

## Item 8: Development

## 8.1 DA0086/2020 - Torrens Title Subdivision (1 into 13 Lots) - Mixed Residential Development (Single Dwellings, Dual Occupancy and Multi-Dwelling Housing), New Child Care Centre and Associated Works at 50 Broadhead Road, Mudgee

## REPORT BY THE PLANNING COORDINATOR

TO 16 JUNE 2021 ORDINARY MEETING  
GOV400088, DA0086/2020**RECOMMENDATION****That Council:**

- A. receive the report by the Planning Coordinator on DA0086/2020 - Torrens Title Subdivision (1 into 13 Lots) - Mixed Residential Development (Single Dwellings, Dual Occupancy and Multi-Dwelling Housing), New Child Care Centre and Associated Works at 50 Broadhead Road, Mudgee;
- B. approve DA0086/2020 - Torrens Title Subdivision (1 into 13 Lots) - Mixed Residential Development (Single Dwellings, Dual Occupancy and Multi-Dwelling Housing), New Child Care Centre and Associated Works at 50 Broadhead Road, Mudgee subject to the following conditions and Statement of Reasons:

**Approved Plans**

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below except as varied by the conditions herein.

Title/Name	Drawing No/ Document Ref	Revision/Issue	Dated	Prepared by
Location Plan	DA-101	REV 9	12.03.2021	Place Studio AU PTY LTD
Site Analysis	DA-102	REV 9	12.03.2021	Place Studio AU PTY LTD
Demo Ground Floor Plan	DA-120	REV 9	12.03.2021	Place Studio AU PTY LTD
Proposed Site Plan	DA-200	REV 9	12.03.2021	Place Studio AU PTY LTD
Proposed Roof Plan	DA-201	REV 9	12.03.2021	Place Studio AU PTY LTD
Dwelling Type A	DA-501	REV 9	12.03.2021	Place Studio AU PTY LTD
Dwelling Type B	DA-502	REV 9	12.03.2021	Place Studio AU PTY LTD
Dwelling Type	DA-503	REV 9	12.03.2021	Place Studio AU

<b>C</b>				<b>PTY LTD</b>
<b>Dwelling Type D</b>	<b>DA-504</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type E</b>	<b>DA-505</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type F</b>	<b>DA-506</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Type 1</b>	<b>DA-507</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Type 2</b>	<b>DA-508</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Type 3</b>	<b>DA-509</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Plans</b>	<b>DA-300</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Area Plans</b>	<b>DA-301</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Sections</b>	<b>DA-302</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Elevations</b>	<b>DA-303</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Elevations</b>	<b>DA-304</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Childcare Shade Details</b>	<b>DA-305</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Broadhead Road – Elevation</b>	<b>DA-400</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>New Road – North Elevation</b>	<b>DA-401</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>New Road – South Elevation</b>	<b>DA-402</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Elevation</b>	<b>DA-403</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Fence Detail</b>	<b>DA-404</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type A Elevation</b>	<b>DA-601</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type B Elevation</b>	<b>DA-602</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type C Elevation</b>	<b>DA-603</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type D Elevation</b>	<b>DA-604</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type E Elevation</b>	<b>DA-605</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Dwelling Type F Elevation</b>	<b>DA-606</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Type 1</b>	<b>DA-607</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>
<b>Townhouse Type 2</b>	<b>DA-608</b>	<b>REV 9</b>	<b>12.03.2021</b>	<b>Place Studio AU PTY LTD</b>

Townhouse Type 3	DA-609	REV 9	12.03.2021	Place Studio AU PTY LTD
Exterior Finishes Schedule	-	-	20/10/20	Place Studio AU PTY LTD
Street Tree Plan	248-DA-001	Issue E	18/03/2021	The Green Boutique
Street Tree Plan	248-DA-002	Issue E	18/03/2021	The Green Boutique
Street Tree Plan	248-DA-003	Issue E	18/03/2021	The Green Boutique
Street Tree Plan	248-DA-004	Issue E	18/03/2021	The Green Boutique
Street Tree Plan	248-DA-005	Issue E	18/03/2021	The Green Boutique
BASIX Certificate	1121579M_02	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1124750M_03	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1124752M_02	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1124764M_02	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1124955M_02	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1125111S_02	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1186908S	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1186910S	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1186911S	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1186912S	-	23 March 2021	Gradwell Consulting
BASIX Certificate	1186914S	-	23 March 2021	Gradwell Consulting
Combine Utilities and Services Plan – P1907519	PS01-F100	REV D	18/03/2021	Martens & Associates Pty Ltd
DA Acoustic Report	ID:11705 R01v1	R01	8 January 2020	PKA Acoustic Consulting
Detailed Site Contamination Assessment	33043 ER00-A	A	-	Barnson Pty Ltd
Desktop Aboriginal Heritage Due Diligence Assessment	19MUD-14756	1	20 December 2019	Eco Logical Australia
Traffic Impact Assessment	19219	V01	18 March 2021	Transport Planning Partnership

Any minor modification to the approved plans other than as required by the following conditions will require the lodgement and consideration by Council of amended plans. Amended plans will need to be accompanied with supporting documentation and calculations where necessary. Major modifications will require the lodgement of a new development application.

2. This development consent does not include approval for any signage for the approved development. A separate Development Consent or Complying Development Certificate may be required for signage, if the signage is not exempt development.
3. This consent does not permit commencement of any site works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifier.
4. For clarity, this development consent provides approval for the following only:
  - a) Demolition of a number of outbuildings located on the site;
  - b) Subdivision of Lot 1 in DP808587 into 13 Torrens title allotments ranging from 601m<sup>2</sup> up to 4079m<sup>2</sup>;
  - c) Retention of the existing dwelling-house on proposed Lot 3;
  - d) Construction of a new internal road from Broadhead Road, landscaping and associated works to service the development;
  - e) Construction of six (6) single storey dwellings comprising either 3 or 4 bedrooms over new Lots 2, 4, 5, 6, 7 and 8;
  - f) Construction of four (4) attached dual occupancies comprising either 3 or 4 bedrooms over new Lots 1, 10, 11 and 12;
  - g) Construction of nine (9) single storey multi-dwelling housing units comprising either 3 or 4 bedrooms over new Lot 13; and
  - h) Construction of a child care centre to cater for up to 52 children (ages 0 to 5 years) within new Lot 9.

#### **GENERAL**

*The developer must comply with the following conditions associated with carrying out the development.*

5. All building work is to comply with the requirements of the Access to Premises Standard, where relevant.
6. Switchboards for gas, electricity, etc., must not be attached to the front or street facing elevations of any buildings.
7. Notwithstanding the approved plans, all structures are to be located clear of any easements and/or 1.5 metres from any water and sewer mains in accordance with Council Policy.
8. In accordance with Council's Development Control Plan, Council does not permit the following types of development over an existing sewer main or easement for sewer/stormwater drainage;
  - Erection of permanent structures,

- Cut or fill of land,
  - The planting of trees, or
  - Concrete structures.
9. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
  10. The Contractor is required to contact Dial Before You Dig to obtain details of the location of the various services in the vicinity of the subdivision to minimise the chance of disturbing utility services as well as the location of services which are required to be relocated. DBYD can be contacted online <https://www.1100.com.au/> or by phone on 1100.
  11. Metal roof/wall cladding shall be provided in a non-reflective colour scheme such as “Colorbond” steel sheeting. Zinalume, or similarly glary finishes, are not to be employed in roof or wall finishes.
  12. All earthworks, filling, building, driveways or other works are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
  13. Costs associated with all development works including any necessary alterations, or relocations of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
  14. All costs associated with preparation of a Survey Plan and associated easement documentation are to be borne by the developer.
  15. Any damage which is caused to Council’s infrastructure as a result of the proposed development must be repaired immediately to Council’s satisfaction and at no cost to Council.
  16. 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.
  17. All demolition works are to be carried out in accordance with *AS2601-2001 “Demolition of structures”*, with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc., must be handled, conveyed and disposed of in accordance with guidelines and requirements from SafeWork NSW. Disposal of asbestos material at Council’s Waste Depot requires prior arrangement for immediate landfilling.
  18. The licensed demolition contractor and/or principal contractor must comply with the following specific requirements in respect of the proposed demolition works:
    - a) Demolition work is not to be undertaken until:
      - Council has been provided with a copy of any required Hazardous Substances Management Plan;

- The licensed demolition contractor and/or principal contractor has inspected the site and is satisfied that all measures are in place to comply with the provisions of such Plan;
  - b) The removal, handling and disposal of any asbestos material (in excess of 10m<sup>2</sup>) is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW, and in accordance with the requirements of WorkCover NSW, the *Work Health and Safety Act 2011* and Australian Standard 2601-2001;
  - c) All asbestos and other hazardous materials are to be appropriately contained and disposed of at a facility holding the appropriate license issued by the NSW Environmental Protection Agency;
  - d) Seven working days' notice in writing is to be given to Council prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor.
19. The removal of any asbestos material (less than 10m<sup>2</sup>) during the demolition phase of the development is to be in accordance with the requirements of the Workcover Authority and disposed of at an approved waste facility.
20. The height and construction of the dividing fence may require agreement between the owners of the subject land and the respective owners of adjacent properties. Legal advice should be sought in the case of any doubt.
21. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.
22. The only waste derived fill material that may be received at the development site must be:
- a. Virgin excavated natural material, within the meaning of the *Protection of the Environment Operations Act 1997*; and
  - b. Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.
23. The developer shall provide separate water and sewer services for each allotment within the subdivision.
24. The developer is to ensure that any defects in the works that become apparent within the 6 months following the registration of the Subdivision Certificate with NSW Land Registry Services, are remedied to Council's satisfaction. If these defects are not satisfactorily remedied, Council may use bond money to carry out rectification works.
- Any unspent bond money will be returned to the developer at the end of the 6 month defects liability period, less the cost of rectification works carried out by Council.
25. Street trees approved by Council are to be provided at a minimum rate of two trees per allotment.



26. All works are to be carried out in a workmanlike manner and in accordance with technical and performance requirements of relevant and applicable Codes, Standards, Council's Development Control Plan and Aus Spec #1.
27. Where discrepancies between the Drawings, current Development Consent or Council's Development Control Plan occur, the works must comply with the written requirements of the current Development Consent.
28. Any necessary alterations to or relocation of public utility services to be carried at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed infrastructure. Should any adjustments or alterations to Council's water supply or sewer be required Council will carry out these works at the Developer's expense.
29. The registered proprietor of the land shall place engineered fill on the site as required. The fill shall be placed in accordance with Council's Development Engineering Specifications and *Australian Standard AS 3798 'Guidelines on Earthworks for Commercial and Residential Developments'*.
30. No trees on the road or parks reserves shall be removed during construction of the subdivision works including the erection of hoardings and fences without Council's approval. Care must be taken to ensure that no trees are damaged either above or below ground level.

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

*The following conditions must be complied with prior to Council or an accredited Certifier issuing a Subdivision Works Certificate for the proposed development.*

31. Prior to issue of the Subdivision Works Certificate, the recommendations of the Desktop Aboriginal Heritage Due Diligence Assessment (reference 19MUD-14756) dated 20 December 2019 prepared by Eco Logical Australia shall be complied with to the satisfaction of Council. The Detailed Aboriginal Heritage Due Diligence Assessment Report with findings of the site survey (recommendations 1) shall be provided to Council with the application of the Subdivision Works Certificate Application.
32. Prior to issue of the Subdivision Works Certificate, all remediation works and recommendations identified by the Detailed Site Contamination Assessment report prepared by Barnson Pty Ltd (Reference: 33043 ER00\_A) shall be complied with to the satisfaction Council. Once remediation works are completed, a Clearance Inspection Report is to be provided to Council and submitted with the Subdivision Works Certificate Application.
33. All finished surface levels and contours to Australian Height Datum (AHD) shall be shown on the plans submitted for the Subdivision Works Certificate.
34. A Traffic Management Plan completed by a certified person for implementation during the works is to be submitted to Mid-Western Regional Council for assessment by Council's Local Traffic Committee prior to the granting of the Subdivision Works Certificate.

35. **Prior to the issue of the Subdivision Works Certificate, Council is to be provided with certified copies of the Electrical and Telecommunications Design for the subdivision including a layout design complying with the allocations determined by the *Streets Opening Conference Guideline 2009 Section 6.2*.**
36. **The fee payable for a Subdivision Works Certificate is charged on a per lot basis in accordance with Council's current Fees and Charges.**
37. **One (1) A1 size set of the Water Reticulation Plans shall accompany the Application for the Subdivision Works Certificate for examination by Council. Specific inclusions required in the drawings are provided in the Application Guidelines with a checklist to ensure all information is provided. All Drawings must be signed by Consultant engaged by the Developer.**
38. **The detailed design plans submitted with the Subdivision Works Certificate must show all finished surface levels. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.**
39. **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.**
40. **Prior to the issue of the Subdivision Works Certificate, consent from Council must be obtained for all new works within the road reserve, pursuant to section 138 of the *Roads Act 1993*.**
41. **A detailed Engineering Design, prepared and certified by a suitably qualified engineer, is to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate. The Engineering Design is to comply with Council's Development Control Plan, Guidelines and Standards referenced here within. A Subdivision Works Certificate is required for, but not limited to the following Civil Works:**
  - **Water and Sewer Extensions;**
  - **Stormwater Drainage, including Inter-allotment Drainage, Detention Basins and bio-retention Devices;**
  - **Road Construction including shoulder;**
  - **Kerb and Gutter;**
  - **Earth works for the Subdivision;**
  - **Landscaping of road verges and Public Reserves**



**NOTE: No work is permitted to commence prior to the issue of the Subdivision Works Certificate.**

42. The Applicant must provide to Council detailed design and documentation demonstrating that the proposed sewer has minimum grade requirements for sewer with a fall of no less than 1% and having no detrimental effect on flow rates and the ongoing operation of Council's existing infrastructure.
43. A modified water reticulation plan is to be submitted with the Subdivision Works Certificate Application to ensure that the site is serviced by a water reticulation main of not less than a 100mm diameter pipe along Broadhead Road and the new proposed road. For this, the pipe size along Broadhead Road must be upgraded to 100mm and is to be connected to the trunk main of 200mm ID which will be available towards the eastern side of Broadhead Road as a result of the St Matthews development. The proposed pipe of 50mm diameter along the internal road must also be amended to a 100mm diameter pipe.

