RECOMMENDATION

That Council:

1. receive the report by the Senior Town Planner regarding DA0149/2020 - Alterations and Additions to Woolpack Hotel - 67 Market Street, Mudgee; and

2. approve DA0149/2020 - Alterations and Additions to Woolpack Hotel - 67 Market Street, Mudgee subject to the following conditions and statement of reasons:

CONDITIONS

PART 1 – DEFERRED COMMENCEMENT CONDITIONS

1. This is a deferred commencement condition in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979 and this consent shall not operate until the following matters have been completed, to the satisfaction of Council.

   a) A Building Information Certificate for all unauthorised building work carried out on the Woolpack Hotel that is the subject of this development consent, issued by Council in accordance with Division 6.7 of the Environmental Planning and Assessment Act 1979, is to be obtained.

   Evidence that will sufficiently enable Council to be satisfied as to the compliance with the above matters must be submitted to Council within twelve (12) months of the date of determination.

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

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

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

   Note – matters that may need to be addressed prior to the issue of a Building Certificate include plumbing inspections for wet areas, engineering certification for structural adequacy, vapour barriers for concrete slabs, and provision of smoke alarms and fire extinguishers. Please contact Council's
Building Surveyors prior to lodging an application for a Building Information Certificate to determine what information will be required to support an application for a Building Information Certificate.

The reason for requiring a Building Information Certificate is that the works approved under this development consent were carried out without a prior Construction Certificate, in a case where a prior Construction Certificate was required to be obtained.

PART 2 – CONDITIONS OF CONSENT

PARAMETERS OF CONSENT

1. Development is to be carried out in accordance with the following plans endorsed with Council’s Stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.

<table>
<thead>
<tr>
<th>Title / Name:</th>
<th>Drawing No</th>
<th>Revision / Issue:</th>
<th>Date:</th>
<th>Prepared by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition Floor Plan</td>
<td>31264-A03</td>
<td>B</td>
<td>09/01/2020</td>
<td>Barnson</td>
</tr>
<tr>
<td>Proposed Floor Plan</td>
<td>31264-A04</td>
<td>B</td>
<td>09/01/2020</td>
<td>Barnson</td>
</tr>
<tr>
<td>Elevations</td>
<td>31264-A05</td>
<td>B</td>
<td>09/01/2020</td>
<td>Barnson</td>
</tr>
<tr>
<td>Sections</td>
<td>31264-A06</td>
<td>B</td>
<td>09/01/2020</td>
<td>Barnson</td>
</tr>
<tr>
<td>Louvered Roof Layout</td>
<td>31264-A07</td>
<td>B</td>
<td>09/01/2020</td>
<td>Barnson</td>
</tr>
</tbody>
</table>

2. For clarity, this development consent provides approval for:
   a) Alterations and additions to the pub, as shown on the approved plans; and
   b) An illuminated wall sign mounted to the rear wall of the pub, as shown on the approved plans.

3. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

GENERAL

4. All stormwater runoff from roof and developed surfaces, is to be controlled in such a manner so as not to flow or discharge over adjacent properties.

5. All building work is to comply with the Access to Premises Standard.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Under Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building including the restaurant and first floor accommodation portions, is to be brought into conformity with the Performance Requirements (PR’s) of Sections C, D1, D2 and E of the Building Code of Australia – Volume 1.

A report from a suitably accredited certifier is to address the matters which are subject to the upgrading and that identifies any deficiencies within the sections.
identified above, with particular attention to fire safety systems that involve a combination of passive and active fire safety measures that:

a) Warn people of an emergency;
b) Provide for safe evacuation;
c) Restrict the spread of fire; and
d) Supress fire.

The report and details of compliance with the performance requirements of the *Building Code of Australia* are to be indicated on amended/additional plans and submitted to the satisfaction of Council and included as part of the Construction Certificate.

The requirements of this condition are to be satisfied within 6 months of the deferred commencement condition being satisfied and this consent becoming operative.

7. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.

PRIOR TO COMMENCEMENT OF WORKS – BUILDING

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

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

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

9. The site shall be provided with a waste enclosure (minimum 1800mm x 1800mm x 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials. NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON SITE.

10. A sign must be erected on a prominent position on any work site which involves the erection or demolition of a building:

a) Stating that unauthorised entry to the work site is prohibited;
b) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside work hours;
c) The name, address and telephone number of the Principal Certifying Authority for the work; and
d) The sign shall be removed when the erection or demolition of the building has been completed.

11. If the work involved in the erection/demolition of the building:

a) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
b) Building involves the enclosure of a public place; then

A hoarding or fence must be erected between the work site and the public place. If
necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when work has been completed.

12. Prior to the commencement of any works, approval pursuant to Section 68 of the Local Government Act 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Council.

13. The development site is to be managed for the entirety of work in the following manner:

   a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
   b) Appropriate dust control measures;
   c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and
   d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

BUILDING CONSTRUCTION

14. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning and Assessment Act 1979 and Regulations and all relevant Australian Standards.

15. All plumbing and drainage work must be carried out by a licenced plumber and drainer and must comply with the Plumbing Code of Australia.

16. Construction work noise that is audible at other premises is to be restricted to the following times:

   a) Monday to Saturday – 7.00am to 5.00pm

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

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

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

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

19. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of a building.

20. Prior to occupation or the issue of the Occupation Certificate, the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the Environmental Planning and
Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate to be given to the Commissioner of Fire and Rescue NSW and a copy is to be prominently displayed in the building.

ONGOING / OPERATIONAL CONDITIONS

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

22. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

23. The premises shall, at all times, be operated and maintained in accordance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 prescribed in Chapter 3 of the Australia and New Zealand Food Standards Code.

24. All vehicles are required to enter and leave the site in a forward direction at all times.

25. The pavement surface of the on-site car parking and associated manoeuvring areas are to be maintained in a workable condition at all times. Any damage to the pavement surface is to be repaired as soon as practicable.

26. Garbage areas are to be adequately screened from public view with an opaque fence and/or adequate landscaping. All waste must be secured in enclosed containers.

27. There being no interference with the amenity of the neighbourhood by reason of the emission of any “offensive noise”, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

28. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 “Control of the Obtrusive Effects of Outdoor Lighting”.

29. The signage is to be securely affixed and is not to flash, move or be objectionably glaring.

30. The approved signage and related components are to be maintained in a clean, tidy and structurally sound manner, at all times.

31. Any illumination of signage is to comply with the following requirements:

  a) Illumination (including cabling) of signs is to be:

     (i) concealed; or
     (ii) integral with the sign; or
     (iii) internally illuminated; or
     (iv) provided by means of carefully designed and located remote or spot
baffled lamps.

b) The design and lux of any internal or spot lighting shall be designed to avoid off-site or traffic safety impacts.

c) Illumination must not be set to flashing mode, at any time.


32. Any graffiti attacks on the approved signage and related components are to be removed and cleaned as soon as practicable, in order to deter future attacks.

STATEMENT OF REASONS

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.

2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment Act 1979.

OTHER APPROVALS

Nil

ADVISORY NOTES

1 The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy “Tree Removal and Pruning – Public Places”.

2 The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

3 Sections 8.2, 8.3, 8.4 and 8.5 of the Environmental Planning and Assessment Act 1979 (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 6 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council’s Planning and Development Department for more information or advice.

4 If you are dissatisfied with this decision Sections 8.7 and 8.10 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

5 To ascertain the date upon which the consent becomes effective, refer to Sections 4.20 and 8.13 of the EP&A Act.
6 To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

Executive summary

<table>
<thead>
<tr>
<th>OWNER/S</th>
<th>Woolpack Mudgee Hotel Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>APPLICANT:</td>
<td>Woolpack Mudgee Hotel Pty Ltd</td>
</tr>
<tr>
<td>PROPERTY DESCRIPTION</td>
<td>67 Market Street, Mudgee</td>
</tr>
<tr>
<td>(Lot 112 DP1136686)</td>
<td></td>
</tr>
<tr>
<td>PROPOSED DEVELOPMENT</td>
<td>Alterations and Additions to Woolpack Hotel</td>
</tr>
<tr>
<td>ESTIMATED COST OF DEVELOPMENT:</td>
<td>$63,000</td>
</tr>
<tr>
<td>REASON FOR REPORTING TO COUNCIL:</td>
<td>A Councillor is an owner (part) of the land upon which the development application is made</td>
</tr>
<tr>
<td>PUBLIC SUBMISSIONS:</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Council is in receipt of a development application that seeks approval for alterations and additions to the Woolpack Hotel at 67 Market Street, Mudgee.

This application was submitted to Council in response to compliance action for unauthorised works. The works that the compliance action referred to were alterations and additions to the rear of the pub, centred around the beer garden area.

The application has been placed on public exhibition in accordance with Mid-Western Regional Community Participation Plan 2019. The exhibition period ended on 24 January 2020 and no submissions were received.

As a Councillor is an owner (part) of the land upon which the development application is made, the application cannot be determined by delegated staff – Council is required to determine the application.

The application is recommended for approval, subject to a deferred commencement condition, requiring the developer to obtain a Building Information Certificate for the unauthorised works that have been carried out.

Disclosure of Interest

A Councillor is a part owner of the Woolpack Hotel.

Background

**SUBJECT SITE**

The subject site is located at 67 Market Street, Mudgee. The site has an area of 1222m². The pub’s principle frontage is towards Market Street and there is rear lane access from Byron Place. The site is located within zone B3 – Commercial Core. The Woolpack Hotel is listed as a local Heritage Item under Schedule 5 of Mid-Western Local Environmental Plan 2012 and the site is located within the Heritage Conservation Area.
PROPOSED DEVELOPMENT

Council has received a development application for alterations and additions to the Woolpack Hotel. The application was submitted in response to compliance action, when it was discovered that the works were being undertaken without development consent. The alterations and additions have been completed.

The proposed works comprise the following:

- Removal of existing garden with attached bench seat from the beer garden;
- Creating an opening on the ground level wall facing the beer garden;
- Demolishing internal walls;
- Extending a staircase and landing from the upper level to the beer garden;
- Internal fit out for a bar;
- Adding walls/screens within the beer garden area;
- Adding a louvered pergola to the beer garden area;
- Internal fit out for a gaming room; and
- Installation of an illuminated sign on the rear wall of the hotel (approximately 2.0m x 0.6m).

The alterations and additions are shown in the plans included in the attachment.

The proposal does not involve a variation to the requirements prescribed within Mid-Western Regional Local Environmental Plan 2012. However, the proposal does involve a variation from the requirements for signage in business areas contained in Mid-Western Regional Development
Control Plan 2013. The applicant has provided written justification for these variations and the proposed signage is considered to be acceptable.

Detailed report

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979 (EP&A Act)

Designated Development

Not applicable.

The proposed development is not identified as designated development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

Integrated Development

Not applicable.

The proposed development does not trigger integrated development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979.

SECTION 4.15(1) – MATTERS FOR CONSIDERATION - GENERAL

The application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The main issues are addressed below as follows.

(a) Provisions of any Environmental Planning Instrument and any draft EPI – 4.15(1)(a)(i) and (ii)

State Environmental Planning Policy No 55 – Remediation of Land

A review of Council’s records and site inspection did not reveal any evidence of a potentially contaminating activity. Accordingly, no further consideration is necessary.

State Environmental Planning Policy No 64 – Advertising and Signage

Clause 3: Aims and Objectives

The proposed signage does not conflict with the aims of the policy. In particular, the proposed signage:

- Is compatible with the desired amenity and character of the area;
- Provides effective communication in suitable locations – that is, providing business identification of the premises; and
- Will be of high quality finish and design.

Clause 8: Granting Consent to Signage

Complies – the proposed signage:

- Is consistent with the objectives of the SEPP; and
- Complies with the relevant requirements of Schedule 1 – see below.
Schedule 1 – Assessment Criteria

• **Character of the area** – Complies – the proposed sign will have minimal impact on the character of the area. The proposed sign is to be located on the rear wall and will be visible from the south. The scale of the proposed signage is not such that it will result in an adverse impact on the character of the area.

• **Special areas** – Complies – the scale and design of the proposed signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.

• **Views and vistas** – Complies – the scale of the proposed sign will not dominate the skyline, will not impact on any vistas and will not obscure the views of other signs in the vicinity.

• **Streetscape, setting or landscape** – Complies – the proposed sign will have minimal impact on the streetscape as the sign is erected to the rear of the pub.

• **Site and building** – Complies – the proposed sign is compatible with the site locality in terms of scale and design.

• **Associated devices and logos with advertisements and advertising structures** – Not applicable – signage is adequately secured to the wall.

• **Illumination** – Complies – the sign is an internally lit light-box. The amount of light emitted from the sign is not excessive and is suitable within the context of the beer garden.

• **Safety** – Complies – the proposed sign will not reduce the safety of the public road; is located wholly on private land and will not reduce the safety of pedestrians or bicyclists; and will not obscure sightlines from public areas that will have an impact on the safety of pedestrians.

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The following clauses of the MWRLEP 2012 have been assessed as being relevant and matters for consideration in the assessment of the Development Application.

1.2 **Aims of Plan**

The proposed development is not contrary to the relevant aims and objectives of the plan.

1.4 **Definitions**

The proposal is defined in accordance with the MWRLEP 2012 as alterations and additions to a:

*Pub* means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

Pubs are a type of Commercial Premises/ Retail Premises/ Food & Drink Premises.
2.3 Zone objectives and Land Use Table

The land is zoned B3 – Commercial Core pursuant to MWRLEP 2012. The proposal, being alterations and additions to a pub, is permissible with consent in the zone and complies with relevant objectives.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

1. To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
   Comment: The proposal contributes to the range of land uses available within the CBD area.

2. To encourage appropriate employment opportunities in accessible locations.
   Comment: The proposal will provide for additional employment opportunities in the CBD area.

3. To maximise public transport patronage and encourage walking and cycling.
   Comment: The proposal adds to the consolidation of commercial enterprises in the CBD area, which is expected to encourage walking and cycling and the use of public transport to a central location.

4. To promote the central business district of Mudgee as the major focus for retail and commercial activity in the Mid-Western Region.
   Comment: The proposal will contribute to the CBD area of Mudgee as the major focus for commercial activity.

5. To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.
   Comment: The proposal will contribute to the CBD area of Mudgee as the major focus for commercial activity.

6. To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.
   Comment: The proposed works are compatible with the historic architectural character of the building and will have no impact on the streetscape.

7. To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity with the commercial core.
   Comment: The proposal provides for the continued free pedestrian movement throughout the CBD area.

2.7 Demolition requires development consent

In satisfaction of this clause, the development application seeks approval for the demolition of: a garden, part of an external wall, a number of internal walls, and an older set of stairs. These demolition works have already been undertaken.

4.3 Height of Buildings

The subject site is mapped for a maximum height limit of 8.5 metres above existing ground level. The development is proposed at a height of 3.8 metres and therefore complies.

5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.
5.10 Heritage Conservation

As the proposal includes works involving a heritage item, consideration must be given to the relevant heritage significance in accordance with Clause 5.10(4).

The site is listed under Schedule 5 of the LEP as Heritage Item I129. The site is also located in the Mudgee Heritage Conservation Area.

The Statement of Environmental Effects states the following:

A Statement of Heritage Impact Report has been prepared by a qualified heritage architect which found that the overall heritage impact of the additional changes internally in the proposed areas have a minimum effect on significance except in the positive sense in that it retains the original purpose that the building was constructed for.

Council’s Heritage Advisor has provided the following comments in relation to the application:

The proposal is supported by a professionally written Statement of Heritage Impact, which includes some fabric analysis identifying areas of higher and lower significance.

Most of the changes are in areas of lower significance and there would have been no objection to them. However, the new fire escape has required the blocking of some original windows, which has had an adverse impact. For this reason, the SOHI recommended exploring alternative locations for the fire escape. It is not known whether there were or are options which would have left the windows untouched; but the blocking at least protects the windows and is in theory reversible.

There are therefore no objections to approval of the scheme.

It is considered that the proposed alterations and additions do not have a significant impact on the heritage significance of the item and heritage conservation area.

The proposed sign is erected on the rear wall of the pub, and is readily visible from the beer garden. The proposed sign will have no impact on streetscape presentation of the pub. The sign is of a size and type that is compatible with the beer garden setting, the character of the heritage item and the character of the heritage conservation area.

6.1 Salinity

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

6.3 Earthworks

The proposal is seeking retrospective approval for works already undertaken and does not involve any further earthworks. Accordingly, no further consideration of this clause is necessary.

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. Given 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.
6.7 Active street frontages

The subject site is located within the area mapped as 'Active street frontage' pursuant to the LEP mapping. The proposal will result in all premises on the ground floor facing the street having a use for a pub, which is included in the group definition of retail premises. Accordingly, the proposal is considered to satisfy this clause.

6.8 Airspace operations – Mudgee Airport

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

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.

(b) The provisions of any Development Control Plan or Council Policy – 4.15(1)(a)(iii)

Mid-Western Regional Development Control Plan 2013 (the DCP)

<table>
<thead>
<tr>
<th>DEVELOPMENT CONTROL REQUIREMENT</th>
<th>COMPLIES?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signs in Towns and Villages – Heritage Conservation Areas</td>
<td>Yes. The proposed sign is erected on the rear wall of the pub and has no impact on the streetscape. The sign fits within the context of the beer garden and preserves the character of the heritage conservation area.</td>
</tr>
<tr>
<td>Corporate identification should be carefully selected and amended where necessary to retain the character of individual buildings and the surrounding locality.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Generally signs on individual buildings or within areas of special significance should be discreet and should complement the building or area.</td>
<td>Yes. Sign mounted to rear wall of building.</td>
</tr>
</tbody>
</table>

Business Areas

| Maximum signage area of 25% of the frontage | Yes. Sign erected on rear wall and less than 25% of area of the wall. |
| Under-awning/verandah signs | Not applicable. |
| Additional pylon signs, projecting wall signs, above awning signs, illuminated wall signs located above the verandah or awning and roof signs are not permitted in both Mudgee and Gulgong business areas. | Variation – see justification below. |
| Wall signs should be either painted directly onto the building | Variation – see justification |
DEVELOPMENT CONTROL REQUIREMENT | COMPLIES?
--- | ---
or constructed of painted wood or coated at point of manufacture or powdercoated flat metal sheets. | below.

The proposed “VIP Lounge” sign is a light box with a plastic front that is mounted above the awning level and, as such, does not comply with the above requirements.

Written justification has been submitted with the application, justifying the variation from the development requirements on the following grounds:

- This is the only sign on this elevation of the building, and does not result in a proliferation of signage;
- The sign does not protrude above the roof or beyond the façade or obscure windows;
- The size of the sign is low-key, compared to the wall that it sits on;
- The colour scheme of black, light gold and cream is muted;
- The sign does not have an adverse effect on the heritage significant building or the character of the heritage conservation area;
- The view of the sign from Byron Place is partly obscured by buildings and is not readily visible until standing directly in front of it;
- The sign provides a marker to pedestrians directing them to the rear entrance of the Woolpack Hotel; and
- Being located on the rear wall, the sign has no impact on the Market Street streetscape or the character of the Mudgee CBD.

It is considered the variation from the signage requirements of the DCP is acceptable for the above reasons.

4.5 Commercial Development

<table>
<thead>
<tr>
<th>DEVELOPMENT CONTROL REQUIREMENT</th>
<th>COMPLIES?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building setbacks</td>
<td></td>
</tr>
<tr>
<td>Building setback from the street – no minimum</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Side and rear setbacks must comply with BCA</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Signage</td>
<td></td>
</tr>
<tr>
<td>Signage complies with relevant provisions in section 4.4 DCP 2013</td>
<td>Yes. Refer to relevant section of report.</td>
</tr>
<tr>
<td>Design</td>
<td></td>
</tr>
<tr>
<td>Buildings interact with the street</td>
<td>Yes. Windows incorporated.</td>
</tr>
<tr>
<td>On active street frontages, ground level of building used for business or retail premises</td>
<td>Yes.</td>
</tr>
<tr>
<td>Building facades are articulated by use of colour, arrangement of elements, or varying materials</td>
<td>Yes.</td>
</tr>
<tr>
<td>Heritage inclusions</td>
<td>Yes. Heritage impact assessment provided.</td>
</tr>
<tr>
<td>External plant to be screened from public</td>
<td>Yes.</td>
</tr>
<tr>
<td>Development on a corner – includes architectural features to address both streets</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Landscape buffers to other zones</td>
<td>Not applicable. Proposed works not near a zone boundary.</td>
</tr>
<tr>
<td>DEVELOPMENT CONTROL REQUIREMENT</td>
<td>COMPLIES?</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Scale form and height</td>
<td></td>
</tr>
<tr>
<td>Complies with LEP height controls – 8.5m maximum height</td>
<td>Yes.</td>
</tr>
<tr>
<td>Consistent with existing heritage character of the town centres of Gulgong, Mudgee and Rylstone</td>
<td>Yes.</td>
</tr>
<tr>
<td>Mortimer and Church Street, Mudgee</td>
<td></td>
</tr>
<tr>
<td>Maintain the streetscape established in Church Street between Market and Mortimer Streets:</td>
<td></td>
</tr>
<tr>
<td>– Zero front and side setbacks</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>– Double storey pattern</td>
<td></td>
</tr>
<tr>
<td>Provides variance particularly on upper floor levels, every 20-25m</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Articulation and Façade Composition</td>
<td></td>
</tr>
<tr>
<td>Breaks visual bulk with fenestration or change in materials etc</td>
<td>Extensive fenestration provided.</td>
</tr>
<tr>
<td>No excessive blank walls in front façade</td>
<td>Yes.</td>
</tr>
<tr>
<td>Where blank walls are proposed (side or rear), minimise impacts with landscaping, patterning of façade, signage, public art</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Residential–Commercial interface</td>
<td></td>
</tr>
<tr>
<td>Landscape buffer to residential boundaries</td>
<td>Not applicable – no residential boundaries.</td>
</tr>
<tr>
<td>Ground and first floor do not overlook residential properties</td>
<td>Yes.</td>
</tr>
<tr>
<td>Maintain acoustic privacy through the use of acoustic fencing where vehicles movements adjoin property boundaries</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings are located along residential boundaries ensure sufficient landscaping is provided</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Development does not reduce sunlight available to north facing windows of living areas, private open space or clothes drying areas of adjoining properties to less than 3 hours between 9am and 3pm at winter solstice</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Utilities and Services</td>
<td></td>
</tr>
<tr>
<td>Building and structures located clear of infrastructure</td>
<td>Yes.</td>
</tr>
<tr>
<td>Able to be serviced by water, sewer and waste disposal</td>
<td>Yes.</td>
</tr>
<tr>
<td>Trade waste application required?</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Traffic and Access</td>
<td></td>
</tr>
<tr>
<td>All vehicles must be able to enter and exit the site in a forward direction</td>
<td>Yes.</td>
</tr>
<tr>
<td>All vehicle movement paths are sealed</td>
<td>Yes.</td>
</tr>
<tr>
<td>Driveways comply with Australian Standard AS2890.1</td>
<td>Yes.</td>
</tr>
<tr>
<td>Parking Facilities</td>
<td></td>
</tr>
<tr>
<td>All loading facilities located within the site</td>
<td>Yes.</td>
</tr>
<tr>
<td>All loading facilities designed to comply with Australian Standards</td>
<td>Yes.</td>
</tr>
<tr>
<td>Application addresses traffic flow and safety issues, e.g. pedestrian, car and truck movements</td>
<td>Yes. No changes to existing.</td>
</tr>
</tbody>
</table>
**DEVELOPMENT CONTROL REQUIREMENT**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Complies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pedestrian Access</td>
<td></td>
</tr>
<tr>
<td>Maintain existing covered pedestrian access within town centres</td>
<td>Covered access extended/retained.</td>
</tr>
<tr>
<td>Convenient and safe access through parking areas</td>
<td>Yes.</td>
</tr>
<tr>
<td>Convenient and safe disabled access through parking areas, focus on improving links with existing retail</td>
<td>Links to other sites not altered.</td>
</tr>
<tr>
<td>Parking</td>
<td></td>
</tr>
<tr>
<td>Discussed elsewhere in report</td>
<td>Yes.</td>
</tr>
<tr>
<td>Landscaping</td>
<td></td>
</tr>
<tr>
<td>Landscaped areas in car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Landscaping to comprise low maintenance, drought and frost resistant species</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>

5.1 Car Parking

Complies.

The application states:

*The alterations works include the internal rearrangement of the pub and are confined within the perimeter of the existing pub building and beer garden. The alterations will not increase capacity or throughput for the hotel operations and as such, it is therefore considered that no additional car parking is required.*

As there is no increase in the floor area of the pub or beer garden, no additional parking spaces are required.

5.3 Stormwater Management

No changes are proposed to the existing stormwater arrangements.

5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

**Mid-Western Regional Contributions Plan 2019**

The site is located within the Mudgee Catchment in accordance with *Mid-Western Regional Contributions Plan 2019*. The proposed cost of development of $63,000 does not exceed $100,000. Consequently, no developer contributions are applicable to the proposed development.

**Water/Sewer Developer Services Charges**

The proposed development does not increase demand for water or sewer services and no contributions are applicable to the proposed development.
(c) **Provisions of any Planning Agreement or Draft Planning Agreement – 4.15(1)(a)(iiiia)**

No planning agreement applicable.

(d) **Regulations – 4.15(1)(a)(iv)**

Council’s Manager Health and Building has determined that a fire safety upgrade is required in accordance with Clause 94 of the *Environmental Planning and Assessment Regulation 2000*, to bring the existing building into partial compliance with the Performance Requirements of the *Building Code of Australia*. This is due to the existing building having had significant unauthorised works undertaken and the building has been deemed to have potential deficiencies to protect persons using the building, and to facilitate their egress from the building, in the event of fire. A condition is included in the recommendation to require a report from a suitably accredited certifier to identify any deficiencies the building has in relation to the Performance Requirements of Sections C, D1, D2 and E of the *Building Code of Australia* and nominate any upgrade works required.

(e) **The likely impacts of development – 4.15(1)(b)**

**Context and Setting & Site Design and Internal Design**

The proposal is appropriate with regards to the surrounding context and setting.

**Access, transport and traffic**

The proposed additions and alterations have no impact on traffic, car parking and access.

**Utilities**

All relevant utilities are available or can be made readily available to the site.

**Heritage**

The proposed alterations and additions and proposed wall sign at the rear of the pub do not have a significant impact on the heritage significance of the heritage item that is the Woolpack Hotel and the Mudgee Heritage Conservation Area.

**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**

No significant impact expected.

**Soils**

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, or contamination. The proposal will not result in significant soil erosion or degradation.

**Air and Microclimate**

The development is not expected to impact air quality or microclimatic conditions.

**Flora and Fauna**

Not applicable.

**Waste**

Waste service available.
Energy
Not applicable.

Noise and vibration.
Not applicable.

Natural Hazards
The site is not identified as being effected by bushfire, geological/soil instability or flooding.

Technological Hazards
There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

Safety, security and crime prevention
Increased passive surveillance as a result of the proposed development.

Economic and Social impact in the locality
Generally positive.

Construction
Construction has already been undertaken and no further construction impacts are expected.

Cumulative impacts
Nil. 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.

(f) The Suitability of the Site for the Development – 4.15(1)(c)

Does the proposal fit in the locality?
Yes. There are no hazardous land uses or activities nearby, 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?
Yes. The site is not subjected to any natural hazards, the and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

(g) Submissions made in accordance with Act or Regulations – 4.15(1)(d)

Public submissions
The application was advertised and notified in accordance with the provisions of Mid-Western Regional Community Participation Plan 2019. The submission period ended on 24 January 2020. No submissions were received.

(h) The Public Interest – 4.15(1)(e)

Federal, State and local government interests and community interests
There are no matters that would be considered to be contrary to the public interest.
**Covenants and easements effecting the proposal**
Council has no record of easements or restrictions on the property title.

**CONSULTATIONS**

**Health & Building**

Council’s Manager Health and Building has raised the following concerns in relation to this development application:
- Plans of the whole building were not provided with the application;
- The unauthorised works will require a Building Information Certificate;
- There are a number of discrepancies between the plans and works completed to date;
- A fire safety upgrade of the building is required;
- Further works will be required to upgrade the building; and
- There are shortfalls in the provision of disabled access to the new areas.

Conditions are included in the recommendation to address the above matters. A copy of the Manager Health and Building’s comments is included in the attachments.

**Heritage Advisor**

Council’s Heritage Advisor has not raised any concerns with the proposal. A copy of the Heritage Advisor’s comments is included in the attachments.

**DEFERRED COMMENCEMENT CONSENT**

The alterations and additions to the Woolpack Hotel were undertaken without the necessary Development Consent and Construction Certificate being in place. It is not legally possible to issue a Construction Certificate retrospectively. Consequently, the applicant will need to apply for a Building Information Certificate to cover the works that have already been undertaken. The Building Information Certificate will be the focus of a deferred commencement condition. The development consent will not become operative until the applicant has obtained the Building Information Certificate.

**Community Plan implications**

<table>
<thead>
<tr>
<th>Theme</th>
<th>Protecting Our Natural Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>Protect and enhance our natural environment</td>
</tr>
<tr>
<td>Strategy</td>
<td>Ensure land use planning and management enhances and protects biodiversity and natural heritage</td>
</tr>
</tbody>
</table>

**Strategic implications**

**Council Strategies**
- Mid-Western Regional Local Environmental Plan 2012
- Mid-Western Regional Development Control Plan 2013
- Mid-Western Regional Community Participation Plan 2019
- Mid-Western Regional Development Servicing Plans
Mid-Western Regional Contributions Plan 2019

Council Policies
Not applicable.

Legislation
Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2000

Financial implications
Nil.

Associated Risks
Should Council refuse the development application, the applicant will be required to reinstate the building to its former state. The applicant may seek a further review of this decision or appeal through the Land & Environment Court.

ILIJA SUSNJA
SENIOR TOWN PLANNER
30 April 2020

LINDSAY DUNSTAN
MANAGER, STATUTORY PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

Attachments: 1. Plans of Proposed Alterations and Additions. (separately attached)
2. Heritage Impact Statement. (separately attached)
3. Heritage Advisor Comments - DA0149-2020. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER