.1 – A safe and Healthy Community.



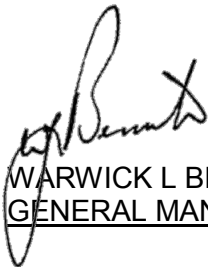
CATHERINE VAN LAEREN
DIRECTOR, DEVELOPMENT & COMMUNITY
SERVICES

GARY BRUCE
MANAGER STATUTORY PLANNING

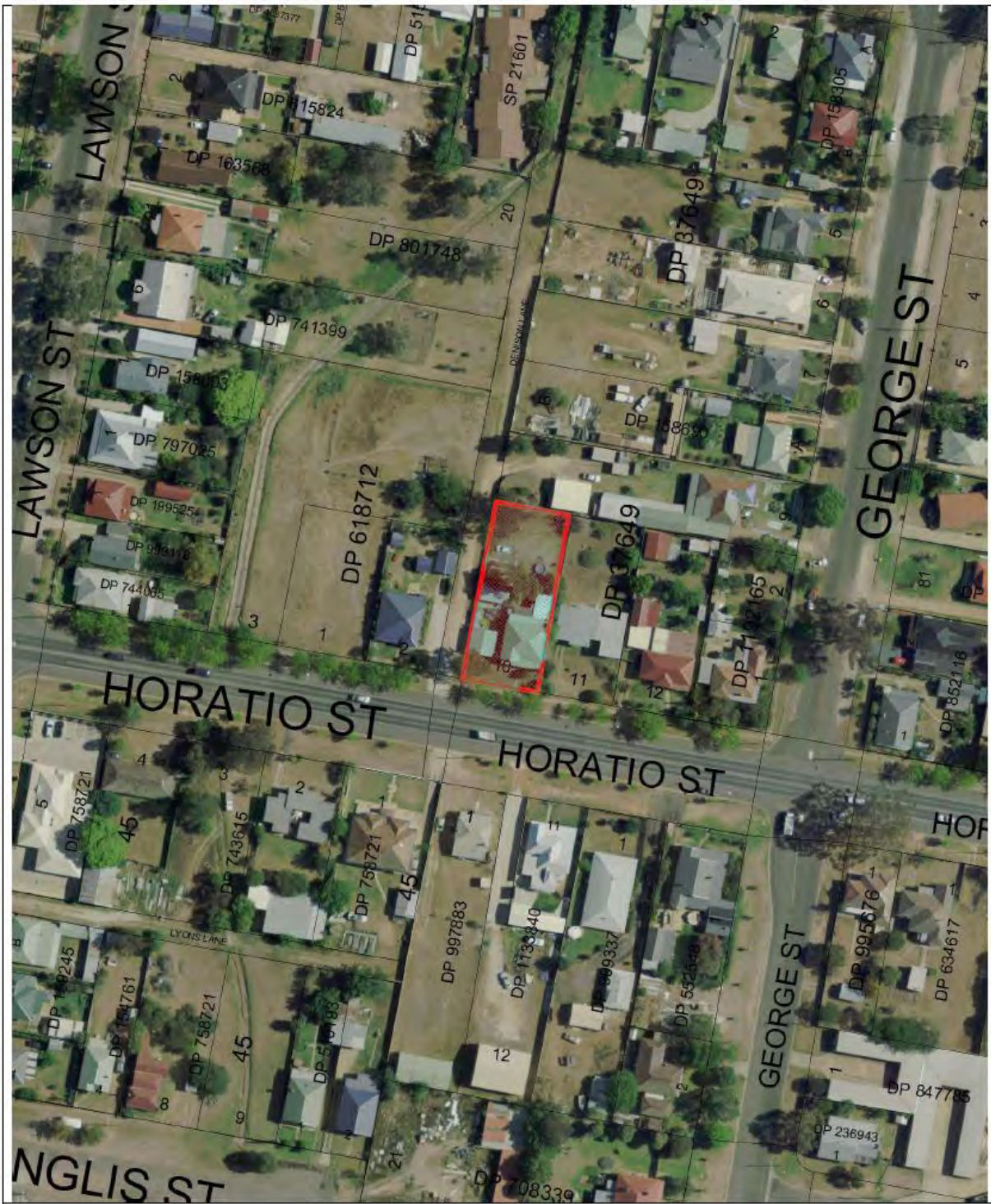
19 March 2014

Attachments: 1. Locality plan
2. Subdivision Plan

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER



Map Scale: 1:1,484

Disclaimer
This map has been created for the purpose of showing basic locality information over Mid-Western Regional Council. Property boundary line network data is supplied by Department of Lands.

This map is a representation of the information currently held by Mid-Western Regional Council. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions.

Legend

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|--|------------|--|--------------|--|--------------|
| | Parcel | | Parish | | NORTH |
| | Crown Land | | Localities | | Road |
| | Railway | | LGA Boundary | | State Forest |
| | | | | | Waterway |



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Client: PETER ELDRED
Project: PROPOSED SUBDIVISION OF LOT 10 DP37649
Title: AT 28 HORATIO ST, MUDGEE

SURVEY DATE
 10-1-2014

This drawing is to be read in conjunction with general building codes, specifications and other standards or drawings applicable to the project. MGA, not Geoid, is to be observed prior to the commencement of work. For a list of any discrepancies, please refer to the contract documents. © Barnson Pty Ltd. 2010. Geoid used. Subject to the Barnson terms of engagement.

Design Drawn
 GM

Check QA

Drawing Number
20377_L01

Revision
A