**NOTE: If the 200mmID water main is not constructed by other parties by the time that this development (DA0086/2020) has progressed, then it will be the responsibility of the developer to construct the water main of 200mmID as per the current water servicing plan submitted for assessment.**

**NOTE: No tapping into the main is permitted along Bruce Road to service this development**

44. A construction management plan shall be submitted with the application for the Subdivision Works Certificate. The management plan shall include:
- Details of sedimentation and erosion control.
  - Details of haulage routes shall be provide to Council for approval.
- Note: All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.**
- Details of dust mitigation and access roads.
  - Location and phone number of the site office.

**Reason: To reduce the environmental impact on the site during the construction period.**

45. The applicant shall demonstrate that the development will not increase the limits of upstream and downstream flooding for the 1 in 1 year to 1 in 100 year Average Recurrence Interval (ARI) storm events by the inclusion of on-site stormwater detention controls. Additionally, the provision of a water quality control system to treat stormwater runoff from the development as outlined in Council's DCP water quality performance guidelines is to be provided. Supporting documentation shall be submitted with the Subdivision Works Certificate Application.
46. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details of on-site storage and the method of controlled release from the site and connection to an approved drainage system in accordance with Council's Development Engineering Specifications.

47. The detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development prepared by suitably qualified and experienced person in the field of hydrology and hydraulics including water quality modelling (MUSIC) results are to be provided and approved prior to the release of a Subdivision Works Certificate.
48. Inter-allotment drainage is to be designed to accept the concentrated drainage from buildings and paved areas on each allotment to provide for no less than flow rates generated by 1:20 year ARI storm event in accordance with BCA requirements.
49. A grated pit of 600x600 mm with glue capped 90mm stormwater stub, is to be provided on the lower corner of every allotment for which roof and paved areas cannot drain naturally to the public roadway.
50. Easements are required over Council's sewer mains crossing private property. The Developer is required to obtain all necessary easements from other land, where required. The Subdivision Works Certificate will only be released when the above requirements have been achieved. The Developer should transfer to Council any sewer easements needed for the subdivision and execute a transfer and grant of easement in favour of Council in accordance with Section 88B of the *Conveyancing Act 1919*. The minimum sewer easement width is to be 3 metres. This width may be extended depending on the size of the main, the depth of the main and when the easement is shared with other services. In the case of a shared trench involving inter-allotment drainage and sewer reticulation, the sewer line should be located on the side of the trench nearest the building being serviced.
51. All road crossing are to be constructed using Reinforced Concrete Pipe (RCP).
52. The applicant shall provide an inter-allotment drainage easement at least 1m wide as per Council standard to drain proposed Lots that do not naturally drain to the roads to provide the necessary legal right to drain through adjoining lots where necessary. Construction of the drainage line together with the necessary grated yard inlet pits shall be carried out in accordance with Council's Development Engineering Specifications - full details shall be submitted to and approved by Council prior to release of the Subdivision Works Certificate.

**NOTES:**

- *A suitable section 88B instrument creating the easement, in accordance with the requirements of the Conveyancing Act 1919, shall be submitted to Council prior to the issue of a Subdivision Certificate.*
- *Construction shall be completed prior to the issue of a Subdivision Certificate.*
- *The owner/s of each new lot being created must ensure that all building development is constructed to provide a stormwater drainage system that includes stormwater quality treatment devices and On Site Detention tanks or similar that provides for the required quantity of temporary stormwater storage as determined in the approved Stormwater Management Plan. Stormwater quality and Detention devices must be maintained at all times to the satisfaction of Council to ensure appropriate detention quantities are maintained.*

53. The Applicant shall submit a report outlining the proposal to provide a water supply service to each lot within the proposed subdivision, prior to issue of a Subdivision Works Certificate. The report is to be prepared in concurrence with the *Water Supply Code of Australia WSA 03-2011*.
54. The Applicant shall submit a report outlining the proposals to provide a Waste Water Service to each lot within the proposed subdivision. The report is to be prepared in concurrence with the *Gravity Sewer Code of Australia WSA02-2014*. Where Pressure Sewer is being proposed the report is to be prepared in concurrence with the *Pressure Code of Australia WSA 07-2007*.

#### **PRIOR TO COMMENCEMENT AND DURING CIVIL WORKS**

*The following conditions must be complied with prior to commencing and during all civil works associated with the development.*

55. The following is to be provided, prior to the commencement of any works and is to be maintained in an effective and operational condition for the duration of the work:
- a) Mid-Western Regional Council is to be given at least two days' notice of the intention to commence works.
  - b) A site supervisor is to be nominated by the applicant.
  - c) A Traffic Management Plan (TMP) completed by a "Certified Person" for implementation during the works is to be submitted to Mid-Western Regional Council prior to the commencement of works.
  - d) Erosion and Sediment Controls for the Development are to be implemented in accordance with Dwg No. 82018276-01 C2080 Rev D Soil and Water Management Layout Plan and Dwg No. 82018276-01 C2081 Rev D Soil and Water Management Notes and Details and Landcom Guidelines and requirements as outlined in the latest edition of "Soils and Construction- Managing Urban Stormwater.
  - e) Appropriate dust control measures.
  - f) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained.
  - g) 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.
  - h) Subdivision Works Certificate approval must be obtained from Council for works including but not limited to road, kerb, gutter, water and sewer works.
56. It is the responsibility of the Applicant and/or the Principal Contractor to:
- a) Provide for the overall supervision and quality of the works.
  - b) Advise Council offices regarding:
    - Any foreseeable hazard arising from the premises that has the potential to harm the health or safety of the Council officers when on the work site, and
    - The assessment of any risk that has not been eliminated, and
    - The measures taken to control any such risks, and
    - Any measures that may need to be taken by Council officers to control any such risk while on the work site.
  - c) Obey with any lawful instruction of the Principal Certifying Authorities representative.
  - d) Notify Council when a required inspection has been missed.
  - e) The provision and maintenance of all site signage as required by legislation, including but not limited to:

- A sign indicating the name and telephone number (both during and outside working hours) of the Principal Contractor, and
- The name and phone number of the Principal Certifying Authority.

57. Any soil / water retention structures are to be constructed prior to the bulk stripping of topsoil to ensure sediment from the whole site is captured.
58. All service connections should cross the road perpendicular to the road centreline.
59. Where the sewer main is located outside of the residential block, the service tie shall extend inside the property boundary and an inspection shaft extended vertically upward to the surface ground level to form the boundary riser. The tie should generally be located on the sewer main line at 1.0 metre from the lowest corner of the property and extend 1.0 metre into the boundary.
60. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
61. Construction of Broadhead Road upgrade for the full abuttal of the property and internal road are to be undertaken generally in accordance with the approved Drawings, Engineering Design and AUS-SPEC #1 & 2.
62. A Traffic Management Plan showing proposed traffic signposting around the construction site in accordance with AS 1742.3 and RMS Manual for *Traffic Control at Worksites* current at the time of construction is to be provided to Council for approval prior to any works commencing on Broadhead Road.
63. All traffic control including setup and removal of traffic control devices and/or regulation of traffic is to be carried out by suitably qualified persons. The developer/contractor must produce upon request evidence that all staff involved in the above have such accreditation.
64. All required earthworks for roads associated with the subdivision must have compaction testing in compliance with RMS Q4 and AUS-SPEC.
65. 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 or damage caused by stormwater occur on adjoining land as a result of this development.
66. The developer is to upgrade Broadhead Road, such that it will have the following characteristics:

Item	Requirement
Full Road Pavement Width	Existing pavement has to be saw cut and widened to match with existing road, up to roll over kerb and gutter, and is to be extended up to the full abuttal of the property
Nature Strip (verge)	4.5m

Concrete Footpaths	1.2 m Wide to extend the full length of Broadhead Road (2.5% slope)
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections. To be installed behind kerb

67. The developer is to provide the new road into the development, such that it will have the following characteristics:

Item	Requirement
Full Road Pavement Width	9 m (2 x 3.5m travel lanes and 2 x 1m sealed shoulders)
Cul-de-sac	Radius not less than 10m
Nature Strip (verge)	2 x 4.5m
Concrete Footpaths	1.2m Wide to extend the full length of new road (2.5% slope)
Seal	Two-coat flush seal - 14/7 mm (Double/Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections. To be installed behind kerb

68. Where footpaths are provided the roof-water outlet shall be extended under the footpath and extend past the edge of the footpath sufficient to allow connection.
69. Street signs necessitated by the subdivision are to be installed in accordance with AUS-SPEC #1 and Council standards.
70. All electrical, telecommunication, sewer and water service crossings are to be perpendicular to the road centreline and performed prior to the addition of base course and installation of kerb and gutter.
71. A turf strip of minimum 600mm width is to be laid behind the kerb and gutter. Where footpaths are provided the area between the footpath and the kerb and gutter is to be turf and 600mm provided above the footpath.

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

*The following conditions must be complied with prior to Council issuing a Subdivision Certificate for the proposed allotments.*

72. 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*
73. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.

74. The final inspection report shall be submitted to Council with the Subdivision Certificate application.
75. Prior to issue of the Subdivision Certificate, the developer shall contact Council's Property and Rating Department to ensure that the Street Addressing for each lot is correctly allocated in accordance with AS4819 and the correct addressing is included with the submitted Subdivision Certificate Application documentation.
76. Prior to the issue of a Subdivision Certificate, a survey drawing is to be submitted to Council, demonstrating that all private water services, sewer services and water meters are located wholly within the lot that they serve.
77. Prior to the issue of a Subdivision Certificate, a survey plan prepared by a registered surveyor is to be submitted to the Council, verifying the building footprint of the existing dwelling is wholly located within proposed Lot 3 and retains side setbacks of no less than 900mm.
78. Following completion of all engineering works, a defect liability bond of 5% of the value of such works shall be lodged with Council for a twelve (12) month period to ensure that any defects in such works are remedied by the developer. For the purpose of defining the Defects Liability period, the works (or the part of works in the subject stage) are considered to be "completed" when the Subdivision Certificate is registered.  
*Note: The bond may be provided by way of monetary deposit with the Council or an unconditional bank guarantee.*
79. 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.
80. The applicant will repair any damage to a public road or associated structures such as kerb & gutter, drains, footpath and utility services caused as a consequence of the development works. The work is to be completed to Council's satisfaction prior to the issue of a Subdivision Certificate.
81. The developer shall obtain a Certificate of Compliance under the *Water Management Act 2000*, from Council prior to issue of a Subdivision Certificate.  
*Note – Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.*
82. Any unpaid Contributions or charges nominated in the development consent will be indexed to CPI at the beginning of the new financial year.
83. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
  - a) A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and



- b) Satisfactory evidence that arrangements have been for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and
- c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or
- d) As an alternative to b) or c), satisfactory evidence that a carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas mapped by NBN Co as being in a designated Fixed Wireless areas, as opposed to a mapped Fibre to the Node area.

84. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authorities' standards.
85. The adjustment of existing services or installation of new services and metres, as required, in compliance with *Australian Standard 3500: National Plumbing and Drainage Code*. All costs associated with this work shall be borne by the developer.
86. The developer shall provide for a minimum 1.8 metre lapped and capped timber fence along the full southern boundary of the site (proposed Lots 1 to proposed Lot 8) adjoining Lot 2 DP 808587, prior to issue of a Subdivision Certificate.
87. At the completion of construction and prior to issue of a Subdivision Certificate, Council requires lodgement of a Quality Register in electronic format on a CD or Flash Drive with all of the QA documentation in accordance with AUS Spec and the requirements outlined below,
- A) COVERSHEET
    - Project Address
    - Client/Developer
    - DA Number
    - Lot Numbers
    - Subdivision Stage Number(If Applicable)
  - B) INDEX
    - Section Numbers
  - C) CONTRACTOR DETAILS
    - Contractor Representative
    - Contractor Contact Details
  - D) SCOPE OF WORKS
    - Enter description outlining scope of works completed
- Records to be included as applicable:*
- Material Certification and Material Test Reports(Sub base, Base course, Water, Sewer, Stormwater, Bitumen etc. for supplied materials).
  - Concrete mix Details (Concrete Register/ Concrete Test Results required).
  - Bitumen Sealing Reports/Records.
  - Earthworks/Civil Test Reports e.g. compaction tests - (Coordinates and RL required for each test required to be shown on a dwg).
  - Dimensional and Tolerance Records (Survey Conformance Reports).



- Inspection Documentation (Development Engineer Inspections, ITPs, Lot Identification).
- Non-conformance reports (Major non-conformances not detailed on council inspections).
- Work As Executed Drawings and completed Asset Data spreadsheet (Council to provide at the request of the applicant) (Provide document register of all dwgs and Engineering Stamp required in Autocad, DWG, Map Info, Excel and PDF format).
- Copy of final inspection report from Council’s Development Engineer.

88. Following the completion of subdivision works and prior to issue of a Subdivision Certificate, one set of Works As Executed Drawings in PDF format, AutoCAD compatible files in DWG format, MapInfo files (MGA GDA94 Zone 55/56) and completed Asset Data Template spreadsheets in MS Excel format, are to be submitted to Council. All Works As Executed plans shall bear the consulting engineer’s or consulting surveyor’s certification stating that all information shown in the plans are accurate.

89. In accordance with the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* and *Mid-Western Regional Contributions Plan 2019*, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of any Subdivision Certificate. Contributions are subject to increase in accordance with the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions		
<i>Mudgee Catchment (credit applied for 1 x existing lot)</i>		
	<i>Per 2 or more bed dwelling or per lot charge</i>	<i>Total Contributions (12 new lots)</i>
<i>Public Amenity or Service</i>		
Transport facilities	\$4,347.00	\$52,164.00
Recreation and Open Space	\$ 2,182.00	\$ 26,184.00
Community Facilities	\$ 635.00	\$ 7,620.00
Stormwater Management	\$ 458.00	\$ 5,496.00
Plan Administration	\$ 995.00	\$ 11,940.00
<b>Total</b>	<b>\$ 8,617.00</b>	<b>\$ 103,404.00</b>

*Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.*

*Note – Council’s Mid-Western Regional Contributions Plan 2019 is available for perusal at Council’s Administration Centre at 86 Market Street, Mudgee or on Council’s website [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au) under Council Documents/Strategies and Plans.*

**PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE**

*The following conditions must be complied with prior to Council or an accredited Certifier issuing a Construction Certificate for the proposed building/s.*

90. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act, 1993* to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
91. Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*, prior to the issue of a Construction Certificate. Note: A separate fee is payable for each Section 138 application.
92. All building work for the child care centre is to comply with the requirements of the Access to Premises Standard. Details demonstrating full compliance with the Access to Premises Standard, including continuous path of travel from the entrance to the property, are to be submitted and approved as part of any Construction Certificate.
93. Details of all retaining walls shall be shown on the plans submitted for a Construction Certificate which are limited to 600mm high, incorporate appropriate drainage measures and must be setback a minimum of 300mm from any boundary.
94. A Construction Certificate for the child care centre is not to be issued until any necessary approvals under Section 68 of the *Local Government Act 1993* to dispose of waste into a sewer of the Council (e.g. liquid trade waste) have been obtained.
95. The child care centre plans shall be amended to include all recommendations of the Acoustic Report prepared by PKA Acoustic Consulting, dated 8 January 2020. The amended plans shall be provided with the application for the Construction Certificate.
96. The design, construction and fit-out of any proposed kitchen, coolroom/s and associated structures for the child care centre must be constructed in accordance with the relevant requirements of:
  - a) *Food Act 2003*;
  - b) *Food Regulation 2015*;
  - c) *Food Standards Australia and New Zealand – Food Standards Code 2003*;
  - d) *AS 4674-2004 for Design, Construction and Fit out of Food Premises*;
  - e) *AS 1668.2-2012 – The use of ventilation and air conditioning in buildings*; and
  - f) *The Building Code of Australia*.

Full details are to be submitted for approval to the Certifier (i.e. Council or a private Certifier) prior to the issue of a Construction Certificate.

The information that will need to be submitted, includes, but is not limited to, the location of hand-basins, wash-up sinks, any exhaust hoods, floor finishes, wall finishes and ceiling finishes.

97. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$25,000 or more.

*Note - The amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.*

**Note – Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction Certificate is to be issued by a Private Certifier, the long service levy must be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.**

98. In accordance with the provisions of Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Contributions Plan 2019*, a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of local infrastructure, prior to issue of a Construction Certificate for the Child Care Centre.

The value of works is to be calculated in accordance with Section 2.9.3 and the procedure outlined in Section 4.3 of the Contributions Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the levy amount following submission of the documents.

**Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.**

**Note – Mid-Western Regional Contributions Plan 2019 is available for perusal at Council’s Administration Centre at 86 Market Street, Mudgee or on Council’s website [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au) under Council Documents/Strategies and Plans.**

99. In accordance with the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* and *Mid-Western Regional Contributions Plan 2019*, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of any Construction Certificate for the dual occupancy or multi-dwelling housing development. Contributions are subject to increase in accordance the consumer price index and are payable at the rate applicable at the time of payment.

<b>Section 7.11 Contributions</b>		
<b>Mudgee Catchment</b> <i>(credit applied for 5 x lots created under the subdivision approved for Dual Occupancy and Multi-Dwelling Housing of 9 new units)</i>		
	<i>Per 2 or more bed dwelling or per lot charge</i>	<i>Total Contributions (12 additional dwellings)</i>
<b>Public Amenity or Service</b>		
Transport facilities	\$4,347.00	\$52,164.00
Recreation and Open Space	\$2,182.00	\$ 26,184.00
Community Facilities	\$635.00	\$ 7,620.00
Stormwater Management	\$458.00	\$ 5,496.00
Plan Administration	\$995.00	\$ 11,940.00
<b>Total</b>	<b>\$8,617.00</b>	<b>\$ 103,404.00</b>

**Note – This condition does not apply to any single dwelling-house constructed on lots 2, 4, 5, 6, 7 or 8. This condition only applies to the dual occupancy (attached) and multi-dwelling housing development.**

**Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.**

**Note – Council’s Mid-Western Regional Contributions Plan 2019 is available for perusal at Council’s Administration Centre at 86 Market Street, Mudgee or on Council’s website [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au) under Council Documents/Strategies and Plans.**

100. If the Construction Certificate is not issued, for any reason whatsoever, within twelve (12) months of the date of determination, then the charges and contributions contained in this consent, will be increased to the current rate at the time of payment.

**PRIOR TO THE COMMENCEMENT OF WORKS (BUILDING)**

*The following conditions must be complied with prior to commencing building work.*

101. 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.

102. The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.
103. 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.**
104. With the exception of work where there is in force an exemption under clause 187 and 188 of the *Environmental Planning and Assessment Act 1979* all building work that involves residential building work for which the *Home Building Act* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force.
105. Prior to the commencement of 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 Mid-Western Regional Council.
106. Prior to the commencement of works, erosion and sediment controls are to be installed in accordance with the approved Erosion and Sediment Control Plan for the development.
107. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is carried out:
- a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;

- c) the name, address and telephone number of the principal certifying authority for the work; and
- d) The sign shall be removed when the erection or demolition of the building has been completed.

108. Prior to the commencement of works on site, the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property.

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

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

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

#### **DURING CONSTRUCTION**

*The following conditions must be complied with during building works.*

- 110. The building is to be set out by a registered surveyor in the position approved by Council. A copy of the survey report indicating the position of the building as approved, and wholly contained within the subject lot, is to be submitted to the Principal Certifier prior to pouring concrete for the footings or floor slab.
- 111. All building, earth and pavement works must be carried out in accordance with the provisions of the *National Construction Code*, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
- 112. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the *Plumbing Code of Australia*.
- 113. The applicant's 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.
- 114. All mandatory inspections required by the *Environmental Planning & Assessment Act* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
- 115. Construction work noise that is audible at other premises is to be restricted to the following times:
  - Monday to Saturday - 7.00am to 5.00pmNo construction work noise is permitted on Sundays or Public Holidays.
- 116. Structural members subject to attack by subterranean termites shall be protected by one of the methods outlined in *AS 3660.1* and a durable notice must be permanently fixed to the building in a prominent location, such as a meter box or the like, indicating:
  - a) the method of protection; and
  - b) the date of installation of the system; and

- c) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - d) the need to maintain and inspect the system on a regular basis.
117. The strength of the concrete used for the reinforced concrete floor slab must be a minimum 25Mpa.
118. 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*.
119. 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.
120. Within three (3) months after the completion of construction all exposed surfaces caused by earthworks must be stabilised using established engineering methods and landscaping/planting to prevent erosion and scouring.
121. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's/Demolisher's expense.
122. No trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction of the approved development, including the erection of any fences or hoardings.
123. The requirements of the BASIX Certificates issued on 23 March 2021 to support the development must be installed and/or completed in accordance with the commitments contained in that certificate. Any alteration to those commitments will require the submission of an amended BASIX Certificate to the Council and/or the Principal Certifying Authority prior to the commencement of the alteration/s.
124. All building work is to comply with the requirements of the Access to Premises Standard, where relevant.
125. The list of measures contained in the schedule attached to the Construction Certificate for the childcare centre 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*.
126. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.



127. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a 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*.
128. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided in accordance with the approved plans. These should be constructed in accordance with Aus-Spec #1, Council's "Access to Properties" Policy and any approval issued in accordance with Section 138 of the *Roads Act 1993*.
- Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Operations Directorate between 8.00am 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.
129. A minimum of fifteen (15) car parking spaces, including one (1) accessible parking space are to be provided within the site of the child care centre and comply with AS 2890.1:2004 and AS2890.6:2009 and the following requirements:
- a) All vehicles must be provided adequate means to exit the lot in a forward direction.
  - b) Each car parking space is to have minimum dimensions of 5.4m x 2.6m;
  - c) Each disabled car parking space is to be in accordance with the provisions of AS 2890.6:2009;
  - d) All car parking spaces, accesses and vehicle manoeuvring areas are to be line-marked and sealed with bitumen or concrete, and must be maintained in a satisfactory condition at all times;
  - e) The aisle widths, internal circulation, ramp widths and grades of the car park are to conform to the *Roads and Traffic Authority Guide to Traffic Generating Developments 1992* and Australian Standard AS2890.1 – 2004.
130. Any soil/water retention structures are to be constructed prior to the bulk stripping of topsoil, to ensure sediment from the whole site is captured.
131. Council does not permit other bodies to insert new junctions into "live" Sewer and water mains. Please contact Council's Operations Water and Waste Department by calling 02 6378 2850 or by emailing [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au) to obtain a quote for the connection of the new sewer extension and water service (Private Works Order).
132. The developer is to extend and meet the full cost of water reticulations to service the development plus the cost of connecting to existing services. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the *National Specification – Water Supply Code of Australia*.
133. The developer is to extend and meet the full cost of sewer reticulations to service the development plus the cost of connecting to existing services. All sewerage work is



required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act, 1993*) and in accordance with the *National Specification – Sewerage Code of Australia*.

134. All stormwater is to discharge a minimum 3m from the building and disposed of in such a way as to not adversely affect the adjoining properties.
135. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission. Driveways installed over public footpaths must match the existing footpath profile.

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

*The following conditions are to be completed prior to occupation of the building and are provided to ensure that the development is consistent with the provisions of the Building Code of Australia and the relevant development consent.*

136. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
137. Prior to the issue of an Occupation Certificate, the following works in relation to access, car parking and associated manoeuvring areas are to be completed:
  - a) Internal car parking spaces and associated manoeuvring areas are to be provided with a bitumen or concrete surface.
  - b) The car parking area must be set out and clearly delineated in accordance with the requirements of *AS 2890.1:2004 Parking Facilities Part 1: Off-street Car Parking*.
  - c) Physical measures, such as wheel stops, shall be provided to ensure parked vehicles do not overhang and obstruct internal footpaths, where required.
138. Prior to occupation or the issue of the Occupation Certificate the owner of the child care building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
139. Prior to the issue of an Occupation Certificate, for any buildings on site, the building is to be connected to reticulated water supply, stormwater and sewerage in accordance with the relevant section 68 approval/s.
140. Prior to issue of an Occupation Certificate, an Emergency and Evacuation Plan for the Child Care Centre shall be prepared and submitted to the Principal Certifying Authority. A copy of the Plan shall be kept within the premise at all times.
141. All plants shown on the approved landscape plan/s are to be planted and all hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed prior to occupation of the development and/or commencement of the use.

142. The recommendations of the Acoustic Report prepared by PKA Acoustic Consulting, dated 8 January 2020 shall be complied with for the child care centre development, prior to issue of an Occupation Certificate.
143. Prior to use of the development and/or issue of an Occupation Certificate, all retaining walls and associated drainage shall be installed and completed.
144. Following completion of the civil works (including water and sewer connections to the property) and prior to the issue of an Occupation Certificate, work-as-executed plans (WAE) are to be provided to Council in the following formats:
  - a) PDF
  - b) Dwg format or "Autocad compatible"
  - c) MapInfo Files

To accompany the WAE Drawings, Council also requires the completion of Asset Data Excel Spreadsheets (to be provided by Council) prior to the issue of an Occupation Certificate. 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.

145. The developer is to ensure that any defects in the works that become apparent before and within the succeeding twelve (12) months after the issue of the Occupation Certificate, are remedied to Council's satisfaction. If these defects are not satisfactorily remedied, Council may use bond money to carry out rectification works.

Any unspent bond money will be returned to the developer at the end of the twelve (12) month period, less the cost of any rectification works carried out by Council.

146. Prior to use of the development and/or issue of an Occupation Certificate, certification from an appropriately qualified person verifying the site has been fully remediated in accordance with the recommendations of the Remedial Action Plan / Site Validation Report shall be completed and submitted to Council within 30 days of the completion of the remedial works.
147. Prior to use of the development and/or issue of an Occupation Certificate, all requirements of BASIX Certificates issued on 23 March 2021 to support the development, and the associated plans and specifications approved as part of the Construction Certificate, shall be completed in full.

In the case where a Private Certifier is issuing the Occupation Certificate, the Private Certifier must provide Council with a copy of a BASIX Completion Receipt, prior to issuing the Occupation Certificate. The BASIX Completion Receipt is to be obtained in accordance with the requirements of Clause 154C of the *Environmental Planning and Assessment Regulation 2000*.

148. Roof water from the development shall be conducted to the water storage tanks in accordance with the BASIX requirements. Any additional roof water, and overflow from the water storage tank, shall be conducted to the street gutter by means of a sealed pipeline having a minimum diameter of 90mm, prior to use of the development and/or issue of an Occupation Certificate.
149. A 1.8 metre high screen fence is to be provided between the private open space areas of the dwellings, prior to occupation of the development.

150. Outdoor drying facilities and letterboxes are to be provided for each dwelling / unit prior to occupation.

#### **OPERATIONAL CONDITIONS**

*The following conditions are to be complied with for the ongoing operation and life of the development.*

151. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the child care centre building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement Certifying that each specified fire safety measure is capable of performing to its specification.
152. Where any essential services are installed in the child care centre building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
153. The hours of operation of the child care centre are limited to the following:
- a) 7am to 6pm, Monday to Friday only.
154. All vehicles are required to enter and leave the child care centre site in a forward direction at all times. Signage to this effect is to be appropriately located within the site. Signage identifying the driveway and car park as low speed environments is also to be appropriately located within the site.
155. 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"*.
156. The pavement surface and wheel stops for the child care centre 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.
157. All line-marking for the child care centre on-site car parking spaces and footpath areas are to be maintained in a visible condition, at all times.
158. All loading and unloading in connection with the child care centre shall be carried out wholly within the site. This condition does not apply to garbage collection.
159. 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.
160. Garbage areas are to be adequately screened from public view with an opaque fence and/or adequate landscaping.
161. The development is to be maintained in a clean and tidy manner, at all times.
162. Landscaping is to be maintained in accordance with the approved landscape plan.

163. The child care centre 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.

#### ESSENTIAL ENERGY ADVISORY NOTES

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. As part of the subdivision, easement/s are to be created for any existing or new electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).
3. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
4. A Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is required to be issued by Essential Energy and provided to Council with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions and if required, new designated electrical infrastructure, such as a padmount substation. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works team for requirements. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will also require Essential Energy's approval.
5. Any proposed landscaping in the vicinity of any existing or new electrical infrastructure must comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
6. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all proposed dwellings in accordance with the NSW Service and Installation Rules.
7. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
8. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
9. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

#### COUNCIL ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of a Subdivision Certificate.

A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the *Water Management Act 2000*.

Please be advised that as a precondition to the granting of a Compliance Certificate, the following is to occur:

- a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable);

Section 64 Contributions		
	<i>Total ET Values</i>	<i>Total Contributions</i>
Water Headworks	19.87	\$172,685.19
Sewer Headworks	23.87	\$94,692.29
<b>Total Headworks Payable</b>		<b>\$267,377.48</b>

*Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year.*

2. 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".
3. 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.
4. Sections 8.2, 8.3, 8.4 and 8.5 of the *Environmental Planning and Assessment Act 1979* 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.
5. If you are dissatisfied with this decision sections 8.7 and 8.10 of the *Environmental Planning and Assessment 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.
6. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the *Environmental Planning and Assessment Act 1979*.
7. The development is to operate so as to not emit offensive noise, as defined in the *Protection of the Environment Operations Act 1997*. For the purposes of the approved development, Project Specific Noise Criteria are contained in the *DA Acoustic Report – 50 Broadhead Road, Mudgee – ID: 11705 R01v1*, prepared by PKA Acoustic Consulting and dated 8 January 2020.
8. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.
9. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in



agreement prior to the erection of any approved dividing fence/s under this consent. Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

## STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. The proposed development satisfactorily addresses the issues raised in objections received in response to public notification of the development, as follows:
  - a) The traffic and parking impacts of the development are acceptable.
  - b) Vehicle access into and out of the site will be satisfactory.
  - c) Sufficient detail has been provided to enable an assessment of the application.
  - d) The proposed development will not have an adverse aesthetic impact on the locality, subject to conditions.
  - e) The proposal is required to provide boundary fencing at the full cost of the developer, including along the southern boundary to reduce potential impacts associated with the development.
  - f) The proposed development will not have an adverse noise impact, subject to conditions.
  - g) The proposed development will not have an adverse social or economic impact.
  - h) The proposed development is suitable for the site.

## Executive summary

OWNER/S	VA Holdings Pty Ltd
APPLICANT:	Mr James Alexander-Hatziplis
PROPERTY DESCRIPTION	Lot 1 in DP 808587 50 Broadhead Road, Mudgee
PROPOSED DEVELOPMENT	Subdivision of Land, Residential Development and Child Care Centre
ESTIMATED COST OF DEVELOPMENT:	\$8.68 Million
REASON FOR REPORTING TO COUNCIL:	Development value exceeds \$2 Million
PUBLIC SUBMISSIONS:	Three (3) submissions received

Council is in receipt of Development Application DA0086/2020 that seeks approval for the Subdivision of Land (Torrens Title - 1 into 13 Lots), 4 x Dual Occupancies, 6 x new single Dwelling-houses, 9 unit Multi-Dwelling housing development, retention of the existing dwelling-house, new Childcare Centre and associated works, to be located at 50 Broadhead Road MUDGEES NSW 2850, Lot 1 DP 808587, received by Council on 4 October 2019.

Upon receiving the application, Council requested further information relating to a number of concerns with the proposed development. The most recent amended plans and documentation were provided to Council on the 25 March and 1 April 2021 in response to Council's concerns.

The application was first advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 18 October 2019. During the first notification period, three (3) submissions were received.

Upon submission of the amended development plans, the application was re-notified for a period of 14 days, ending 27 May 2021. During the second notification period, one (1) submission was received.

The proposed development has been assessed in accordance with the Mid-Western Regional Development Control Plan 2013 (DCP) and the Mid-Western Regional Local Environmental Plan 2012 (LEP). The proposed development is considered generally consistent with Council's planning controls.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that the value of the application exceeds \$2 million. The current estimated value of the development submitted is approximately \$8.68 Million.

The application is recommended for Approval.

## Disclosure of Interest

Nil.

## Detailed report

### *SUBJECT SITE*

The site is located at 50 Broadhead Road, Mudgee, legally described as Lot 1 in DP808587. The site is located on the western side of Broadhead Road and to the south of the existing residential development known as Yallambee Estate, approximately three kilometres from the Mudgee CBD. Refer to Figure 1 below.

The site is an irregular shaped allotment with a primary frontage of 100 metres to Broadhead Road and has a total area of 1.628 Hectares. The site previously contained a retail nursery and landscaping business known as 'Living Earth Supplies', approved by Council under DA27/92 in March 1992. The site also contains an existing dwelling house, associated outbuildings, scattered vegetation throughout the land along with a number of stockpiles of building materials and rubble.

Also surrounding the subject site, the State Significant Development of St Matthews Catholic School (SSD-9872) has been approved by the NSW Department of Planning Industry and Environment on Lot 40 in DP756894. Access to the St Matthews development is approved from Bruce Road, with upgrades to both Bruce Road and Broadhead Road (including along the frontage of the subject site) being required. The school proposes to accommodate years 7 to 12, and up to 680 students.





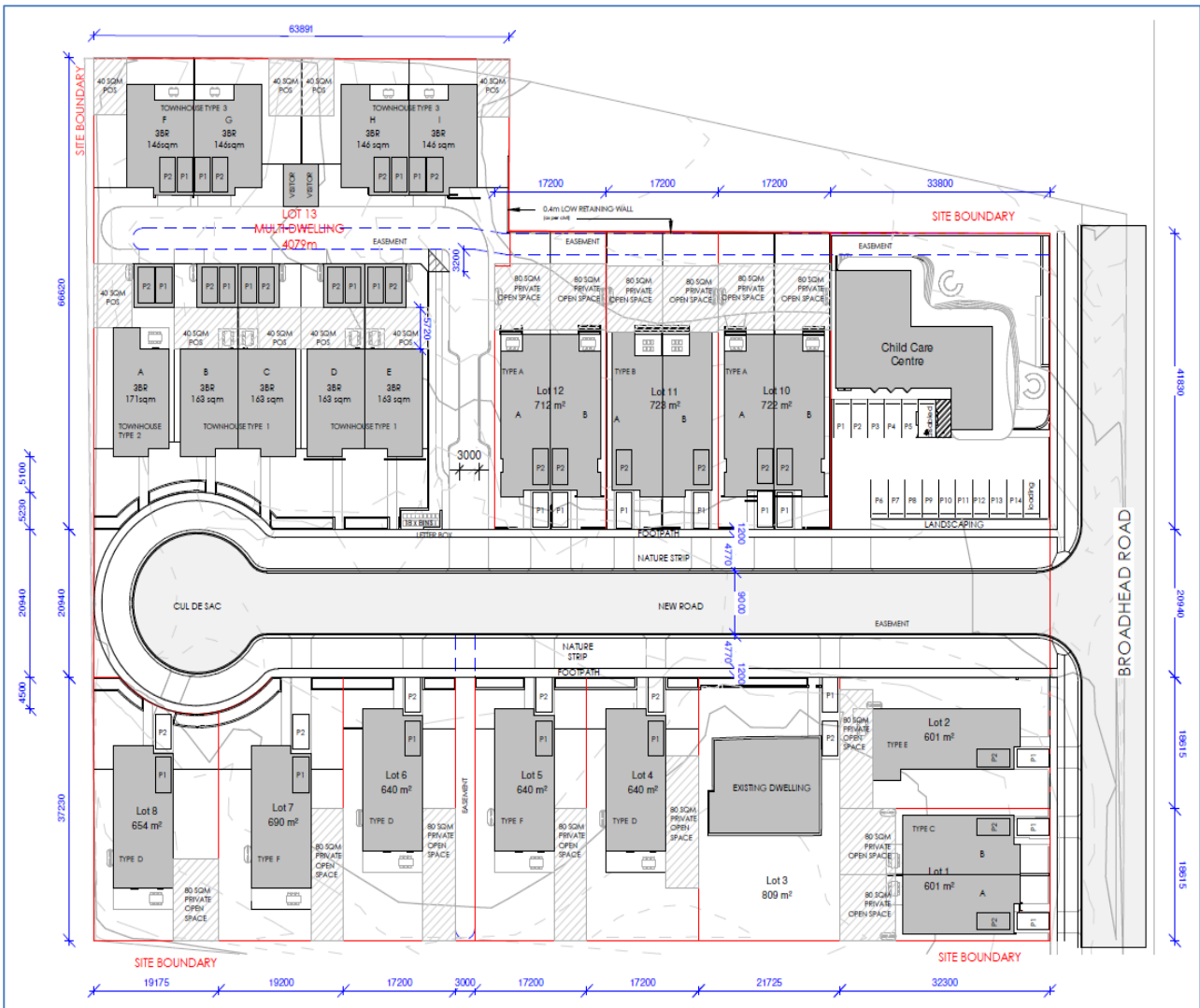


Figure 2: Proposed Site Layout

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regs).

Integrated Development

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

SECTION 4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

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

4.15(1)(a) Requirements of Regulations and Policies

- (i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?

### **State Environmental Planning Policy No 55 – Remediation of Land**

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. The development application has addressed contamination on-site with the provision of a stage 2 detailed site contamination assessment prepared by Barnson Pty Ltd.

The assessment and soil testing undertaken over the site on the 21 April 2020 concluded the following:

- *Activities associated with the use of the Subject Site as landscaping and plant supply business were identified as having a potential to contaminate surface soil at the site.*
- *The following potential sources of contamination were identified:*
  - *Historical storage and handling of landscape materials.*
  - *The use and allowance of client vehicles onto the site.*
  - *Greenhouse area used for the storage of seedlings and plants.*
  - *Drainage ditch and on-site dam area.*
  - *Storage of demolition waste.*
- *A review of the available historical information, including contaminated sites databases and aerial photographs indicated a low potential for significant environmental contamination to be present across the site.*
- *A site investigation and confirmatory sampling conducted to determine the presence and significance of potential contamination associated with the identified sources, revealed that none of the contaminants investigated are present above risk-based criteria in the surface soils of the Subject Site.*
- *The screening criteria used in the evaluation of the contaminant concentrations were appropriately conservative and suitable for assessment of both the proposed residential and childcare facility land use.*
- *Although numerous fragments of asbestos containing material (ACM) were observed on the surface of the subject site, the asbestos fibres contained within the ACM are stable and are not considered to represent a risk to human health. However, the ACM will have to be removed before commencement of any further works at the site in order to prevent further erosion or breakage of the ACM and dispersion of the asbestos fibres.*
- *The source of ACM is not expected to be associated with previous activities at the site but rather more recent illegal or accidental contamination in building rubble imported to the site. The fragments of ACM are believed to be confined to the areas where it was identified on the surface of the site and is not expected to represent a contaminant introduced into the in-situ surface soils or to be present in soil (fill) stockpiles brought onto the Subject Site.*
- *Based on the findings of the desktop review and site investigation it is concluded that the subject site is suitable for the proposed construction and further development as there are no contaminants present at the site which are likely to present a risk of impact to the health of humans or the environment from the proposed activities.*

Based on the above, the following recommendations were made:

- *The asbestos containing material (ACM) at each of the six locations identified requires remediation. The ACM fragments observed are in good condition and the classification of the asbestos material is non-friable. It is recommended that the fragments of ACM be collected, wrapped and transported to a landfill, licensed to accept the waste, for disposal. The remediation can be undertaken by either a competent person or a licensed asbestos removalist (holding either a Class A or B license).*

- *Clearance inspection of the asbestos removal area must be undertaken following completion of removal work. The clearance inspection is to be carried out by a licensed, independent, asbestos assessor. A clearance certificate must be obtained from the asbestos assessor.*
- *Notification to SafeWork of the asbestos removal works is not required as the ACM is expected to be less than 10m<sup>2</sup>.*
- *Tracking of the collected ACM will be required. Transport of asbestos waste is regulated under EPA legislation. Disposal sites are regulated by the NSW EPA and local government regulations. Each load of asbestos waste must be tracked to the landfill facility using the EPA WasteLocate application.*
- *A Construction Environmental Management Plan (CEMP) must be prepared, prior to further demolition or construction works being started. The purpose of the CEMP is for the management of excavated soils and should include procedures for the management of sediment and erosion.*
- *It is recommended that the CEMP include an unexpected finds procedure to assist construction site managers or workers in the management of any further ACM possibly uncovered during earthworks at the site.*

Subject to remediation being undertaken in accordance with the recommendations of the report, the site is considered suitable for the proposed residential use as required by SEPP 55. Conditions have been recommended accordingly.

#### **STATE ENVIRONMENTAL PLANNING POLICY NO 64—ADVERTISING AND SIGNAGE**

The application does not propose any supporting signage at this time and therefore a separate application may be submitted for any future signage on the subject site that is not identified as exempt development. A condition has been recommended accordingly.

#### **STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2021**

SEPP (Koala Habitat Protection) applies to the proposal as Mid-Western Regional Council is listed within Schedule 1 of the SEPP and the area of land associated with the proposal is greater than 1 hectare in size.

The proposal involves the removal of existing vegetation on the subject site. However, the land is not identified as core koala habitat nor is the vegetation proposed to be removed listed within Schedule 2 of the SEPP. Therefore no further consideration is warranted.

#### **STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017**

The Education and Child Care Facilities SEPP aims to simplify and standardise the approval process for child care centres, schools, TAFEs and universities while minimising impacts on surrounding areas and improving the quality of the facilities. The SEPP includes planning rules for where these developments can be built, which development standards can apply and construction requirements. The application has been assessed against the relevant provisions of the SEPP.

The following clauses of the SEPP have been assessed as being relevant and are matters for consideration in the assessment of the Development Application:

<b>Requirement</b>	<b>Compliance</b>
<p><u>5. Definitions</u>  <i>Centre-based child care</i> means a building or place used for the education and care of children that provides for any or more of the following:</p> <p>(a) Long day care,            (b) Occasional child care,</p>	<p>Complies.</p>



<p>(c) Out-of-school-hours care (including vacation care),                  (d) Preschool care,                  (e) An approved family day care venue (within the meaning of the <i>Children (Education and Care Services) National Law (NSW)</i>) ... (remainder of definition not relevant).</p>	
<p><u>22. Centre-based child care facility—concurrence of Regulatory Authority required for certain development</u>                  This clause applies to development for the purpose of a centre-based child care facility if—</p> <p>(a) <i>the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</i>                  (b) <i>the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</i></p> <p><i>-regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations requires a minimum indoor space of 3.25 square metres per child.</i>  <i>- regulation 108 (outdoor unencumbered space requirements) requires a minimum outdoor space of 7 square metres space per child.</i></p>	<p>The proposal complies therefore separate no concurrence is required.</p>
<p><u>23. Centre-based child care – matters for consideration by consent authorities</u>                  This clause requires Council to consider any applicable provisions of the Child Care Centre Planning Guideline in the assessment of the application.</p>	<p>Refer to the Child Care Centre Planning Guideline in the assessment below.</p>
<p><u>25. Centre-based child care – non-discretionary development standards</u>                  This clause prevents Council from requiring more onerous standards for the following matters:</p> <p>(a) Location – the development may be located at any distance from an existing or proposed early childhood education and care facility.                  (b) Indoor and outdoor space – the proposed development complies with</p>	<p>The SEPP and associated Guideline have the effect of limiting Council's ability to control development for Centre-based Child Care Facilities – other than on the basis of height, rear and side boundary setbacks.</p>

<p>the unencumbered indoor space and useable outdoor play space requirements.</p> <p>(c) Site area and site dimensions – the development may be located on a site of any size, and have any length of street frontage or allotment depth.</p> <p>(d) Colour of building materials or shade structures – the proposed development may be any colour.</p>	
<p><u>26. Centre-based child care facility – development control plans</u></p>	<p>Although this clause is not applicable as Council’s DCP does not include the mentioned controls - it is considered pertinent that where Council has a DCP that specifies operational management plans or arrangements (e.g. hours of operation), a requirement to demonstrate need for a child care centre, restrictions on the proximity of a proposed centre to other child care centres – such controls may not be applied to the assessment of a Centre-based child care facility.</p>

### Child Care Planning Guideline (Guideline)

The Guideline accompanies the SEPP and provides a set of detailed requirements that Child Care Centres are to be considered against. The Guideline provides a consistent State wide planning and design framework for preparing and considering development applications for Centre-based Child Care Facilities.

The consent authority is required to consider the following matters in the assessment. The following indicates the proposal’s conformity with the requirements applicable to the proposal.

Requirement	Compliance
<b>PART 1 – DESIGN QUALITY PRINCIPLES</b>	
<p>Principle 1 – Context</p> <p>Principle 2 - Built Form</p> <p>Principle 3 – Adaptive Learning Spaces</p> <p>Principle 4 – Sustainability</p> <p>Principle 5 – Landscape</p> <p>Principle 6 – Amenity</p> <p>Principle 7 – Safety</p>	<p>The design of the Child Care Centre is suitable for the existing context. Refer to “(e) The likely impacts of development – 4.15(1)(b)” of this report for further detail.</p> <p>The proposed built form is articulated and is a suitable built form for the site.</p> <p>A variety of learning spaces has been provided in the proposed design.</p> <p>The proposed design takes advantage of natural light and ventilation. Deep soil zones are provided for landscaping.</p> <p>Landscape areas have been shown on the Site Plan.</p> <p>The proposed design is considered to address the amenity requirements of the users and neighbours. The design of the development addresses the amenity impacts by being single</p>

	<p>storey, providing appropriate setbacks, minimising overshadowing, and providing an acoustic fence to attenuate noise. Landscaping will be provided to assist the development to fit into the neighbourhood.</p> <p>The proposed design generally satisfies this principle and incorporates Crime Prevention Through Environmental Design (CPTED) principles.</p>
<p><b>PART 3 – MATTERS FOR CONSIDERATION</b>  <b>The below matters must be considered by a consent authority when assessing a development application for a centre-based child care facility.</b></p>	
<p><u>3.1 Site Selection and location</u></p>	<p>This section includes a number of requirements in relation to siting child care centres, including but not limited to, ensuring that centres are located within reasonable distance to schools and not located near incompatible uses such as restricted premises. It is considered the proposed development complies with these requirements of the Guideline.</p>
<p><u>3.2 Local character, streetscape and public domain interface</u></p>	<p>This section includes a number of requirements related to ensuring that the proposed centre fits into the streetscape. The main ways that the design addresses these requirements is by: providing a landscape strip along the frontage, providing articulation of walls and materials in the building elevations and locating the car park behind the front boundary landscaping.</p>
<p><u>3.3 Building orientation, envelope and design</u></p>	<p>This section includes a number of requirements related to the form of the building on site. The main ways the proposal complies with these requirements is by: stepping the building down the slope of the site, locating the main play area towards the centre/south of the site, providing a front boundary building setback that is greater than the setback on the adjoining property.</p>
<p><u>3.4 Landscaping</u></p>	<p>The proposed development provides sufficient deep soil areas on site to accommodate landscaping with a landscaping plan submitted with the application.</p>
<p><u>3.5 Visual and acoustic privacy</u></p>	<p>The proposed development complies with the visual privacy requirements including the incorporation of acoustic fencing at 2.2m high and landscaping of the site. Visual privacy of neighbours to the north and south is maintained by the single storey development having ground level windows only and solid screen fencing along the boundary.</p> <p>An acoustic assessment report has been submitted to address the acoustic privacy/noise impacts of the development, which recommends that acoustic fencing be erected around outdoor</p>



	play areas. This acoustic report is discussed in further detail in another section of this report.
<u>3.6 Noise and air pollution</u>	These requirements focus on the impacts of external uses on the centre.
<u>3.7 Hours of operation</u>	The proposed development complies with the hours of operation stipulated in these requirements. A condition is applied to ensure compliance.
<u>3.8 Traffic, parking and pedestrian circulation</u>	The proposed development complies with the parking rate of 1:4 children stipulated in these requirements. This parking rate matches the parking rate contained in Council's Development Control Plan.  The proposed internal pedestrian paths comply with the requirements of this section.
<b>PART 4 – APPLYING THE NATIONAL REGULATIONS TO DEVELOPMENT PROPOSALS</b> <b>This part details the requirements for internal and external physical environment matters, references related construction standards and gives guidance on how the regulations and National Quality Framework Assessment can be met.</b>	
<u>4.1 Indoor space requirements</u>	This section of the Guideline provides requirements for various components of indoor space as a ratio of the number of children. The main child care building, accommodating 52 children, provides the required amount of unencumbered indoor space and internal storage space.
<u>4.2 Laundry and hygiene facilities</u>	Laundry room is proposed in the building.
<u>4.3 Toilet and hygiene facilities</u>	The proposed toilets appear to comply with the requirements and will be required to comply with the requirements for sanitary facilities at Construction Certificate stage. Conditions are imposed to address the detailed requirements in this section.
<u>4.4 Ventilation and natural light</u>	The proposed building complies with the requirements for the amount of window area to provide natural light.
<u>4.5 Administration space</u>	The development provides for administration space addressing the requirements of the Guideline.
<u>4.6 Nappy change facilities</u>	Nappy change facilities comply with these requirements.
<u>4.7 Premises designed to facilitate supervision</u>	The proposal generally complies with these requirements as windows to amenities will be located away from the view of the visitors/public. In addition, room layouts do not provide for hidden corners.
<u>4.8 Emergency and evacuation procedures</u>	The layout of the child care centre lends itself to evacuation into a number of outdoor areas. A condition is applied requiring the submission and approval of an Emergency and Evacuation Plan, prior to the issue of an Occupation Certificate.

<u>4.9 Outdoor space requirements</u>	The proposed development provides the minimum area of unencumbered outdoor space for the facility.
<u>4.10 Natural environment</u>	The external play area, landscape and site plan shows a variety of ground surface treatments being used outdoors.
<u>4.11 Shade</u>	The proposal seeks to provide shade shelters within the outdoor play area achieving compliance with this requirement.
<u>4.12 Fencing</u>	This section provides detailed requirements for fencing, such as removing climbing elements.
<u>4.13 Soil Assessment</u>	The subject site has historically been used for residential and horticultural purposes. A site contamination assessment has found that small fragments of asbestos were located on the site. A condition is applied to require the recommendations of the contamination assessment be completed (including remediation of the land) prior to the issue of a Subdivision Works Certificate.

**State Environmental Planning Policy (Building Sustainability index: BASIX) 2004**

The proposal involves development that requires the issue of a BASIX certificate. The applicant has provided the relevant BASIX certificates and a condition of consent has been included ensuring that the commitments be met as listed in the certificate.

**State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

Pursuant to section 104 of the Infrastructure SEPP, the development does not achieve the relevant size or capacity whereby referral to Transport for NSW is required.

However, the proposal seeks to alter the electricity connection arrangements to service the development. In accordance with section 45 of the Infrastructure SEPP, the development was referred to Essential Energy, who did not object to the development. Conditions have been provided in this respect, and incorporated into the recommended conditions of consent.

Council is satisfied that the proposed development meets the requirements of the Infrastructure SEPP.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

This SEPP does not apply to the removal of vegetation that is ancillary to the development for which development consent is required under Part 4 of the *Environmental Planning and Assessment Act 1979*. No further consideration is therefore necessary.

**State Environmental Planning Policy (State and Regional Development) 2011**

The propose development does not trigger the requirements of State or Regional Development, specifically the proposed childcare centre has a value of work that is less than \$10 Million.

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

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

**Clause 1.2 Aims of Plan**

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

**Clause 1.4 Definitions**

The proposal is defined in accordance with the MWRLEP 2012 and Part 6.2 of the *Environmental Planning and Assessment Act 1979* as follows:

1. **Subdivision of land** means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected—
  - (a) by conveyance, transfer or partition, or
  - (b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.
  
2. **Centre-based child care facility** means—
  - (a) a building or place used for the education and care of children that provides any one or more of the following—
    - (i) long day care,
    - (ii) occasional child care,
    - (iii) out-of-school-hours care (including vacation care),
    - (iv) preschool care, or
  - (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note— An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.
  
3. **Dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
  
4. **Dwelling house** means a building containing only one dwelling.
  
5. **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.

**Clause 2.2 Zoning of Land to Which Plan Applies**

The land is zoned R1 General Residential and is therefore subject to the Plan.

**Clause 2.3 Zone objectives and Land Use table**

The land is zoned R1 General Residential pursuant to MWRLEP 2012. The proposal is permissible with consent in the zone and complies with the relevant objectives.

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

**R1 General Residential**

1. To provide for the housing needs of the community.

**Comment** The proposal will contribute to the housing needs of the community.

2. To provide for a variety of housing types and densities.

**Comment** The proposal will contribute to the variety of housing types and densities within the R1 zone.

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

**Comment** The proposal is not expected to hinder other possible permissible land uses within the immediate area and the development will also enable a complimentary child care centre to be established to support the proposed and existing residential area.

#### **Clause 2.6 Subdivision – consent requirements**

As the proposal involves subdivision this will also require development consent as discussed throughout the report.

#### **Clause 2.7 Demolition requires development consent**

In satisfaction of this clause, the development application seeks approval for the demolition of outbuildings and removal of infrastructure associated with the former landscaping business. Conditions have been recommended to ensure wastes are disposed at a licenced waste facility.

#### **Clause 4.1 Minimum subdivision lot size**

The proposed subdivision generally meets the objectives of the clause as the proposal will promote further suitable land uses that can be accommodated on the site whilst complying with all relevant planning controls.

The proposed lots have a minimum area of 601m<sup>2</sup>, ranging up to 4,079m<sup>2</sup>. The minimum lot size pursuant to the mapping is 600m<sup>2</sup>.

Accordingly, the proposal complies with the development standard.

#### **Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings**

This clause applies as the land is zoned R1.

The four (4) *dual occupancies (attached)* are each proposed on a lot equal to or greater than 600m<sup>2</sup> (proposed over Lots 1, 10, 11 and 12). Accordingly, the proposal complies with this development standard.

The *multi dwelling housing* development is proposed on a site equal to or greater than 1200m<sup>2</sup> (proposed over Lot 13 which is to be 4,073m<sup>2</sup>). Accordingly, the proposal complies with this development standard.

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

This clause applies as the land is zoned R1. The proposed dual occupancies (attached) and multi-dwelling housing development are not proposed to be further subdivided under this clause under the current application submitted. Therefore, no further consideration is necessary.

#### **Clause 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 as single storey developments with the development plans demonstrating all buildings will be less than 8.5 metres and therefore complies.

#### **Clause 5.4 Controls relating to miscellaneous permissible uses**

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

**Clause 5.10 Heritage Conservation**

No items of aboriginal significance or a heritage item are recorded on the site. The nearest site is located within the adjoining residential estate to the west of the subject land.

A desktop due diligence assessment has been provided with the application and recommends further site surveys to be undertaken prior to works commencing onsite. A condition is recommended accordingly.

**Clause 6.1 Salinity**

The proposed earthworks are not expected to significantly affect the process of salinisation with the site unaffected by salinity mapping. As the proposal involves development to be constructed on a concrete slab however, a condition of consent has been included requiring all slabs to be designed appropriately to minimise the impacts of potential salts in the ground on the building.

**Clause 6.2 Flood planning**

The subject site is not identified as being within the flood planning area in accordance with Council's maps and the Floodplain Study and Management Plan. No further consideration is necessary.

**Clause 6.3 Earthworks**

The proposal involves earthworks including levelling of the site and also construction of new infrastructure such as roads, footpaths and stormwater management. The proposed earthworks will not however be significant in terms of the matters for consideration identified in this clause. Conditions have been applied to ensure compliance with the requirements of this clause. Matters to be addressed by conditions would include sediment erosion controls and the quality of any fill imported to the site.

**Clause 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.

**Clause 6.5 Terrestrial biodiversity**

The proposal is not located in any area identified as 'Moderate or High Biodiversity Sensitivity'.

**Clause 6.7 Active street frontages**

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

**Clause 6.8 Airspace operations – Mudgee Airport**

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

**Clause 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:

- The site has existing reticulated water (including an existing hydrant within Broadhead Road).
- Reticulated sewerage is found within Yallambee Estate to the north of the site, and is proposed to be extended from the manhole within the sewerage easement located in Lot 59 DP11663322.

- Electricity infrastructure is located within Broadhead Road and is able to be extended to service the development subject to compliance with Essential Energy requirements.
- The subject site has NBN fixed wireless available to service the development.

Furthermore, no concerns have been raised by Council’s Development Engineering Department or Water and Sewer Department in relation to the proposed servicing arrangements for the development.

**Clause 6.10 Visually sensitive land near Mudgee**

The land is not located within the area identified within the visually sensitive land map.

**4.15(1)(a) Requirements of Regulations and Policies**

*(ii) Draft environmental planning instruments (EPI)*

No draft environmental planning instruments apply to the land to which the Development Application relates.

*(iii) Any development control plans*

**Mid-Western Regional DCP 2013**

An assessment is made of the relevant chapters and sections 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 3.1 Residential Development**

<b>DEVELOPMENT CONTROL REQUIREMENT</b>	<b>COMMENT / COMPLIES</b>
<b>Minimum lot size</b>	
Minimum lot size	Complies
Attached Dual Occupancy – Minimum 600m <sup>2</sup>	Complies
Detached Dual Occupancy – Minimum 800m <sup>2</sup>	Not applicable
<b>DEVELOPMENT CONTROL REQUIREMENT</b>	
<b>Building Setback from the street</b>	
Zones R1, R2 and R3 where Lot size is less than 900m <sup>2</sup> : 4.5m and 5.5m to the garage	Complies
Zones R1, R2 and R3 where lot size is greater than 901m <sup>2</sup> and less than 1999m <sup>2</sup> : 6.5 and 7.5 to the garage	Complies
Zone R2 where 200m <sup>2</sup> to 1ha: 10m	Not applicable
Zone R5 less than or equal to 5ha: 30m	Not applicable
Zones RU1, RU4 and R5 greater than 5ha: 60m	Not applicable
RU5: DCP	Not applicable
<b>Building Side/Rear setback</b>	
Zones R1, R2 and R3 where Lot size is less than 900m <sup>2</sup> : 900m	Complies
Zones R1, R2 and R3 where Lot size is greater than the 901m <sup>2</sup> and less than 1,999m <sup>2</sup> : 900mm	Complies
Zone R2 where 2000m <sup>2</sup> to 1ha: 2.5m	Not applicable
Zone R5 less than or equal to 5ha: 20m	Not applicable
Zones RU1, RU4 and R5 greater than 5ha: 20m	Not applicable



RU5: BCA	Not applicable
<b>Building Secondary Frontage for corner lots setback</b>	
Zones R1, R2 and R3 where Lot size is less than 900m <sup>2</sup> : 0m for garages in laneways 2m to side boundary	Complies
Zones R1, R2 and R3 where Lot size is greater than 901m <sup>2</sup> and less than 1,999m <sup>2</sup> : 2m	Complies
Zone R2 where 2000m <sup>2</sup> to 1ha: 7.5m	Not applicable
Zone R5 less than or equal to 5ha: 15m	Not applicable
Zones RU1, RU4 and R5 greater than 5ha: 15m	Not applicable
RU5: 3m	Not applicable
<b>Building height / design</b>	
Proposed buildings are single story	Complies
The design is not a mirror or duplication for the two dwellings when fronting streets.	Complies
75% of internal living areas shall receive at least three hours effective sunlight between the hours of 9.00am and 3.00pm on 21 June (Winter solstice)	Complies
Both dwellings have direct street frontage, i.e. battleaxe arrangements are not permissible	Complies
Minimum separation of 3 metres between buildings	Not applicable
The garage door or carport does not exceed 45% of the front elevation	Complies
All facades with street frontage contain windows	Complies
Street frontage elevations contain minimum 5% openings	Complies
Building is not a transportable or relocated dwelling	Complies
<b>Slope and cut and fill</b>	
The slope of the site does not exceed 15%	Complies
Cut is limited to 1m	Complies. Conditioned for compliance.
Fill is limited to 600mm and is made up of clean fill and is accompanied by a geo-technical assessment demonstrating compaction complies with Australian Standards.	Complies. Conditioned for compliance.
Any cut and fill has been provided with retaining wall including drainage and is set back a minimum 300mm from the allotment boundary.	Complies. Conditioned for compliance.
Fill does not direct stormwater onto adjoining properties and drainage pits for overland flow paths have been provided.	Complies. Conditioned for compliance.
Cut / fill is clear of any water or sewer easements.	Not applicable. No existing easements affect the land.
<b>Open space</b>	
Private open space is located on the Northern or Eastern side of dwellings.	The single dwellings, including the dwelling to be retained on Lot 3 are all located on the southern side of the new road which represents a minor non-compliance with the private open space areas all located to the south east. It is considered however that there is suitable area of private open space for each single dwelling. The dual occupancy developments on Lots 1, 10, 11 and 12 each have the private open space areas facing north (lots 10 – 12) or north west (Lot 1) which enables adequate sunlight to be provided to the private open space areas of each dual occupancy, unimpeded by surrounding developments.

Private open space has direct access from main living areas.	Complies
Each dwelling provides a Principal Private Open Space with a minimum of 80m <sup>2</sup> and a minimum dimension of 5 metres.	Complies
If alfresco is to be counted as Principal Private Open Space, it must be: i) located at or near ground level ii) have direct northerly aspect iii) create no more than 25% of principal open space	Complies
Where Principal Private Open Space is located within front set back: i) located behind suitably landscaped area ii) minimum width of 1.5 metres to the front boundary	Not applicable
75% of Principal Private Open Space shall receive a minimum of 3 hours sunlight between 9.00am and 3.00pm on 21 June	Complies
<b>Site coverage</b>	
Maximum site coverage of 50%	Complies
<b>Parking</b>	
Each dwelling has two car parks with a minimum of one being a garage for each.	Complies
Parking and manoeuvring areas are hard stand	Complies
Driveways are located a minimum of 6m from any intersection	Complies
<b>Utilities</b>	
Buildings are located clear of utility infrastructure	Complies
Building is not located within an easement for the purpose of utility infrastructure	Complies
Structures are located a minimum of 1500mm from the centre of water and sewer main	Complies
Details of water supply and sewer reticulation have been provided:	
If available within 500m applicant has proposed connection to reticulated network	Complies
Where no water supply is available, applicant has provided a minimum 60,000 litres which includes a minimum of 20,000 litres reserved for firefighting purposes	Not applicable
Where no reticulated sewer is present, the applicant has proposed onsite disposal in accordance with Section 68 of the Local Government Act 1919	Not applicable
If reticulated services have not been proposed the site is a minimum of 5ha in size	Not applicable
All storm water flows to a gravity system	Complies
Buildings are not located in the path of overland flow	Complies
<b>Fencing</b>	
1.8 metre high fencing is provided between Principal Private open spaces	Complies – condition recommended.
Front fences are open panel, do not exceed 1.2 metres in height and are not of Colorbond material construction	Complies
Side fences located in front of the building line are open panel or a combination of open panel and masonry columns to match the front fence and do not exceed 1.2 metres in height	Complies
Side and rear fences do not exceed 1.8 metres in height once behind the building	There are identified non-compliances with the side and rear fences surrounding the child care centre due to the acoustic fencing to be provided in accordance with the Acoustic report submitted. It is considered necessary to enable this fencing to exceed 1.8m to comply with the noise policy for industry requirements.
For corner allotments no fence, structure or landscaping in greater than 1 metre in height is located within the triangle formed by a sight line 12 metres x 6 metres from the intersection of the two street boundaries	Complies
Dividing fences do not affect the flow of surface water with the possibility of causing flooding.	Complies condition recommended.

<b>Garages, Outbuildings</b>	
Outbuildings must not negatively affect the amenity of the streetscape or adjoining properties	Not applicable
Urban areas where <750m <sup>2</sup> : 50m <sup>2</sup> maximum shed size	Not applicable
Urban areas where 751-1000m <sup>2</sup> : 80m <sup>2</sup> maximum shed size	Not applicable
Urban areas where 1001-2000m <sup>2</sup> : 100m <sup>2</sup> maximum shed size	Not applicable
Urban areas where 2001-3000m <sup>2</sup> : 120m <sup>2</sup> maximum shed size	Not applicable
Urban areas where >3000m <sup>2</sup> : 150m <sup>2</sup> maximum shed size	Not applicable
Max building height of 4.5m from natural ground level to the ridge applies in urban areas where the lot is under 2000m <sup>2</sup>	Not applicable

*Note: Urban areas are limited to residential areas which include the R1, R2, R3 zones and where a dwelling-house is approved or constructed on the land.*

### **Part 4.1 Multi Dwelling Housing**

<b>DEVELOPMENT CONTROL REQUIREMENT</b>	<b>PROPOSAL</b>	<b>COMPLIES?</b>
<b>Permissibility</b>		
Only permissible on lots >1200m <sup>2</sup> , and	Site area = 4079m <sup>2</sup>	Complies
In Mudgee or Gulgong Heritage conservation Area, or	Not applicable	Not applicable
Village zone, or	Not applicable	Not applicable
Lot with two street frontages, or	Not applicable	Not applicable
Any Lot with 25m wide frontage, or	Frontage = 63m	Complies
Not be located on Lot adjoining approved or developed multiple dwelling Lot outside Mudgee or Gulgong Heritage Conservation Area	Single dwelling adjacent	Complies
<b>Built form – Design</b>		
Existing buildings retained upgraded to integrate with new development	Yes - retained	Complies
Architectural features incorporated into design to provide visual relief and minimise bulk and scale	Each single dwelling within the 9 units has been altered to provide for varying facades including roof form and colours to minimise replication of the design.	Complies
Design optimises solar access and orientation, consistent with scale, spacing, setbacks, landscaping of buildings, and positively enhances streetscape	i) All units private open space face north, providing solar access to the units ii) Setbacks to boundaries are the minimum permitted iii) Units are single storey	Complies
<b>Built form – Building scale, height and bulk</b>		
Development compatible with scale of buildings in locality and not visually intrusive	Single storey development respects scale of existing development	Complies
Consistent with objectives of zone	Objectives of zone encourage a variety of building types	Complies
Appropriate building heights respect scale of future development for which provision is made in locality.	Single storey development	Complies
Maximum height measured from natural ground level to roof apex	Building height is a maximum of 6.5[insert building height]m to the ridge.	Complies
Buildings do not exceed two storeys or 8.5m in height	Single storey units proposed	Not applicable
Each development assessed on merits in terms of visual impact on streetscape and internal and external amenity	Consistent with the existing streetscape. Internal amenity of the development is satisfactory	Complies
Council may require shadow diagrams to be submitted	Shadow diagrams demonstrate sufficient solar access to adjacent	Complies

DEVELOPMENT CONTROL REQUIREMENT	PROPOSAL	COMPLIES?
	development	
<b>Development density</b>		
Units accommodated on a site as follows:		
Kandos, Rylstone, Mudgee and Gulgong outside conservation areas:	Subject site located outside the Mudgee Heritage Conservation Area	Complies
3 bedroom unit: 1 unit per 450m of site	Proposal would require a site area of 2560m <sup>2</sup>	Site area of 4079m <sup>2</sup> less the area of the private access road – complies.
Minimum floor area excluding balconies and garages:		
3 bedroom unit: 1 unit per 450m of site	The proposed units have minimum floor areas ranging from 127.2m <sup>2</sup> to 170.04m <sup>2</sup> in area.	Complies
<b>Landscaping</b>		
Site landscaping 40%	Area available for landscaping is 33% of total site area.	Complies
Landscaping advanced trees, preferably native species	To be included as condition of consent.	Complies
Front setback landscaped to a depth of 5m	Front setback is greater than 5 metres available for landscaping	Complies
Landscaping provided prior to construction certificate	Required to be completed prior to the occupation of the development	Complies and required to be completed and maintained for the life of the development.
<b>Site coverage</b>		
Maximum site coverage excluding driveways <40%	Maximum site coverage calculated as 27%.	Complies
<b>Private open space</b>		
Each dwelling has principal private open space of 40m <sup>2</sup> with minimum dimensions of 5m depth and width	Minimum of 40m <sup>2</sup> provided for each unit	Complies
Private open space directly accessible from living areas.	Each open space is directly accessible	Complies
Rainwater tanks not located in principal private open space	Condition for compliance.	Complies
Patios, decks, balconies only counted as private open space if they have direct northerly access and <25% private open space requirement.	All units have a north easterly aspect for the private open space	Complies
Dimensions <5m not counted as principal private open space	Yes	Complies
Principal private open space in front setback behind landscaped area 1.5m to front boundary	Not applicable	Not applicable
Fencing for front private open space behind landscaping and timber or masonry materials, not Colorbond	Constructed of timber and masonry as per elevation plans	Complies
75% of private open space receives 3 hours sunlight between 9am – 3pm on 21 June (winter solstice)	Yes	Complies
<b>Vehicular access and parking</b>		
Residential parking as follows: 1 bedroom: 1 space 2 bedroom: 2 spaces 2 bedroom Mudgee and Gulgong conservation area, and Kandos and Rylstone: 1 space 3 bedroom: 2 spaces	Each Unit has 2 spaces available.	Complies
Overflow parking: 1 space per 5 units	2 Overflow parking spaces provided	Complies
For a (one) single dwelling above commercial premises 1 space only required	Not applicable	
Car parking designed so ingress and egress can be achieved in one movement	All units can leave the development in a forward direction	Complies
Parking located so vehicles can enter and exit in a forward direction	Yes	Complies

DEVELOPMENT CONTROL REQUIREMENT	PROPOSAL	COMPLIES?
Geometric layout in accordance with car parking requirements of DCP	Yes, details shown on plan	Complies
<b>Vehicle access design</b>		
Driveways not continuous straight lines and offset by landscaping	Driveway is 102 metres long in an 'L' shape and offset by landscaping.	Complies
Driveway designed as follows: – 3m wide for 3-4 units – 6m wide for >5 units	6 metres for double garages, 3 metres for single garage	Complies
Driveways >30m long have 6m wide passing bays at intervals	Driveway length greater than 30m but includes a passing bay	Complies
6m width for first 5m of driveway where connects to major road	6 metres	Complies
Driveway 2m from side boundary to provide landscaping strip for length of front setback	Not applicable.	Not applicable
<b>Privacy and amenity</b>		
Windows or balconies within 6m of windows or balconies of adjoining dwellings offset by 1m from opposite window or balcony or oriented or screened to ensure visual privacy	<6m separation however, fencing is proposed between units.	Complies
First floor windows oriented or designed to minimise potential for overlooking of adjacent properties	Not applicable	Not applicable
Windows which overlook adjoining properties must be opaque or have sill windows at appropriate heights from floor level	No general overlooking. 1.8m fence provided	Complies
1.8m high boundary and internal fencing provided	1.8m where necessary	Complies
All fencing provided at full cost to developer	Yes. Condition of consent	Complies
All fencing forward of building line constructed of timber and masonry materials	Masonry and timber as per elevation plans	Complies
<b>Acoustic privacy</b>		
Site layout separates recreational, parking, manoeuvring areas from bedroom areas	All visitor parking located away from bedrooms	Complies
Developments adjacent to uncontrollable noise generating infrastructure or development incorporate acoustic treatments to minimise entry of noise	Acoustic fencing to be provided between child care centre (Lot 9) and Lot 10 along with the northern boundary for the adjoining residential area.	Complies
<b>Waste disposal</b>		
Garage area or external access to rear of units adequate for movement and concealing of 240 litre mobile garbage bins	Adequate area provided	Complies
Waste disposal areas do not affect amenity of residents or adjoining properties	Sufficient separation	Complies

**Part 4.4 Signs**

Not applicable under this current application.

**Part 4.5 Commercial Development**

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
<b>Building setbacks</b>	
Building setback from the street – no minimum	Yes
Side and rear setbacks must comply with BCA	To be conditioned
<b>Signage</b>	
Signage complies with relevant provisions in section 4.4 DCP 2013	Not applicable – signage to be proposed under separate application.

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
<b>Design</b>	
Buildings interact with the street	Yes. Windows incorporated.
On active street frontages, ground level of building used for business or retail premises	Not applicable
Building facades are articulated by use of colour, arrangement of elements, or varying materials	Yes. Varying colours and materials to be incorporated into the building façade.
Heritage inclusions	Not applicable
External plant to be screened from public	Yes. Condition of consent
Development on a corner – includes architectural features to address both streets	Complies
Landscape buffers to other zones	Landscaping provided
<b>Scale form and height</b>	
Complies with LEP height controls – 8.5m maximum height	Yes
Consistent with existing heritage character of the town centres of Gulgong, Mudgee and Rylstone	Not applicable
<b>Mortimer and Church Street, Mudgee</b>	
Maintain the streetscape established in Church Street between Market and Mortimer Streets: – Zero front and side setbacks – Double storey pattern	Not applicable
Provides variance particularly on upper floor levels, every 20-25m	Not applicable
<b>Articulation and Façade Composition</b>	
Breaks visual bulk with fenestration or change in materials etc.	Visual bulk is articulated with use of various materials and colours. Landscaping is also proposed throughout.
No excessive blank walls in front façade	Yes
Where blank walls are proposed (side or rear) ,minimise impacts with landscaping, patterning of façade, signage, public art	Not applicable
<b>Residential-Commercial interface</b>	
Landscape buffer to residential boundaries	Landscaping along with acoustic fencing proposed to separate the proposed child care centre from the existing and proposed residential area.
Ground and first floor do not overlook residential properties	Yes
Maintain acoustic privacy through the use of acoustic fencing where vehicles movements adjoin property boundaries	Acoustic fencing is proposed.
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	Yes. Sufficient separation to the adjacent residence
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	Yes. Shadow diagrams indicate minimal overshadowing
<b>Utilities and Services</b>	
Building and structures located clear of infrastructure	Yes
Able to be serviced by water, sewer and waste disposal	Yes
Trade waste application required?	Yes – condition recommended.



DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
<b>Traffic and Access</b>	
All vehicles must be able to enter and exit the site in a forward direction	Yes
All vehicle movement paths are sealed	Yes. Condition of consent
Driveways comply with Australian Standard AS2890.1 Parking Facilities	Yes
All loading facilities located within the site	Yes
All loading facilities designed to comply with Australian Standards	Yes
Application addresses traffic flow and safety issues, e.g. pedestrian, car and truck movements	Yes. No significant impacts identified.
<b>Pedestrian Access to town centre</b>	
Maintain existing covered pedestrian access within town centres	Not applicable
Convenient and safe access through parking areas	Not applicable
Convenient and safe disabled access through parking areas, focus on improving links with existing retail	Not applicable
<b>Parking</b>	
Discussed elsewhere in report	Yes – compliance is achieved with the ratio of 1 space per 4 children.
<b>Landscaping</b>	
Landscaped areas in car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries	Significant landscaping proposed throughout the site.
Landscaping to comprise low maintenance, drought and frost resistant species	Yes. Condition of consent

#### **Part 4.7 Tree Preservation Order**

No trees to be removed are identified under the DCP.

#### **Part 5.1 Car Parking**

The proposed development complies with the DCP requirements and achieves the following parking rates:

- Single dwellings and dual occupancies – 2 spaces per dwelling
  - 1 or 2 spaces in garage (and 1 space stacked provided)
- Childcare centre – 1 space per 4 children
  - 15 spaces provided onsite

#### **Part 5.2 Flooding**

Not applicable.

#### **Part 5.3 Stormwater Management**

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater.

#### **Part 5.4 Environmental Controls**

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

#### **Part 7.1 Urban Subdivision**

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
<b>Applies to</b>	
Land zoned residential; village zones; rural residential lots up to 2 hectares	Land is zoned Residential
<b>Lot size</b>	
Minimum lot size as determined by MWRC LEP 2012	Yes
All lots have street frontage	All lots have frontage to the proposed new road
Lots increase in size relative to slope as follows: – 0-10 degrees: 600m <sup>2</sup> – 10-15 degrees: 700m <sup>2</sup> – 15-20 degrees: 800m <sup>2</sup> – >20: subdivision prohibited	Approximately 11 degrees
All lots have 16m width at building line in residential and village zones	Yes. Lots are of ample size and dimension
Battle-axe handles in R1, R3 and RU5 Village have width of 4m	Not applicable
Battle-axe handles in R2 and R5 residential zones have width of 6m	Not applicable
<b>Lot Design</b>	
For infill subdivision lot orientation maximises solar access and takes account of existing pattern of development	Yes. Achieves adequate solar access
For new release subdivision lot orientation maximises solar access by maximising north-south lots	The lots have a mixture of orientation with the majority achieving good solar access. The lots are of a size conducive to erecting a dwelling with good orientation
For new release subdivision east-west orientated lots have increased width and midpoint	As discussed above
Lots generally rectangular in shape	The development includes a majority of rectangular lots. The lots are all of sufficient size to accommodate a substantial building envelope
Lots on southern side of road provide greater frontage width for better solar orientation of future dwelling	Generally achieved
Corner lots have sufficient area to allow dual occupancy and independent utility connection points	Yes
<b>Street Layout and Design</b>	
Traffic Impact Statement submitted for 5+ lots	Assessment provided by applicant. Discussed elsewhere in report
Traffic Impact Statement submitted for all subdivisions where new road required	Assessment provided by applicant. Discussed elsewhere in report
Subdivision integrates with existing residential area	Yes
New roads must provide “through road” connections to surrounding roads and road heads where they exist in the locality	Yes, provided to enable future links to be provided to existing subdivision to the north west of the site
Where cul-de-sac treatment unavoidable, pedestrian linkages between streets provided	Good pedestrian linkages provided
Multiple cul-de-sacs and “no through roads” discouraged	Minimum cul-de-sacs provided
Maximum number of lots in cul-de-sac is 12 lots	Complies – 10 lots proposed
Subdivision >80 lots should not require backtracking	Not applicable

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
<b>Road Standards for New Development</b>	
Urban Road Standards required	Yes
1 x 1.2m footpath, barrier kerbing	Yes, where appropriate
Commercial and Industrial Subdivision roads: 22m road reserve, 13m carriageway, 2 x 4.5m nature strip, 1 x 1.2m footpath, barrier / rollover kerbing	Not applicable
<b>Cycle ways and footpaths</b>	
Cycle ways and pedestrian networks included in new subdivisions	Concrete footpaths will be provided in layout where appropriate
If subdivision site identified in Council cycle way plan or pedestrian strategy, subdivision needs to respond to strategy	Subdivision has not been included in the strategy. Notwithstanding, this site provides for new connections within Broadhead Road associated with the upgrades required for the St Matthews School.
New subdivisions provide direct, convenient and safe access to major facilities	Yes, existing access to Mudgee retained
Cul-de-sacs may be required to include 10m wide shared overland flow/pathway	Yes, provided
Developer to provide contribution to Council for installation of cycle ways and footpaths prior to release of subdivision certificate	Yes, condition included in consent
<b>Open Space</b>	
Greenfield sites >20 lots ensure that lots are <400m from local park, playground or passive open space	Not applicable
Where on-site detention basins double as open space, must include raised level area which incorporates playground or fitness equipment etc. and shading landscaping	Not applicable
<b>Landscaping</b>	
Landscape plan provided, detailing treatment of public domain	Landscape plan provided.
Land dedicated as public reserve top soiled, levelled, turfed prior to release of subdivision certificate and maintained by developer for period of two years	Not applicable
<b>Street Trees</b>	
Two (2) street trees provided per lot	Yes – condition to be provided.
Developer provides levy to Council to provide these trees after 80% of works carried out	To be conditioned
<b>Utility Services</b>	
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	Not applicable (small subdivision)
<b>Drainage</b>	
As per Section 5.3 Stormwater and Drainage	Detailed stormwater plan to be lodged at CC stage. Concept plan adequate

## Section 7.11 Contributions

### Mid-Western Regional Contributions Plan 2019

Pursuant to Council's Contributions Plan 2019, the development is proposing the subdivision of the land creating 13 new lots (12 additional lots) along with the construction of 4 x dual occupancies, 9 unit multi-dwelling housing development (12 additional dwellings) and a childcare centre. Each

component of the development requires the payment of developer contributions in accordance with the plan and calculated as follows:

**Section 7.11 Charges:**

**Subdivision of the land (1 into 13 lots) – (1 x credit applied for existing 1 lot / existing single dwelling):**

	Per lot or 2 or more bed dwelling	Total (12 new lots)
Transport Facilities	\$4,347.00	\$52,164.00
Recreation and Open Space	\$ 2,182.00	\$ 26,184.00
Community Facilities	\$ 635.00	\$ 7,620.00
Stormwater Management	\$ 458.00	\$ 5,496.00
Plan Administration	\$ 995.00	\$ 11,940.00
	<b>\$ 8,617.00</b>	<b>\$ 103,404.00</b>
<b>Total Payment</b>		<b>\$ 103,404.00</b>

*Note: No additional contributions are payable for the single dwellings over Lots 2, 3 (existing dwelling), 4, 5, 6, 7 and 8.*

**Dual occupancies and Multi-Dwelling housing development - (credit applied for 5 x lots created under the subdivision approved for Dual Occupancy and Multi-Dwelling Housing of 9 new units):**

	Per lot or 2 or more bed dwelling	Total (12 x additional dwellings)
Transport Facilities	\$4,347.00	\$52,164.00
Recreation and Open Space	\$2,182.00	\$ 26,184.00
Community Facilities	\$635.00	\$ 7,620.00
Stormwater Management	\$458.00	\$ 5,496.00
Plan Administration	\$995.00	\$ 11,940.00
	<b>\$ 8,617.00</b>	<b>\$ 103,404.00</b>
<b>Total Payment</b>		<b>\$ 103,404.00</b>

In addition to the Section 7.11 charges applied under the plan, the proposed child care centre on Lot 9 will also require payment of Contributions pursuant to Section 7.12 of the *Environmental Planning and Assessment Act*. This is levied at 1% of the total cost of the development which is provided below. It is recommended however that a report be provided to verify the building costs of the child care development, prior to issue of the Construction Certificate. A condition is recommended accordingly.

**Section 7.12 Charge:**

<b>Rates as per table below</b>	
<b>Development Cost:</b>	<b>7.12 Levy:</b>
\$667,260	\$6,672.60

An appropriate condition has been imposed requiring payment of the contributions outlined above.

## Section 64 - Water/Sewer Developer Services Charges

### Mid-Western Regional Developer Servicing Plans 2008

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the proposed development will require the payment of DC headworks charges calculated as follows, by Council's Water and Sewer Department:

1. Water ETs = 19.87
2. Sewer ETs = 23.87

Based on the above, the total contributions payable prior to issue of a Water and Sewer Certificate of Compliance is as follows:

- Water S64 Contributions: \$172,685.20
- Sewer S64 Contributions: \$94,692.30

An appropriate condition has been imposed requiring payment of the contributions outlined above.

### 4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iiia)

No Planning Agreements are applicable.

### Regulations – 4.15(1)(a)(iv)

#### Environmental Planning and Assessment Regulation 2000

##### Clause 92 – Additional matters that consent authority must consider

92(b) requires Council to consider AS2601 when consent is sought for demolition of a building. The application includes demolition of a number of old outbuildings and compliance with AS2601 has been included as a condition of consent.

### Likely impacts of the development – 4.15(1)(b)<sup>1</sup>

<sup>1</sup> Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

#### (a) Context and Setting

It is considered that the proposal is appropriate with regards to the surrounding context and setting based on the nearby residential development, the subject site is a logical extension of the residential area, enabling a variety of housing forms to be provided.

#### (b) Access, Transport and Traffic

A Traffic Assessment report has been prepared to support the development application by The Transport Planning Partnership (tpp). The key findings of the report are summarised as follows:

- a) *The proposed subdivision includes 23 dwellings and a childcare centre.*
- b) *The proposed internal layout includes new internal roads for residents and the childcare centre. The dwellings on Lot 1 and Lot 2 in the south-east corner of the site would have driveways off Broadhead Road, while all other Lots would be accessed via new internal roads within the development site.*
- c) *Two parking spaces would be provided for each dwelling. For the childcare centre, an on-site car park would be provided containing 15 car parking spaces. Of these, one space would be allocated as an accessible parking space.*

- d) *The car parking provision for the proposed development has been provided in accordance with the Mid-Western Regional Council DCP parking rates. Also, parking areas have been designed in-line with Australian Standards AS 2890.1 and AS 2890.6.*
- e) *The proposed residential land use is estimated to generate approximately 13 trips in both the AM peak period and PM peak period. The childcare centre is estimated to generate 65 trips in the AM peak period and 57 trips in the PM peak period. In total, the proposed development is estimated to generate 78 trips in the AM peak and 71 trips in the PM peak periods.*
- f) *The SIDRA Intersection modelling results indicate that intersections surrounding the subject site would operate at level of service A (good level of service) during the road network peak periods, with acceptable delays and queue lengths.*

The application has also been reviewed by Council's Development Engineering Department who have no objections to the proposed development, subject to the recommended conditions of consent.

It is also important to note that significant upgrades to Broadhead Road is also required to be provided as part of the St Matthews Catholic School approval by the Department of Planning Industry and Environment which will include new 2.5m wide footpath connection from the existing residential area and the new school site.

#### **(c) Public Domain**

The 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.

#### **(d) Utilities**

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

#### **(e) Heritage**

The subject site is not effected by any known items of European or Aboriginal heritage. A desktop due diligence assessment has been provided with the application and recommends further site surveys to be undertaken prior to works commencing onsite. A condition is recommended accordingly.

#### **(f) 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.

#### **(g) Water**

The proposed development includes rainwater tanks for stormwater detention and BASIX requirements. The proposal is not expected to create any water pollution issues, subject to a condition for sediment erosion controls during construction.

#### **(h) Soils**

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement and will not result in significant soil erosion or degradation subject to compliance with recommended conditions of consent.

The subject site has been identified as a result of soil testing as requiring remediation as result of asbestos fragments found on the site. As outlined under the assessment of SEPP No. 55 of this report, conditions as recommended by the site contamination assessment report have been imposed.



**(i) Air and Microclimate**

The proposed development is expected to generate dust during the construction phase only. A condition is recommended to ensure adequate dust controls are in place during construction.

**(j) Flora and Fauna**

The development site has sparse vegetation primarily at the boundary of the site and planted within the existing garden of the dwelling that will require removal to support the development. The limited roadside vegetation found within Broadhead Road has been identified by Council's mapping to be of 'low conservation value'.

The vegetation found on the site is not identified as 'high or moderate terrestrial biodiversity' or mapped to be located within the 'sensitive or vulnerable regulated land' on the Biodiversity Values Map pursuant to the *Biodiversity Conservation Act* and associated Regulations. Furthermore, the vegetation to be removed would not exceed the biodiversity offset scheme threshold requirements under Part 7 of the *Biodiversity Conservation Regulation* which would otherwise permit up to 0.25 hectares of native vegetation to be cleared. As a result, no further consideration is necessary.

**(k) Waste**

Construction waste will be addressed by conditions of consent. Effluent will be disposed of via the reticulated sewer system. Bins will be provided on site for kerbside waste collection. Bins will be wheeled to the relevant kerb for collection with the new road to be constructed and transferred to Council to enable Councils' waste truck access for collection purposes.

**(l) Energy**

The proposal will be subject to BASIX requirements and Section J requirements of the BCA with conditions imposed accordingly.

**(m) Noise and Vibration**

The proposed residential development is not considered to be a use that will generate significant noise, except for a limited duration over the construction phase.

An acoustic assessment report has been prepared by PKA Acoustic Consulting to support the child care development and has assessed the existing residential receptors to the north, and also the future residential development to adjoin the child care centre as part of the application submitted.

The following recommendations have been made by the report:

1. *Where perimeter fences are proposed in the plans, they must have a minimum acoustic performance of Rw 30. PKA has been advised that the fencing must not restrict sight distance to pedestrians.*
2. *The acoustic barrier must be of solid construction (with no air gaps) such as:*
  - *Timber fence with double lapped boards of standard 15 mm thickness, allowing a continuous thickness of 30 mm*
  - *Aerated Autoclaved Concrete (AAC) panels such as Hebel*
  - *Masonry or Precast concrete panels*
  - *Any combination of the above*
3. *Allow for acoustic absorptive material to be placed in the under-croft sections of the outdoor verandas. Coverage of 30% will be required. Material to be of minimum Noise Reduction Co-efficient (NRC) of 0.7.*
4. *The northern and western facades of the 3-5 years room (figure 6-1 of the report) must have all glazed elements a minimum Rw 25, which can be achieved using 4mm glazing and appropriate acoustic seals.*
5. *The car park drive in area and parking should be limited to 10 km/hr to keep noise emissions low.*

6. *Signage must be displayed clearly to ensure patrons in the carpark are aware of potential noise generation activity and to remain as quiet as possible during the early morning hours.*
7. *The selection of any future outdoor mechanical and plant equipment must be checked so that the rated sound power/pressure levels will comply at the boundary of the sensitive residences (existing and proposed) with the EPA NPfl Project Trigger Levels of 48Laeq15min (48dB(A)) during the daytime operating hours of 7am to 6pm. All selections and location of the proposed mechanical plant must be checked by an acoustic consultant prior to installation to ensure ongoing compliance.*

The requirements of the Acoustic Report has been included within the recommended conditions of consent, including provision of amended plans prior to issue of the Construction Certificate.

**(n) Natural Hazards**

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues.

**(o) Technological Hazards**

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

**(p) Safety, Security and Crime Prevention**

The proposed development will increased passive surveillance in the immediate locality. The design of the proposed development provides for suitable access control and generally conforms to the principles of Crime Prevention Through Environmental Design (CPTED).

**(q) Social and Economic Impact in the Locality**

The proposed development will provide employment opportunities during construction and on an ongoing basis associated with the child care centre. Furthermore, the proposed development will provide for a variety of affordable housing options from single dwellings to units which enables diversity in the housing supply for the region.

**(R) Site Design and Internal Design**

Adequate as discussed throughout this report.

**(S) Construction**

To comply with the BCA where relevant and conditions are recommended to manage the construction phase of the development.

**(T) 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.

**Suitability of Site for Development – 4.15(1)(c)**

**(a) 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 subject to compliance with the conditions of consent.

**(b) Are the Site Attributes conducive to Development?**

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

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

#### **(A) Public Submissions**

The application was first advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 18 October 2019. During the first notification period, three (3) submissions were received.

The applicant lodged amended plans during the assessment process. Upon submission of the amended development plans, the application was re-notified for a period of 14 days, ending 27 May 2021. During the second notification period, one (1) submission was received.

A summary of the concerns raised in the submissions is provided below with comments provided in response to those issues identified. A copy of all submissions is also provided as Attachment 2.

#### **Round 1 Submissions:**

<b>Matter of concern</b>	<b>Comment</b>
Request for the cul-de-sac to be maintained to enable an extension into the western area of the adjoining lot and new road connection towards Bateman Avenue.	The amended plans have incorporated an option for this to occur, if required, into the future.
Upgrade of fencing at the cost of the developer.	Boundary fencing upgrades are not typically a Council matter under the Dividing Fences Act, unless there are privacy or acoustic impacts associated with the development that would require greater consideration towards the type of fencing associated with a development. In this case, the developer will be required to install fencing throughout the site to accommodate the residential dwellings and childcare development. Conditions have been recommended accordingly.
High density townhouses – is this Council's desire so far out of town?	Multi-dwelling housing is permitted in the R1 zone with the consent of Council and achieves Council's DCP requirements in this location.
Incompatibility with neighbouring properties	The proposal has since been modified to reduce the number of dwellings and provide a low scale residential development (31 dwellings / 16 Lots to 24 dwellings / 13 Lots including child care centre). It is considered that the revised design in a cul-de-sac arrangement has been improved significantly from the original submission and provides a variety of affordable housing options in this location not too dissimilar to the nearby residential estates of Mudjee.
Impact on traffic flow	The proposed development will include road upgrades at the frontage of the site.  In addition, the nearby approved State Significant Development - St Matthews Catholic School to be located opposite the site is also required to upgrade the following as a condition of the approval and subject to future

	<p>construction certificate application made :</p> <p><i>(a) construction of Broadhead Road and Bruce Road as sealed roads in accordance with the approved plans;</i></p> <p><i>(b) construction of a 2.5 metre wide footpath along the western side of Broadhead Road from a point adjacent to the existing footpath on the eastern side of Broadhead Road to the pedestrian entrance to the school;</i></p> <p><i>(c) construction of a pedestrian refuge on Broadhead Road in the location where the proposed footpath meets the existing footpath;</i></p> <p><i>(d) upgrades to the intersection of Broadhead Road and Bruce Road;</i></p> <p><i>(e) upgrades to the intersection of Lions Road and Broadhead Road;</i></p> <p><i>(f) upgrades to the intersection of Lions Road and Robertson Street; and</i></p> <p><i>(g) upgrades to the intersection of Bruce Road, Robertson Street and Robertson Road.</i></p> <p>Based on the assessment and once all road upgrades have been completed, there is not considered to be any significantly adverse impacts on traffic flow as a result of this development.</p>
<p>Water management issues</p>	<p>This concern is raised based on the existing arrangements of stormwater management that traverses through the site from the adjoining land to the south.</p> <p>The plans have subsequently been amended in the recent submission to incorporate an easement for drainage and to ensure this is managed over the development site into the future without having adverse impacts on adjoining land.</p>
<p>Contamination of soil</p>	<p>A contamination assessment has been undertaken including soil testing. The sampling confirms that asbestos fragments were found onsite and remediation, including a site validation report, is required to be completed prior to any construction activities commencing for the development. A condition is recommended accordingly.</p>
<p>Aesthetic issues</p>	<p>The development has been amended to reduce the number of dwellings proposed which has increased the availability of solar access to the southern lots and primarily single dwellings now proposed. Further, the design of each dwelling has been amended to provide a variety of elevations to the streetscape and mix of colours and materials are proposed. The amended design is considered acceptable in this regard.</p>

**Round 2 Submission:**

Matter of concern	Comment
Request to ensure that the boundary fencing on the southern side of the site is a 'lapped timber fence' and to include this as a condition of consent.	Condition is recommended on the basis of privacy implications (all single dwellings will have the rear yards located on the southern side of the development) and to provide a buffer to the immediately adjoining R2 low density residential zoned land.

### **(B) Submissions from Public Authorities**

The application was referred to Essential Energy for comment pursuant to Clause 45 of the Infrastructure SEPP. Essential Energy have provided comments in relation to the application as follows:

1. *If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.*
2. *As part of the subdivision, easement/s are to be created for any existing or new electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).*
3. *Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.*
4. *Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions and if required, new designated electrical infrastructure, such as a padmount substation. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works team for requirements. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will also require Essential Energy's approval.*
5. *Any proposed landscaping in the vicinity of any existing or new electrical infrastructure must comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
6. *The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all proposed dwellings in accordance with the NSW Service and Installation Rules.*
7. *In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.*
8. *Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).*
9. *Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.*

Advisory notes have been recommended accordingly.

## The Public Interest – 4.15(1)(e)

### **(A) Federal, State and Local Government interests and Community interests**

No significant issues in the interests of the public are expected as a result of the proposed development.

### *CONSULTATIONS*

#### **(A) Health and Building**

Council's Health & Building Surveyor has not raised any concerns with the proposal, subject to standard conditions.

#### **(B) Technical Services**

Council's Development Engineer has not raised any concerns with the proposal subject to standard conditions.

#### **(C) Heritage Advisor**

No consultation necessary.

#### **(D) Access committee**

No consultation necessary.

## Community Plan implications

<b>Theme</b>	<b>Protecting Our Natural Environment</b>
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

## Strategic implications

### **Council Strategies and Policies**

Mid-Western Regional Development Control Plan 2013  
Mid-Western Regional Contributions Plan 2019  
Mid-Western Regional Development Servicing Plan  
Mid-Western Regional Community Participation Plan 2019

### **Legislation**

Environmental Planning & Assessment Act 1979  
Environmental Planning & Assessment Regulation 2000  
Mid-Western Regional Local Environmental Plan 2012

## Financial implications

The proposed development will attract monetary developer contributions to be made to Council in accordance with the Mid-Western Regional Developer Contributions Plan 2019 and the Water and Sewerage Developer Servicing Plans.



## Associated Risks

Should Council refuse the Development Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

KAYLA ROBSON  
PLANNING COORDINATOR

LINDSAY DUNSTAN  
MANAGER, PLANNING

JULIE ROBERTSON  
DIRECTOR DEVELOPMENT

26 May 2021

*Attachments:* 1. Development Plans and Supporting Reports. (separately attached)  
2. Copy of Submissions. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER