

8.2 DA0191/2021 - Torrens Title Subdivision (1 into 25 Lots) at 209 Robertson Road, Spring Flat

REPORT BY THE PLANNING COORDINATOR AND MANAGER, PLANNING
 TO 16 JUNE 2021 ORDINARY MEETING
 GOV400088, DA0191/2021

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator and Manager, Planning on the DA0191/2021 - Torrens Title Subdivision (1 into 25 Lots) at 209 Robertson Road, Spring Flat;
- B. approve DA0191/2021 - Torrens Title Subdivision (1 into 25 Lots) at 209 Robertson Road, Spring Flat subject to the following conditions and Statement of Reasons:

CONDITIONS

PARAMETERS OF CONSENT

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

Title/Name	Drawing No/ Document Ref	Revision/Issue	Dated	Prepared by
Figure 1 – Proposed Subdivision	BK630	-	14/07/2020	Robert John Crooks
Proposed Site Plan	TX14774.00 – C2.01	A	14/08/20	Triaxial Consulting
Road xxx Longitudinal Sections – Sheets 1	TX14774.00 – C5.00	A	14/08/20	Triaxial Consulting
Plenty Road Longitudinal Sections – Sheets 1	TX14774.00 – C5.10	A	12/04/21	Triaxial Consulting
Stormwater Management Plan	TX14774.00 – C6.00	B	12/04/21	Triaxial Consulting
Sewer Plan	TX14774.00 – C7.00	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.01	A	14/08/20	Triaxial Consulting
Sewer Longitudinal	TX14774.00 – C7.02	B	12/04/21	Triaxial Consulting

Sections				
Sewer Longitudinal Sections	TX14774.00 – C7.03	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.04	A	14/08/20	Triaxial Consulting
Sewer Longitudinal Sections	TX14774.00 – C7.05	A	14/08/20	Triaxial Consulting
Water Plan	TX14774.00 – C8.00	B	12/04/21	Triaxial Consulting

2. This consent does not permit commencement of any site works. Works are not to commence until such time as a Subdivision Works Certificate has been obtained.
3. This consent does not include approval for the removal of any trees.

GENERAL

4. Proposed Lots 1 to 25 are to have a minimum area of 2,000 m².
5. The strength of the concrete used for any concrete components in the development must be a minimum 25 Mpa.
6. All *Acacia ausfeldii* (Ausfeld's Wattle) plants located within proposed Lot 1 are to be retained and conserved.
7. No trees are to be removed from within the Plenty Road reserve. 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.
8. Street trees of an approved species are to be provided at a rate of two (2) trees per allotment.
9. All General Terms of Approval issued in relation to the approved development, shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- a) General Terms of Approval, issued by NSW Rural Fire Service, for a Bush Fire Safety Authority in accordance with Section 100B of the *Rural Fires Act 1997*.
 - b) General Terms of Approval, issued by the Natural Resources Access Regulator, for a Controlled Activity Approval in accordance with Section 91 of the *Water Management Act 2000*.
10. 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.

11. **Costs associated with all development works including any necessary alteration, relocation 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.**
12. **The only waste derived material that may be received at the development site must be:**
 - a) **Virgin excavated natural material, within the meaning of *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.**
13. **Where discrepancies between the Drawings, current amended Development Consent or Council's Development Control Plan occur, the works must comply with the written requirements of the current Development Consent.**
14. **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;**
 - a) **Erection of permanent structures,**
 - b) **Cut or fill of land,**
 - c) **The planting of trees, or**
 - d) **Concrete structures**

Footing design must ensure that footings extend below the zone of influence to ensure that no load is placed on infrastructure.

Stormwater

15. **The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development.**
16. **All stormwater runoff from roof and developed surfaces is to be controlled in such a manner so as not to flow or discharge over adjacent properties. Methods of disposal of excess stormwater including overflow from tank must also include adequate provision for prevention of erosion and scouring.**
17. **Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with AusSpec #1.**
18. **A grated pit of 600 x 600 mm with glue capped 90mm stormwater stub, is to be provided on the lower corner of every allotment for which roof and paved areas can't be drained naturally to public roadway or natural watercourse.**

Water and Sewer

19. **The developer is to provide separate water and sewer reticulation services to each lot.**
20. **The developer is to extend and meet the full cost of water and sewerage reticulations to service the new lots plus the cost of extending and connecting to existing services. All water and sewerage work is required to be carried out in accordance**

with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the *Local Government Act 1993*) and in accordance with the *National Specification – Water Supply Code of Australia, National Specification – Sewerage Code of Australia, AS/NZS3500: Plumbing and Drainage* and any other applicable codes.

21. 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 metre into the boundary.

Electricity Supply

22. Underground electricity, street lighting and telecommunications is to be supplied to the Subdivision in accordance with the relevant authority's standards. Each allotment is to be provided with a service point/connection to an electricity supply.

TransGrid Conditions

23. TransGrid shall be notified of any amendments/modifications to the proposal which may change proposed distances to TransGrid structures or conductors.
24. All works must be carried out in accordance with NSW WorkCover '*Working Near Overhead Powerlines*' Code of Practice 2006.
25. All fencing (including temporary fencing) must comply with *TransGrid's Fencing Guidelines*.
26. Pits or pillars to connect the electricity supply to residences cannot be located within the TransGrid electricity easement.

Roads and footpaths

27. Construction and extension of Plenty Road and the New Internal Proposed Road must be undertaken generally in accordance with the approved Drawings, Engineering Design and AUS-SPEC #1 & 2.
28. Road pavements are to be designed by a suitable qualified engineer in accordance with AUSTRoads procedures. Materials and testing requirements shall comply with those set out in *AUSPEC Construction Specification* with sample locations selected as per *RMS Specification Q4*.
29. The proposed extension to Plenty Road is to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	9m (2 x 3.5m travel lanes and 2 x 1m sealed shoulders, measured from invert to invert).
Nature Strip (verge)	4.5m
Concrete Footpaths	1.2m wide to extend the full length of Plenty Road (2.5% slope)
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required

Kerb & Gutter	Roll back concrete kerb and gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events of adjacent to intersections. To be installed behind kerb.

30. The proposed cul-de-sac road in the subdivision is to be constructed in accordance with the following:

Item	Requirement
Full Road Pavement Width	9 m (2 x 3.5m travel lanes and 2 x 1m sealed shoulders, measured from invert to invert)
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 and gutter
Subsoil Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections. To be installed behind kerb.

31. A minimum 1.2m wide and 100mm thick concrete footpath is to be constructed along one side of the entire length of the proposed road/cul-de-sac and extended to connect to the existing footpath in Plenty Road.
32. One roof-water outlet per allotment is to be provided in the kerb and gutter 2m from the downhill boundary at the time of installation of kerb and gutter and shall be of no less a quality than kerb adaptors kept at Council's Administration Centre as a guide.
33. Where footpaths are provided the roof-water outlet shall be extend under the footpath and extend past the edge of the footpath sufficient to allow connection.
34. Street signs necessitated by the subdivision are to be installed in accordance with AUS-SPEC #1 and Council standards.

PRIOR TO ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

35. Prior to the issue of a Subdivision Works Certificate, amended plans are to be submitted to and approved by Council to address the following matters:
- a) The design for stormwater must demonstrate that the gutter flow calculation complies with the requirements of *Mid-Western Development Control Plan 2013*.
 - b) The road pavement width must be measured from invert to invert of kerb.
 - c) Kerb return detail must be submitted.
 - d) Cul-de-sac geometry details are to be submitted and must not be less than 10m radius.
 - e) Footpath details.
 - f) Kerb ramp details along with construction details.
 - g) Kerb and gutter details.
 - h) Kerb inlet pit detail.
 - i) Splay of corner lot details.

36. Prior to the issue of a Subdivision Works Certificate, a detailed engineering design is to be submitted to and approved by Council. The engineering design is to comply with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document. A Subdivision Works Certificate is required for, but not limited to, the following civil works:
- a) Water and sewer extensions, and connections to each lot;
 - b) Stormwater drainage, including inter-allotment drainage, detention basins and bio-retention devices;
 - c) Road construction including shoulder;
 - d) Kerb and gutter;
 - e) A 1.2m wide concrete footpath along the cul-de-sac road and the extension to Plenty Road;
 - f) Earth works for the subdivision; and
 - g) Landscaping of road verges and public reserves.
37. Prior to the issue of a Subdivision Works Certificate, the developer must submit to and obtain approval from Council, detailed design and documentation of the proposed sewer reticulation system. The details are to address the following:
- a) Demonstrate that the proposed sewer reticulation system 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; and
 - b) A report outlining the proposal to provide a waste water service to each lot within the proposed subdivision. The report is to be prepared in accordance with the *Gravity Sewer Code of Australia WSA02-2014*. Where pressure sewer is being proposed, the report is to be prepared in accordance with the *Pressure Code of Australia WSA 07-2007*.
38. Detailed design supported with calculation of water reticulation plan is to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate. The design must address water network crossing culvert and drainage reserve to get connected to water main available at Lovett Court. The design must address the following, but not limited to:
- a) Air valves, hydrants and air valves must be provided along the length of the main according to the *Water Supply Code of Australia WSA 03-2011*.
 - b) The alignment of the main entering the new subdivision is to be at a 90 degree bend instead of two 45 degree bends. The main is to turn the corner with a tee instead of an elbow. The section of the tee facing to the west is to have a stop valve which is to be blanked out on the side of the valve that faces Robertson Road. Stop valves are to be installed on all sides of this tee.
 - c) The tee turning the corner is to have a temporary thrust block installed according to *Water Supply Code of Australia WSA 03-2011*. This thrust block would comprise of wood or other material deemed appropriate by Council's Water and Sewer Department.
 - d) Right hand close valves are to be used for all stop valves within the subdivision.
 - e) A report outlining the proposal to provide a water supply service to each lot in the subdivision. The report is to be prepared in accordance with the *Water Supply Code of Australia WSA 03-2011*.

39. A construction management plan shall be submitted with the application for the Subdivision Works Certificate. The management plan shall include:
- a) Details of sedimentation and erosion control.
 - b) Details of haulage routes shall be provided 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.
 - c) Details of dust mitigation.
 - d) Details of access roads.
 - e) Location and phone number of the site office.

Reason - to reduce the environmental impact on the site during the construction period.

40. A Drainage Report in support of detailed drainage design must be prepared in accordance with the Institution of Engineers publication *Australian Rainfall and Run-off* and be submitted to the Principal Certifier for approval prior to the issue of a Subdivision Works Certificate. The Drainage Report is to address the following:
- a) Show that the development will not increase the limits of upstream and downstream flooding for floods over the range of 1 in 1 year to 1 in 100 year Average Recurrence Interval (ARI) storm events by the inclusion of on-site stormwater detention controls;
 - b) The provision of a water quality control system to treat the stormwater runoff from the development as outlined in *Mid-Western Regional Development Control Plan 2013 - Water Quality Performance Guidelines and Statement of Environment Effects*;
 - c) A detailed drainage design must 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;
 - d) A full and detailed stormwater management plan for the site, satisfactory to Council, is to be submitted which must be accompanied with analysis of the upstream contributing areas, tributaries and overland flow-paths considering all impacted drainage flows, adjacent and/or downstream properties, structures, infrastructure and downstream receiving systems;
 - e) 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;
 - f) Inter-allotment drain 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;
 - g) Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property; and
 - h) Show a grated pit of 600 x 600 mm with glue capped 90mm stormwater stub, provided on the lower corner of every allotment for which roof and paved areas can't be drained naturally to public roadway or natural watercourse.

41. 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 Section 6.2 of the *Streets Opening Conference Guideline 2009*.
42. 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*.
43. Prior to the issue of a Subdivision Works Certificate, a Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.
44. Where it is proposed to import fill, the material shall be 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*. All finished surface levels and contours to Australian Height Datum (AHD) shall be shown on the plans submitted for the Subdivision Works Certificate.
45. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of *Soils and Construction – Managing Urban Stormwater*. Points to be considered include, but are not limited to:
 - a) Saving available topsoil for reuse in the revegetation phase of the development;
 - b) Using erosion control measures to prevent on-site damage;
 - c) Rehabilitating disturbed areas quickly;
 - d) Maintenance of erosion and sediment control structures; and
 - e) Disturbed areas are to be seeded, fertilised and hay mulched or similar on completion of regrading works. Disturbed areas are to be progressively revegetated with exposed areas kept to a workable minimum.
46. Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping. Details shall be submitted to and approved by Council prior to release of the Subdivision Works Certificate.

Reason - to minimise erosion and silt discharge and ensure valuable topsoil resources are protected.
47. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design.

PRIOR TO THE COMMENCEMENT OF WORKS

48. Prior to the commencement of construction of infrastructure, the developer must obtain a Subdivision Works Certificate.
49. Prior to the commencement of works, the submission of three possible street/road names in order of preference, for the proposed new road within the subdivision, are to be submitted to Council for approval.

50. Prior to the commencement of any works within 40 metres of a prescribed waterway or creek (as defined in the *Water Management Act 2000*), the proponent shall obtain a Section 91 Controlled Activity Approval under the *Water Management Act 2000* to carry out those works.

Note - please contact the Natural Resources Access Regulator for more information in relation to this matter.

51. 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) 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*.
 - d) Appropriate dust control measures.
 - e) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained.
 - f) 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.
 - g) Subdivision Works certificate approval must be obtained from Council for works like but not limited to road, kerb, gutter, water and sewer works
52. Prior to the commencement of any works a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.
53. 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. Dial Before You Dig can be contacted online <https://www.1100.com.au/> or by phone on 1100.
54. Prior to the commencement of construction works the applicant needs to comply with the requirements of Section 634 of the *Local Government Act 1993*, which requires that:
- (1) A person must not do any water supply work, sewerage work or stormwater drainage work unless the person;
 - (a) is the holder of an endorsed licence or supervisor certificate in force under the *Home Building Act 1989* authorising the holder to do (and to supervise) work of the kind concerned, or
 - (b) is the holder of a tradesperson certificate in force under the *Home Building Act 1989* authorising the holder to do that kind of work under supervision and does that work under the general supervision of the holder of a licence or certificate referred to in paragraph (a), or
 - (c) does the work under the immediate supervision of a person referred to in paragraph (a).

- (2) A person who employs (or uses the services of) another person to do any water supply work, sewerage work or stormwater drainage work is guilty of an offence if the person knows that the other person, in doing the work, contravenes subsection (1).

Documented evidence is required to be supplied prior to commencement of construction along with a Certificate of Currency for Public Liability and Professional Indemnity.

55. 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 Plenty Road. The plan must be prepared and certified by a person holding the appropriate RMS accreditation.
56. Prior to commencement of works, all traffic control including setup and removal of traffic control devices and/or regulation of traffic is to be carried out by persons suitably accredited by RMS. The developer/contractor must produce upon request evidence that all staff involved in the above have such accreditation.

DURING CONSTRUCTION

57. The subdivision works are to be inspected by a Certifier (i.e. Council or a private certifier) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures;
 - b) Sewer and water line installation prior to backfilling;
 - c) Water and sewer lines pressure testing;
 - d) Sewer manholes vacuum testing;
 - e) Footpath foundations and concrete reinforcing prior to pouring concrete;
 - f) Establishment of line and level for kerb and gutter placement;
 - g) Road pavement construction (proof roll and compaction testing of all pavement layers, sub-grade, sub-base, and base prior to sealing);
 - h) Road pavement surfacing;
 - i) Stormwater culvert and drainage pipe installation prior to backfilling; and
 - j) Practical Completion.
58. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
59. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
60. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council's standards. Street signs are to be installed at the developer's expense.
61. 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.**

- 62. **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.**
- 63. **The developer 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 NSW Land Registry Services and Council.**
- 64. **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, Council's Standard Drawings and Aus Spec #1.**
- 65. **All required earthworks for roads associated with the subdivision must have compaction testing in compliance with RMS Q4 and AUS-SPEC CQS-A.**
- 66. **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.**
- 67. **In the event that *Acacia ausfeldii* (Ausfeld's Wattle) plants are discovered during earthmoving/construction works, all work on 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 authorisation of the OEH.**
- 68. **All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.**
- 69. **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.**
- 70. **All road crossings for stormwater are to be constructed using Reinforced Concrete Pipe (RCP).**
- 71. **A turf strip of minimum 600 mm 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 600 mm provided above the footpath.**
- 72. **Construction work noise that is audible at other premises is to be restricted to the following times:**
 - a) **Monday to Saturday - 7.00am to 5.00pm**

No construction work noise is permitted on Sundays or Public Holidays.
- 73. **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.**

74. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public 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.

PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE

75. An application for a Subdivision Certificate, application fee and two (2) copies of the linen plans are to be submitted to Council for approval and endorsement by the General Manager (or their delegate).
76. All costs associated with preparation of Survey Plan and associated easement documentation are to be borne by the developer.
77. Prior to the issue of a Subdivision Certificate, the developer must provide for the construction of all of the following works, relevant to the stage of subdivision. Such works are to be completed to the satisfaction of Council.
- a) Road construction;
 - b) Footpath construction;
 - c) Provision of stormwater drainage infrastructure for the development, including grated yard inlet pits, where required;
 - d) Stormwater detention basin;
 - e) Provision of street trees;
 - f) Provision of sewerage infrastructure for the development, with separate sewer connection for each lot in the subdivision; and
 - g) Connection of water (including private meters) and electricity services to provide for individual connection to each proposed lot.
78. 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.
79. Prior to issue of Subdivision Certificate, the developer is to provide a sewer junction for each lot in the development. This can be achieved by making payment to Council in accordance with Council's adopted fees and charges per new junction to cover the cost of installing a junction in an existing main. (SUBJECT TO CPI INCREASE).
80. Prior to issue of Subdivision Certificate, the developer is to provide a water service and meter for each Lot. This can be achieved by making payment in accordance with Council's adopted fees and charges to cover the cost of installing both the service and a 20mm meter on the water main. (SUBJECT TO CPI INCREASE)
- Note - Council does not permit any other bodies to insert new junctions into 'live' sewer/water mains.
81. 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.
82. At the completion of construction and prior to the issue of a Subdivision Certificate, Council requires lodgement of a Quality Register in electronic format on a 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 drawing).
- 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.

83. Following completion of the subdivision works, 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 (MGA GDA94 Zone 55/56); and
- d) Completed Asset Data Template spreadsheets in MS Excel format.

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.

84. The developer must provide Council and land purchasers with a site classification for each vacant lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause 2.2.3 of *Australian Standard AS 2870 – 2011*:

Residential Slabs and Footings. Results are to be submitted to Council prior to issue of the Subdivision Certificate.

Defects Liability Bond

85. Prior to the release of the Subdivision Certificate, a defects liability bond of 5% of the construction costs for all civil engineering work (not carried out by Council), shall be lodged with Council.

The defects liability bond will be held by Council for a period of 12 months from the completion of the works, to ensure that any defects that become apparent during the time are remedied by the developer, to Council's satisfaction. If defects are not rectified, Council may use bond money to rectify defective works.

For the purposes of defining the defects liability period, the works are considered to be completed when the Subdivision Certificate is registered with NSW Land Registry Services.

The bond may be provided by way of a monetary deposit with the Council or an unconditional bank guarantee to the satisfaction of Council. The bank guarantee must not specify any time limitations on the operation of the guarantee.

Note – any unspent bond money will be returned to the developer at the end of the twelve (12) month period, less the estimated cost of any outstanding works or works undertaken by Council in rectifying works.

Developer Contributions

86. In accordance with the provisions of section 7.11 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Council 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 a Subdivision Certificate for the relevant stage or number of lots to be created. Contributions are subject to the Consumer Price Index and are payable at the rate applicable at the time of payment.

Section 94 Contributions		
25 additional lots (minus credit for existing)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>24 Lots</i>
<i>Public Amenity or Service</i>		
Transport facilities	\$4,347.00	\$104,328.00
Recreation and Open Space	\$2,182.00	\$52,368.00
Community Facilities	\$635.00	\$15,240.00
Stormwater Management	\$458.00	\$10,992.00
Plan Administration	\$995.00	\$23,880.00
Total	\$8,617.00	\$206,808.00

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 or where lots are released in different financial years.

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 under Council Documents/Strategies and Plans.

- 87. The developer shall obtain a Certificate of Compliance under the *Water Management Act 2000*, from Council.**

Note - as a precondition to issuing a Certificate of Compliance, the Council may require the alteration and extension of services, upgrading and installing ancillary infrastructure such as pump stations and the payment of section 64 developer charges. Payments of charges may also be paid in accordance with the deferred payments provisions contained within the relevant Council Development Servicing Plans.

Note – refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

Restrictions on Title

- 88. A restriction, covenant or similar instrument is to be applied to proposed Lot 1 to protect all *Acacia ausfeldii* (Ausfeld’s Wattle) plants located within the lot. The instrument shall identify Council as the sole party to vary the restriction or covenant or similar.**
- 89. A restriction, covenant or similar instrument is to be applied to provide protection to the Aboriginal artefact sites identified on the approved plan. No buildings are to be erected within 10 metres of the Aboriginal artefact site.**
- 90. A covenant, or similar instrument, is to be applied to Lots 1 to 25 requiring compliance with the relevant terms of the General Terms of Approval issued by NSW Rural Fire Service.**
- 91. Three (3) 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, where necessary. The 3m minimum 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.**
- 92. Easements of variable width shall be created over any overland inter-allotment drainage in favour of upstream allotments. The easements are to be no less than 1m wide. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements.**
- 93. Easements for electricity purposes, as required by the electricity supply authority, shall be created, where required. The Section 88B instrument and linen plans submitted with the application are to include details of any electricity easements or restrictions on title required to be imposed by the electricity authorities/suppliers.**

Electricity and NBN

94. 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 made 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.

Road Dedication

95. The proposed road/cul-de-sac within the subdivision and the proposed extension to Plenty Road shall be dedicated as a public road at no cost to Council. The public road shall be delineated on the final plan of subdivision submitted with the application for a Subdivision Certificate.

Other dedications

96. Proposed Lots 26 and 27 are to be dedicated as a drainage reserve.

STATEMENT OF REASONS

1. The proposed development complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. The matters raised within submissions have been addressed in the following manner:
 - Necessary road upgrades will be required by conditions.
 - The proposed subdivision will not have an adverse impact on local traffic conditions.
 - The proposed design for water supply will result in improved water pressure.
 - The Stormwater Management Plan is satisfactory.
 - There is ample area on each lot on which to erect a dwelling.
 - There is no fencing forming part of the proposed development.
 - Sufficient open space is provided in the adjoining drainage reserve.

- Suitable conditions are imposed to address construction impacts.
- Suitable conditions are imposed to ensure that Aboriginal sites are adequately protected.
- The subject site is not identified as a wildlife corridor.
- The proposed variation from the DCP requirement regarding the length of the cul-de-sac is supported.
- The proposed subdivision will have minimal impact on the water table and bore water supply.
- It is expected that noise from traffic will be no greater than what is expected in a residential area.
- No road connection to Robertson Road will be provided.
- Consideration of the impact on property values is not a planning matter.
- Council's Development Engineer supports the proposed sewer servicing strategy.
- There is ample separation between the proposed lots and adjoining residences. It is not expected that the proposed subdivision will result in unacceptable amenity impacts on adjoining residences.
- Suitable conditions are imposed to control dust during construction works.
- The proposed subdivision has been designed to take into account the existing powerlines. Both TransGrid and Essential Energy have not objected to the proposed subdivision.

OTHER APPROVALS

General Terms of Approval

A copy of the NSW Natural Resources Access Regulator's General Terms of Approval are attached.

A copy of NSW Rural Fire Service's General Terms of Approval are attached.

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning – Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Division 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Planning and Development Department for more information or advice.

4. If you are dissatisfied with this decision Sections 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.
6. The attached General Terms of Approval issued by NSW's Water Authority do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NSW's Water Authority for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to NSW's Water Authority together with any required plans, documents, application fee, security deposit or bank guarantee (if required) and proof of Council's Development Consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NSW's Water Authority website at: www.water.nsw.gov.au > [Water](#) > [Licensing & Trade](#) > [Approvals](#).

7. 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, either of 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); or

Section 64 Contributions			
25 Additional Lots (credit for existing lot)			
	<i>Additional ET/Unit</i>	<i>Value/ET</i>	<i>Payment Due</i>
Water Headworks	36	\$8,689.00	\$312,804
Sewer Headworks	25.2	\$3,967.00	\$99,968.40
Total Headworks			\$412,805.90

- b) The adjustment of existing services or installation of new services and meters, 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.

Note - Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's Planning and Development Department regarding any adjustments.

Essential Energy Advice

8. **Essential Energy’s records indicate there is electricity infrastructure located within the property sand within close proximity to the property. Any activities with these locations must be undertaken in accordance with the latest industry guideline currently known as *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.**
9. **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)*.**
10. **Given there is electricity infrastructure in the area, it is the responsibility of the person completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (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*.**

General Responsibilities of the Developer and/or the Principal Contractor

11. **It is the responsibility of either or both of these parties to:**
 - a) **Provide for the overall supervision and quality of the works.**
 - b) **Advise Council officers regarding:**
 - (i) **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**
 - (ii) **The assessment of any risk that has not been eliminated, and**
 - (iii) **The measures taken to control any such risks, and**
 - (iv) **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:**
 - (i) **A sign indicating the name and telephone number (both during and outside working hours) of the Principal Contractor, and**
 - (ii) **The name and phone number of the Principal Certifying Authority.**

Executive summary

OWNER/S	Peter J Consadine
APPLICANT:	Peter J Consadine
PROPERTY DESCRIPTION	209 Robertson Road, Spring Flat

	(Lot 3 DP1206488)
PROPOSED DEVELOPMENT	Subdivision – Torrens Title – 1 into 25 Lots
ESTIMATED COST OF DEVELOPMENT:	Not applicable
REASON FOR REPORTING TO COUNCIL:	Subdivision creating more than 20 lots
PUBLIC SUBMISSIONS:	Nineteen

Council is in receipt of a development application, lodged 23 December 2020, that seeks approval to subdivide 290 Robertson Road, Spring Flat (Lot 3 DP1206488) into 25 allotments, each with a minimum lot size of 2,000 m².

The proposed development will include the provision of a reticulated water and sewerage network - connected to Mudgee's reticulated system. Inter-allotment drainage will be provided which will discharge to the adjacent drainage reserve via a detention basin.

The application has been placed on public exhibition over two rounds in accordance with *Mid-Western Regional Community Participation Plan 2019*. The exhibition period for Round 1 ended on 29 January 2021 and 17 submissions were received. The exhibition period for Round 2 ended on 5 March 2021 and 2 submissions were received.

As the proposal involves subdivision creating more than 20 lots, the application cannot be determined by delegated staff – Council is required to determine the application.

The application is recommended for approval.

Background

SUBJECT SITE

The subject site is located at 290 Robertson Road, Spring Flat. The site has an area of approximately 10 hectares. A 45m wide Transgrid electricity easement traverses the site. A second electricity easement controlled by Essential Energy runs across the northern part of the site – this easement is of variable width. An access handle connects to Robertson Road to the west. The north-eastern part of the site adjoins the Plenty Road reserve. There are no buildings on the site. The site has formally been used as grazing land and is mostly cleared of trees.

Land immediately to the east of the subject site is a drainage reserve, running in a north/south direction, owned by Council. Beyond the drainage reserve, further east, is Broadview Estate, a subdivision providing 2,000 m² lots. The adjoining land to the west has been developed with 2 ha lots. Land to the north of the site is predominantly used as grazing land and is zoned RU1 – Primary Production. Land to the south of the site has recently been approved for subdivision into 2 hectare lots.

The land has recently been rezoned in accordance with planning proposal Mid-Western Regional Local Environmental Plan Amendment No.12, which reduced the minimum lot size for this development.

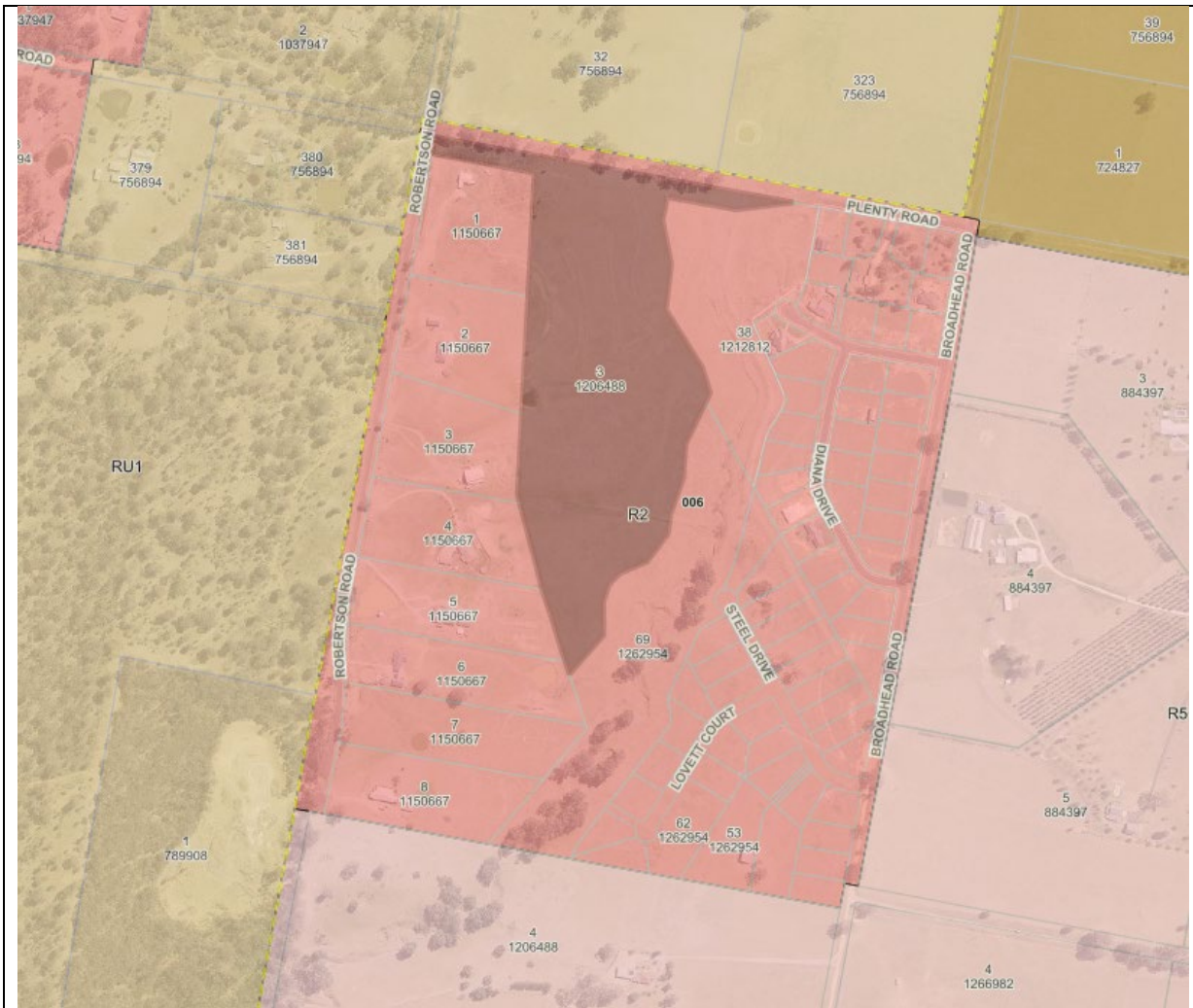


Figure 1: Subject site

PROPOSED DEVELOPMENT

Council has received a development application for a 1 into 25 lot subdivision at 290 Robertson Road, Spring Flat. The whole of the site is zoned R2 – Low Density Residential, where subdivision is permissible with the consent of Council. Each of the proposed lots will have an area greater than 2,000 m². The lots will be Torrens title lots.

The subdivision will be accessed from a re-alignment and extension of Plenty Road to the development site. The re-alignment avoids removal of any existing trees on Plenty Road. A new cul-de-sac and road will be constructed to provide access to the lots within the subdivision. No vehicular access to Robertson Road will be created as part of this development.

An extension to the town water and sewerage networks will be made to provide services to each of the proposed lots. The water main will loop across the adjacent drainage reserve and connect into the water supply located in Steel Drive. An inter-allotment stormwater drainage network will be provided which will discharge via a detention basin into the adjoining drainage reserve. Proposed Lots 26 and 27 will be dedicated as drainage reserves. Stormwater easements will be created over proposed Lots 15 and 20, to accommodate the existing watercourse.

Easements will be created to drain water, to drain sewerage, accommodate services and to protect known Aboriginal heritage items.

The subdivision is not proposed to be released in stages, and is depicted below in Figure 2.

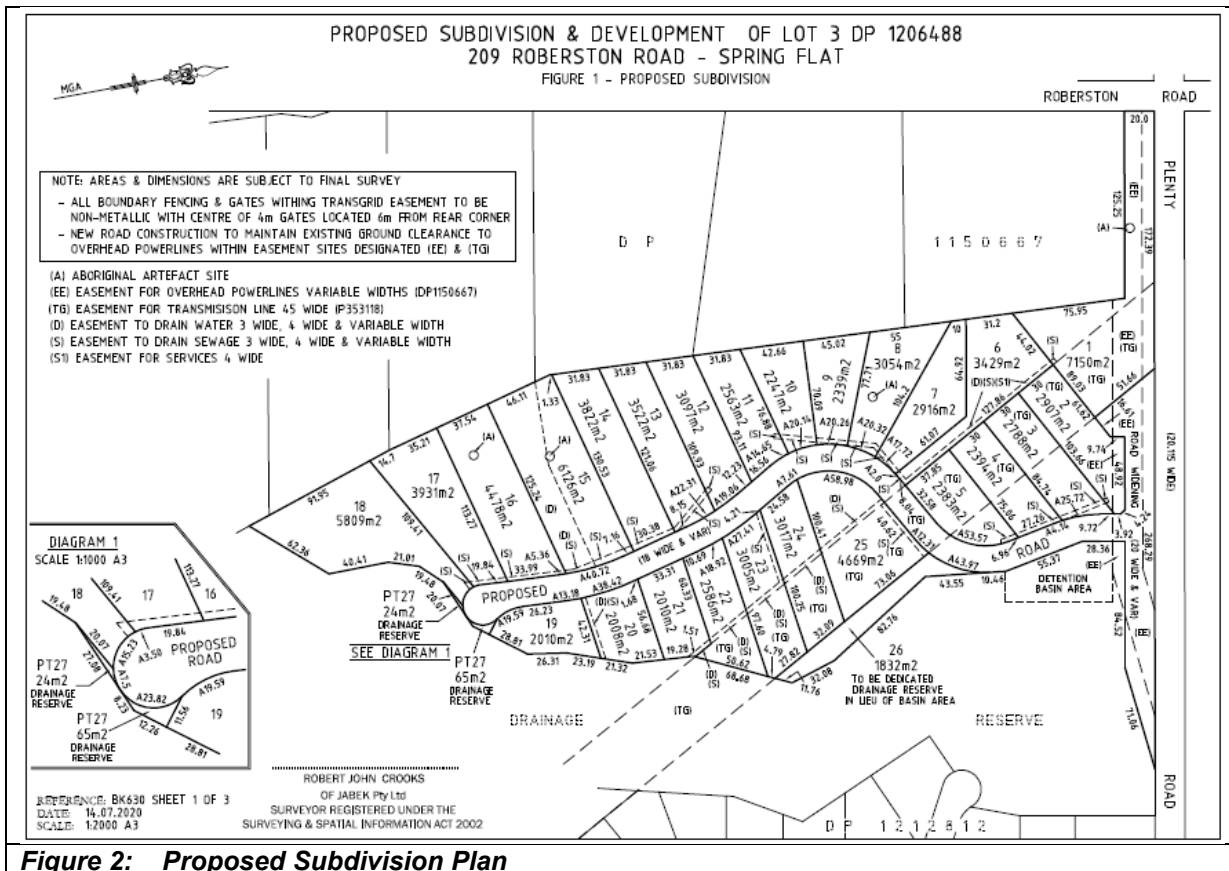


Figure 2: Proposed Subdivision Plan

The proposal does not involve a variation to the requirements prescribed within *Mid-Western Regional Local Environmental Plan 2012*. However, the proposal involves variations from two of the requirements of *Mid-Western Regional Development Control Plan 2013*, summarised as follows:

- a) The DCP requires a cul-de-sac to be no longer than 150m and not to serve more than 12 lots. The proposed cul-de-sac serves 23 lots and is approximately 490m long. The cul-de-sac was considered and approved as part of the Planning Proposal amending the minimum lot size for this site. There is no practical alternative to providing an extra-long cul-de-sac. The applicant has provided sufficient justification to the department, and the proposed variation is supported.
- b) The DCP requires a new road to connect as a through road to intersect with existing roads. The proposed subdivision will not provide a through road connection to Robertson Road. If such a road were to be constructed through the access handle of proposed Lot 1, it would involve significant cut and fill to obtain correct grades in the road, it will require the removal of the Ausfeld's Wattle (a threatened species) located within the access handle and will adversely affect the clearances beneath existing electricity lines. The proposed variation is supported.

Disclosure of Interest

Nil.

Detailed report

LEGISLATIVE REQUIREMENTS

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

Designated Development

Not applicable.

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

Integrated Development

The proposed development triggers integrated development, in accordance with section 4.46 of the *Environmental Planning and Assessment Act 1979*, as follows:

- A controlled activity approval in accordance with Section 91 of the *Water Management Act 2000*.

The proposed development involves road works and drainage within 40m of a watercourse.

- A Bush Fire Safety Authority in accordance with Section 100B of the *Rural Fires Act 1997*.

In order to approve the development application, General Terms of Approval are required from the Natural Resources Access Regulator (NRAR) and NSW Rural Fire Service. These General Terms of Approval have been received and are included as part of the recommendation.

Biodiversity Conservation Act 2016

The proposed development does not involve clearing of any trees.

There are 35 *Acacia Ausfeldii* (Ausfeld's Wattle) plants located within the access handle between Robertson Road and the Transgrid easement. Box Gum Woodland (comprising Blakely's Red Gum – White Box grassy woodland) is located between the Transgrid power line easement heading east towards Broadhead Road. The proposed extension of Plenty Road has been located to avoid removal of all trees on Plenty Road. Those trees adjacent to Plenty Road are mapped on the Biodiversity Values Map but are not being removed as part of the proposed development. Consequently, the need for a Biodiversity Development Assessment Report is not triggered for this application.

SECTION 4.15(1) – MATTER FOR CONSIDERATION - GENERAL

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

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

State Environmental Planning Policy No 55 – Remediation of Land

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

State Environmental Planning Policy (Infrastructure) 2007

The proposed development is not located near a rail line or a classified road. However, electricity easements traverse the site.

Clause 45 – Development likely to affect an electricity transmission or distribution network

This clause applies as the development is carried out within or immediately adjacent to an easement for electricity purposes. This clause requires that the application be referred to the electricity supply authority for the area and for Council to take into consideration any response from the electricity supply authority.

The application was referred to TransGrid on 13 January 2021. TransGrid responded on 22 January 2021 and advised they had no objections to the proposal subject to the following conditions:

General conditions:

- 1. TransGrid shall be notified of any amendments/modifications to the proposal which may change proposed distances to TransGrid structures or conductors.*
- 2. All works must be carried out in accordance with NSW WorkCover 'Working Near Overhead Powerlines' Code of Practice 2006.*
- 3. All fencing (including temporary fencing) must comply with TransGrid's Fencing Guidelines.*

Technical conditions:

- 1. Pits or pillars to connect the electricity supply to residences cannot be located within the easement.*

These conditions are included in the recommended conditions of consent.

The application was referred to Essential Energy on 13 January 2021. Essential Energy responded on 22 January 2021 and advised:

Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy also advised that a Notice of Arrangement from Essential Energy should be obtained prior to the issue of a Subdivision Certificate. A condition is included in the recommendation, to this effect. Other matters raised by Essential Energy are included as Advisory Notes in the recommendation.

Clause 104 Traffic Generating Developments

Not applicable.

The proposed development does not breach the 200 allotment threshold for subdivision, of *Schedule 3 Traffic Generating Development to be referred to RMS* of the SEPP.

State Environmental Planning Policy (Koala Habitat Protection) 2020

This SEPP 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 in the same ownership is greater than 1 hectare in size.

There are koala food trees located within the Plenty Road reserve. However, none of these trees will be removed by the proposed development as the developer is designating part of his land to create a road. The proposed development will have no impact on koalas or koala habitat. No further provisions of this SEPP apply.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Not applicable.

The proposed development does not comply with the exempt requirements for subdivision and requires development consent from Council.

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

Not applicable.

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*.

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

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

1.2 Aims of Plan

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

1.4 Definitions

The following definitions within the LEP are applicable to the proposed development:

- Subdivision – as defined in s6.2 of the *Environmental Planning and Assessment Act 1979*;
- Earthworks;
- Road; and
- Water supply system.

2.3 Zone objectives and Land Use Table

The land is zoned R2 – Low Density Residential pursuant to MWRLEP 2012. The proposed *subdivision* and *earthworks* are permissible with the consent of Council in the zone and comply with the relevant objectives in that it:

- Will provide lots that will accommodate residential housing within a low density environment; and
- Will accommodate other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed *water supply system* and *roads* are listed as being prohibited in the R2 zone. However, it is considered that the proposed *water supply system* and *roads* are ancillary to the proposed subdivision, and is therefore permissible with consent.

2.6 Subdivision – consent requirements

As the proposed development is for subdivision, it will require development consent.

4.1 Minimum subdivision lot size

The proposed subdivision meets the objectives of the clause as the proposal:

- Will occur in a manner that promotes suitable land uses and development;
- Will minimise any likely impact of the subdivision on the amenity of neighbouring properties;
- Will provide lot sizes and dimensions that are able to accommodate development, consistent with relevant development controls; and
- Will not have an inappropriate impact on the natural environment.

The minimum lot size would normally be 2 hectares. However, sub-clause 4.1(3A)(a) allows subdivision to sizes of 2000 m², where each lot is serviced with reticulated water and sewerage. Proposed Lots 1 to 25 range in size from 2,008 m² to 7,150 m². Proposed Lots 1 to 25 will be serviced by reticulated water and sewerage systems. Consequently, the proposed subdivision complies.

Proposed Lot 26 (with an area of 1,832 m²) and proposed Lot 27 (with an area of 89 m²), are proposed to be dedicated to Council as drainage reserves and will not be serviced. However, they are not subject to the provisions of clause 4.1, as the lots can be created as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as they are being created for a public purpose (including drainage purposes).

5.10 Heritage Conservation

Clause 5.10(8) states:

Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance —

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

Comment: The application identifies four sites within the subdivision where Aboriginal objects are known to occur. These sites have been identified in a previous Aboriginal Heritage Survey in 2004 and through Aboriginal Heritage Information Management System (AHIMS) records.

The proposed layout has demonstrated the new lot boundaries, road and servicing infrastructure can avoid any impact to these locations. The applicant has proposed that a suitable s88B instrument/covenant be created to identify and protect these locations. A condition is included in the recommendation to this effect, as well as a condition advising that should any Aboriginal archaeological material be discovered during works, all work in that area is to cease, with the appropriate regulatory authorities notified as soon as possible.

- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

Comment: The NSW Aboriginal Land Council was notified of the application by letter dated 4 February 2021. To date, no comments have been received from the NSW Aboriginal Land Council.

6.1 Salinity

Complies.

No part of the site is identified on Council's mapping as being affected by salinity.

The proposed subdivision and associated works are unlikely to have an adverse impact on salinity processes on the land. As earthworks will be limited, relatively shallow and involve only necessary infrastructure and roadworks, it is not expected that salinity will have an adverse impact on the development.

A condition will be applied requiring concrete used in the works to be of sufficient strength to ensure durability.

6.2 Flood planning

Not applicable. The land is not subject to any known flooding.

6.3 Earthworks

Complies.

Any earthworks will be ancillary to the proposed subdivision and will relate to the provision of services, internal road and upgrades to existing roads, and accordingly they do not require separate development consent. No earthworks are proposed to create building platforms. Cut and fill may be considered in detail in future applications for development of the lots.

The proposal is not expected to have an adverse impact on existing drainage patterns and soils stability as:

- The existing watercourse will be retained in its natural alignment; and
- Conditions may be imposed to ensure that appropriate sediment erosion controls are in place both during works and over the long term.

The quality of fill to be imported to the site may be regulated by condition.

The proposed earthworks are not expected to have a significant impact on the amenity of adjoining properties.

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 limited extent of excavation associated with the installation of roads, stormwater, sewerage and water services, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

6.5 Terrestrial Biodiversity

Not applicable.

No part of the site is mapped biodiversity sensitive.

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 proposed development will provide a reticulated water system connected to Council's water supply. This system will loop back into the existing water system located in Steel Drive.
- The design of the electricity supply will occur after the Development Consent is issued.
- A reticulated sewer system, connecting to Council's network, will be provided to each of the proposed lots.
- An inter-allotment stormwater drainage system is proposed, which will discharge to the drainage reserve to the east of the site.
- Each lot has street frontage of sufficient width to accommodate a driveway crossover in the future. Proposed lots will have direct access to a sealed road with the new cul-de-sac road and the extension to Plenty Road. The proposed new road is designed to an appropriate speed limit for the development.

Conditions are recommended to ensure sufficient details and the necessary follow-on approvals are obtained in relation to the above matters.

6.10 Visually sensitive land near Mudgee

The western part of the site is mapped as being visually sensitive land, and accordingly Council is required to be satisfied that the development:

- Will complement the visual setting forming the backdrop to Mudgee; and
- Will be designed, set back and sited to respond sympathetically to the landform of the site on which the development is proposed to be carried out and will minimise visual intrusion.

It is not expected, owing to the nature of the development and topography of the site, that there will be any impact upon the visual setting forming the backdrop to Mudgee. Furthermore the layout provides undulating sites, at similar densities to neighbouring development to the east, which will allow for a variety of housing design and opportunity to consider neighbouring properties, and to minimise visual intrusion.

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

Mid Western Regional Development Control Plan 2013 (the DCP)

5.3 Stormwater Management

A Stormwater Management Plan has been provided with the application. A piped inter-allotment drainage system will be constructed throughout the subdivision. This piped system will discharge to the drainage reserve adjoining the site, via a new detention basin. A stormwater culvert will be constructed under the extension to Plenty Road. The application demonstrates that stormwater may be appropriately managed, in accordance with the requirements of this section of the DCP. Conditions have been imposed requiring further details of the stormwater system to be submitted to and approved by Council officers, as part of any future subdivision construction certificate.

5.4 Environmental Controls

An Aboriginal Heritage Information Management System (AHIMS) search indicated that there are four known Aboriginal sites located within the proposed development. The proposed subdivision layout and design avoids impacts to these Aboriginal sites. A condition will be applied requiring protection of these sites by restrictions or covenants on title – which has been proposed by the applicant.

The site is identified as bush fire prone land. The application is integrated development in relation to bushfire. General Terms of Approval from NSW Rural Fire Service have been received and are incorporated in the recommendation.

There is a watercourse within the drainage reserve adjoining the site. The proposed works within the watercourse, involving the installation of a culvert crossing for the Plenty Road extension, have received General Terms of Approval from the Natural Resource Access Regulator. These are incorporated in the recommendation.

7.1 Urban Subdivision

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Applies to	
Land zoned residential; village zones; rural residential lots up to 2 hectares	Land is zoned Residential.
Lot size	
Minimum lot size as determined by MWRC LEP 2012	Yes. Each proposed lot exceeds the 2,000 m ² minimum lot size.
All lots have street frontage	All lots have frontage to the proposed new road, Plenty Road or Robertson Road.
Lots increase in size relative to slope as follows: – 0-10 degrees: 600m ² – 10-15 degrees: 700m ² – 15-20 degrees: 800m ² – >20: subdivision prohibited	Minimum lot size 2000 sqm. Lot sizes range from 2008 sqm to 7150 sqm. Lots sizes increase based on slope of block.
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. Site zoned R2.
Battle-axe handles in R2 and R5 residential zones have width of 6m	Yes. Minimum handle width for Lot 6 is 8m. Lot 1 has a 20m wide handle. Lot 18 has a 10m wide handle.
Lot Design	
For infill subdivision lot orientation maximises solar access and takes account of existing pattern of development	Not applicable.
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

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
For new release subdivision east-west orientated lots have increased width and midpoint	to erecting a dwelling with good orientation. 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	Not applicable.
Street Layout and Design	
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	Variation. See below for justification.
Where cul-de-sac treatment unavoidable, pedestrian linkages between streets provided	Yes. The application states that a pedestrian link will be constructed to connect to the existing pedestrian path in Plenty Road. Condition to be applied.
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	Variation. See below for justification.
Subdivision >80 lots should not require backtracking	Not applicable.
Road Standards for New Development	
Residential roads – serves 31-120 dwellings: 18m road reserve, 9m carriageway, 2 x 4.5m nature strip, 1 x 1.2m footpath, rollover kerbing	Complies. Plans demonstrate compliance. No footpath shown on plans but application indicates will be provided to connect to Plenty Road. Condition to ensure compliance.
Cycle ways and footpaths	
Cycle ways and pedestrian networks included in new subdivisions	Yes. Pedestrian footpath to be

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
	provided.
If subdivision site identified in Council cycle way plan or pedestrian strategy, subdivision needs to respond to strategy	Not applicable
New subdivisions provide direct, convenient and safe access to major facilities	Yes, subdivision layout will extend to the existing connections to Mudgee
Cul-de-sacs may be required to include 10m wide shared overland flow/pathway	Not applicable
Developer to provide contribution to Council for installation of cycle ways and footpaths prior to release of subdivision certificate	Yes. Condition included in consent.
Open Space	
Greenfield sites >20 lots ensure that lots are <400m from local park, playground or passive open space	Yes. All lots are within 400m of the adjoining drainage reserve. It should be noted, that the drainage reserve also acts, and was approved as open space for the adjoining residential subdivision, off Broadhead Road.
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. On-site detention is proposed and will not double as open space.
Landscaping	
Landscape plan provided, detailing treatment of public domain	Not applicable.
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.
Street Trees	
Two (2) street trees provided per lot	Yes. To be conditioned.
Developer provides levy to Council to provide these trees after 80% of works carried out	Not applicable.
Utility Services	
Servicing plan submitted showing provision of underground electricity, sewer, water, drainage and telecommunications to the development	Lots to be connected to reticulated water, sewer, electricity and telecommunications.
Evidence of consultation with relevant authorities submitted with application	Yes, evidence provided.
Drainage	
As per Section 5.3 Stormwater and Drainage	Detailed stormwater plan to be lodged at CC stage. Concept plan adequate.

Justification for DCP variation – No Through Road

The DCP requirement is for new roads to provide a “through road” connection to surrounding roads where they exist in the locality.

The proposed development does not extend the extension of Plenty Road all the way through to Robertson Road. The application justifies this by arguing that it is not practical to provide a through road connection of Plenty Road through to Robertson Road due to the topography and Biodiversity sensitivity in the access handle of proposed Lot 1. The topography constraint will lead to excessive cut and fill to obtain the correct grades on the road in that location. There are specimens of Ausfeld’s Wattle within the 20m wide access handle to Lot 1 that would be adversely affected by any road construction. The construction of the road will significantly change ground clearance beneath Essential Energy easements. As an alternative to providing a through road connection, it is proposed to terminate the Plenty Road extension in a court bowl located near the eastern boundary of proposed Lot 1. It is considered that the proposal’s variation to this DCP requirement is justified, particularly as it supports better environmental outcomes.

Justification for DCP variation – Length of Cul-de-sac

The DCP requirement is that the maximum number of lots to be serviced by a cul-de-sac is 12, or the length of the cul-de-sac does not exceed 150m in length.

The proposed cul-de-sac will provide access to 23 lots and the length of the cul-de-sac is approximately 490m.

The application provides the following justification for the variation to the DCP requirement:

- *A contributing factor to the longer cul-de-sac length is the larger lot frontages required for the 2000m² blocks, which generally have 30-40m frontages, much larger than in typical residential construction.*
- *Although longer and servicing more lots than recommended the new cul-de-sac will be managed by ensuring the road construction is at a standard that will be able to convey the expected volume of traffic to be generated (approximately 21 vehicle trips in peak hour).*
- *The length of the cul-de-sac is directly attributed to the existing irregular shape of the parent lot, and the size of the lots proposed.*
- *The road hierarchy is not detrimentally impacted.*
- *The layout is aligned with the planning proposal which was supported by Council and considered as part of LEP amendment No 12. Hence a cul-de-sac treatment was already considered acceptable for this site by Council and followed over in this DA stage design.*

Based on the above justifications, it is considered that the variation from the cul-de-sac requirements are acceptable.

(c) Provisions of any Planning Agreement or Draft Planning Agreement – 4.15(1)(a)(iia)

No planning agreement applicable.

(d) Regulations – 4.15(1)(a)(iv)

No matters prescribed by the Regulations impact determination of the Development Application.

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

Context and Setting & Site Design and Internal Design

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

Access, transport and traffic

The proposed subdivision will be accessed via an extension to Plenty Road. A new cul-de-sac road will be constructed within the subdivision. There are adequate sight distances at the intersection of the proposed new road and Plenty Road and the intersection of Plenty Road and Broadhead Road. No access to Robertson Road will be provided from the proposed subdivision. The traffic generation from the subdivision will not exceed the capacity of the local road network.

Utilities

The proposed subdivision is located on the fringe of Mudgee and will have access to water, sewerage, electricity and stormwater infrastructure. Conditions of consent will require the connection of each of the residential lots to any necessary utilities.

Heritage

The subject site has four known sites where Aboriginal artefacts are located. These sites have been clearly identified on the plan of subdivision. The design of the subdivision results in no new lot boundaries, roads or servicing infrastructure being located near the Aboriginal sites, thereby avoiding any possible damage/disruption to these sites. The size of the land parcels allows for a dwelling and associated outbuildings without affecting the Aboriginal sites. The application proposed that a covenant or restriction be placed on the title to ensure that these Aboriginal sites are avoided/protected. A condition to this effect is included in the recommendation.

Other land resources

The approved development will not impact on other land resources.

Water

The proposal is not expected to create any water pollution issues, subject to a condition for sediment erosion controls during construction.

Suitable conditions for water quality measures to be incorporated into the detailed stormwater design and protection of vegetated riparian zones are included in the recommendation.

Soils

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

Air and Microclimate

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

Flora and Fauna

The Statement of Environmental Effects states that there are approximately 35 *Acacia ausfeldii* (Ausfeld's Wattle) plants located between Robertson Road and the Transgrid powerline easement, this area being the access handle for proposed Lot 1. Ausfeld's Wattle is a threatened species under the NSW *Biodiversity Conservation Act 2016*. No works are proposed where the Ausfeld's Wattle is located. Conditions are included in the recommendation requiring the Ausfeld's Wattle to be protected and for a covenant or restriction on title to be applied to ensure their protection. In this way, there will be no impact on the Ausfeld's Wattle. The Flora and Fauna report submitted with the application indicates that there are no occurrences of Ausfeld's Wattle within the main body of the proposed subdivision.

The Flora and Fauna report submitted with the application indicates that a search had been undertaken for *Leucochrum albicans var. tricolour* (Hoary Sunray) and no instances of this species had been detected on the site.

The Statement of Environmental Effects states that there is a patch of Box Gum Woodland (comprising Blakely's red Gum – White Box grassy woodland) located in the Plenty Road reserve, between the TransGrid power line easement and Broadhead Road. This woodland is listed as an Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016* and as a Critically Endangered Ecological Community under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. The design of the proposed extension to Plenty Road has been diverted around this patch of woodland, ensuring its retention. The proposed subdivision will have no impact on this woodland.

The Flora and Fauna Report submitted within the application states that due to the diminished habitat occurring as a result of many years of grazing the site, the site does not function as a wildlife corridor for native fauna species.

The remainder of the site has formerly been used as grazing land and does not contain any flora of significance.

Waste

Waste service available.

Energy

Electricity is to be connected to the proposed lots. The energy needs of the development is not expected to place significant demands on the local infrastructure capacity/operation.

Noise and vibration.

The proposal is not a use that will generate significant noise, except for a limited duration over the construction phase.

Natural Hazards

The site is not identified as being effected by geological/soil instability.

The submitted Stormwater Drainage Report (13 April 2021) shows the drainage reserve to the east of the subject site as flood prone. The accompanying plans show the extent of the 1% AEP flood event, which shows that the proposed subdivision will be affected to a minor extent during this 1% AEP event. In this regard, there is ample area on each proposed lot to erect a dwelling above the 1% AEP flood level.

The site is mapped as being bushfire prone land. As the proposal is for residential subdivision, the application constitutes integrated development requiring assessment by the NSW Rural Fire Service (RFS). General Terms of Approval from the RFS have been obtained and are included in the recommendation.

Technological Hazards

Not applicable.

Safety, security and crime prevention

Increased passive surveillance as a result of the proposed development.

Economic and Social impact in the locality

Generally positive.

Construction

The impacts of construction activities may be regulated by conditions.

Cumulative impacts

The proposed development is not expected to contribute to cumulative impacts.

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

Does the proposal fit in the locality?

The proposed development fits into the residential context within which it sits. Utility services have the capacity to service the development.

Are the site attributes conducive to development?

Yes. The proposed development is designed to respond to bushfire, preserving water quality within the creek and the ecological constraints of the site. No adjoining land uses will have an adverse impact on the proposed subdivision.

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

Public submissions

The application has been placed on public exhibition over two rounds in accordance with *Mid-Western Regional Community Participation Plan 2019*. The exhibition period for Round 1 ended on 29 January 2021 and 17 submissions were received. The exhibition period for Round 2 ended on 5 March 2021 and 2 submissions were received.

The issues raised in the Round 1 exhibition period are summarised below:

- Traffic increase in local area.
 - Access should be from Robertson Road. Broadhead Road not up to specification for increased traffic.
 - School bus routes.
 - Bruce Road and Broadhead Road need to be upgraded.
 - Traffic Study required.

Comment: A Traffic Report was submitted with the application in response to Council's request for further information. The Traffic Report identified that Broadhead Road has been upgraded to a suitable standard to serve as a link between subdivision developments. No access to Robertson Road is proposed as it is prohibitive in terms of constraints imposed by terrain, significant changes to TransGrid and Essential Energy infrastructure and ecological concerns. No need to upgrade nearby intersections was identified. School buses will be able to utilise the local road network.

- Water pressure.

Comment: The Water Servicing Report submitted with the application indicates that the proposal to connect a loop into the existing pipe at Steel Drive, will improve water pressure in the Broadview Estate subdivision.

- Flood study/ inadequate stormwater drainage.

Comment: A Stormwater Management Plan has been assessed by Council's Development Engineer and was considered that adequate stormwater drainage will be provided such that the post-developed discharge flow rate from the site is to be kept to below the pre-development rate.

- Adequacy of building envelopes on each lot.

Comment: There is ample area on each lot on which to erect a dwelling, with the minimum lot size being 2,000m².

- White plastic fences underneath power lines.

Comment: This application does not propose any fencing. Fencing is normally exempt development and does not require assessment by Council.

- No dedicated open space within subdivision.

Comment: No dedicated open space has been provided within the proposed subdivision, with the applicant proposing to utilise the adjoining drainage reserve to the east as open space. This reserve also acts, as open space for the adjoining residential subdivision, off Broadhead Road.

- Bushfire plus water pressure.

Comment: Council's Development Engineer has determined that sufficient water pressure will be provided in the water network, including hydrant systems.

- Construction impacts.

Comment: Suitable conditions may be imposed to address construction impacts, such as sediment erosion control and dust impacts. Any impacts will be short term.

- Further assessment of Aboriginal items required.

Comment: The application identifies the location of known heritage items and proposes to protect these via a covenant or restriction on title. As these items will be protected, it is considered that further assessment of the Aboriginal items is not required.

A standard condition will also be imposed, requiring that should any Aboriginal archaeological material be discovered during works, all work in that area is to cease, with the appropriate regulatory authorities notified as soon as possible.

- Extend submission date.

Comment: Due to the number of people that requested an extension to the public exhibition period, the application was re-exhibited for a second round.

- No notification of change to Minimum Lot Size – Robertson Road.

Comment: The Planning Proposal to reduce the minimum lot size down to 2,000 m² was placed on public exhibition for 14 days commencing on 27 February 2015. This exhibition took the form of an advertisement in the local newspaper.

- Glare and white roofs and white fences.

Comment: The application is for subdivision only. Glare from roofs and fences can be considered in future applications for dwellings on the proposed lots.

- Kangaroos.

Comment: It is unlikely that the proposed subdivision will hinder the ability of kangaroos to travel between feeding grounds.

- More than 12 lots off cul-de-sac.

Comment: The application provides justification for the variation to the DCP requirement. This variation is discussed elsewhere within this report and is supported on planning grounds.

- Impact on water table and bore water supply.

Comment: The proposal involves shallow excavation for the provision of roads and pipelines. It is expected that these works will not have an impact on the water table or bore water supply.

- Overlooking into subdivision.

Comment: It is considered that the setbacks from boundaries, distances between the residences and available design solutions of dwellings (future) will mitigate against any unreasonable privacy impacts that may result from overlooking.

- Noise from traffic.

Comment: It is expected that noise from traffic will be no greater than what is normal for a residential subdivision.

- Reject possible connection to Robertson Road.

Comment: No access to Robertson Road is proposed as it is prohibitive in terms of constraints imposed by terrain, significant changes to TransGrid and Essential Energy infrastructure and ecological concerns. This is discussed in the body of the report.

- Corridor for wildlife.

Comment: The property in the most part forms former grazing land and is not recognised as a significant wildlife corridor, as per the findings of the submitted Flora and Fauna Report.

- Property values.

Comment: There is no evidence to support the claim that the proposed subdivision will have a negative impact on property values in the area. In addition, consideration of the impact on individual/immediate property values is not a planning matter.

- Pumping station for Stage 2 of Broadview Estate – progress update.

Comment: The proposed water servicing strategy involves the provision of a looped water pipeline, which is expected to improve water pressure within Broadview Estate. Status of pumping station for Stage 2 Broadview Estate is not a matter for consideration in the subject application.

- Sewer.

Comment: Council's Development Engineer supports the proposed sewer servicing strategy.

The issues raised in the second round of notification are summarised below:

- Previous assurance that there would be no development in the subject site.

Comment: The site is zoned R2, where subdivision and residential development are permissible with the consent of Council, with a Minimum Lot Size of 2,000m² – when serviced with reticulated water and sewer systems.

- Aboriginal artefacts.

Comment: The application identifies four Aboriginal objects, and has proposed to protect these items via a covenant or restriction on title.

- Impact on amenity of existing residences.

Comment: There is ample separation between the proposed lots and adjoining residences. It is not expected that the proposed subdivision will result in unacceptable amenity impacts on adjoining residences.

- Water pressure is low.

Comment: The applicant has provided a design for the water supply that loops back into the existing network at Steel Drive. The effect of the loop is to increase water pressure in the line.

- Video showing localised flooding.

Comment: The assessing officer viewed this video at the front counter. It was difficult to determine exactly where the flooding was occurring.

The applicant submitted a Stormwater Drainage Report (13 April 2021), which shows the drainage reserve to the east of the subject site as flood prone. The accompanying plans show the extent of the 1% AEP flood event, which shows that the proposed subdivision will be affected to a minor extent during this 1% AEP event. In this regard, there is ample area on each proposed lot to erect a dwelling above the 1% AEP flood level.

- Dust during construction.

Comments: A condition may be applied for water trucks to be used during the subdivision construction works.

- More than 12 lots off the cul-de-sac/ overdevelopment of site.

Comment: This represents a variation from the DCP requirement. The applicant has provided sufficient justification for the DCP variation.

- Powerlines.

Comment: The subdivision has been designed to take into account the power lines. Both TransGrid and Essential Energy have not objected to the proposed subdivision.

(h) The Public Interest – 4.15(1)(e)

Federal, State and local government interests and community interests

There are no matters that would be considered to be contrary to the public interest.

Covenants and easements effecting the proposal

There is a 40m wide TransGrid easement traversing the site. In addition, there is an Essential Energy running along the northern part of the site, of variable width. The proposed subdivision has been designed to accommodate the easements.

Conditions are imposed for any new easements to be created over the proposed subdivision.

CONSULTATIONS

Natural Resources Access Regulator

General Terms of Approval (GTA's) were received from the Natural Resources Access Regulator on 1 June 2021. These GTA's are incorporated into the recommendation.

NSW Rural Fire Service

General Terms of Approval (GTA's) were received from NSW Rural Fire Service on 11 March 2021. These GTA's are incorporated into the recommendation.

Development Engineer

Council's Development Engineer has provided conditions to address the detailed engineering matters. These conditions are incorporated in the recommendation.

DEVELOPER CONTRIBUTIONS

Section 7.11 (formerly s94) Contributions

The proposed subdivision creates 25 new lots. The parent lot will carry a single Equivalent Tenement (ET) credit for Section 7.11 contributions. Contributions are not applicable to proposed Lots 26 and 27, which will be dedicated as drainage reserves. Therefore, Section 7.11 contributions are payable for 24 new lots/equivalent tenements (ETs). The whole of the subject site is located in the Mudgee catchment. Conditions will be applied requiring the payment of 24 ET's of Section 7.11 contributions, prior to the issue of a Subdivision Certificate.

Section 64 Contributions – Water and Sewer Headworks

The subject site is located in Council's water and sewer servicing areas. Based on *Mid-Western Regional Development Servicing Plans* for Water and Sewer, Section 64 contributions are applicable to the proposed development based on the following calculation. An appropriate condition has been imposed requiring payment of the contribution.

Sewer	
25 x Residential allotment (large) > 1200m ²	25 x 1.05 ET x \$3,967.00 = \$104,133.75
Less 1 x Residential allotment (large) > 1200m ²	1 x 1.05 ET x \$3,967.00 = \$4,165.35
Total contribution	= 25.2 ET = \$99,968.40

Water	
25 x Residential allotment (large) > 1200m ²	25 x 1.5 ET x \$8,689.00 = \$325,837.50
Less 1 x Residential allotment (large) > 1200m ²	1 x 1.5 ET x \$8,689.00 = \$13,033.50
Total contribution	= 36 ET = \$312,804

Community Plan implications

Theme	Protecting Our Natural Environment
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

Mid-Western Regional Local Environmental Plan 2012

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

Council Policies

Not applicable.

Legislation

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

Financial implications

Section 7.12 developer contributions will be collected in accordance with the *Mid-Western Regional Contributions Plan 2019*. Sewer and water headworks charges will be collected in accordance with *Mid-Western Regional Development 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.

ILIJA SUSNJA
PLANNING COORDINATOR

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

29 April 2021

Attachments:

1. Subdivision Plan. (separately attached)
2. Essential Energy Response. (separately attached)
3. Transgrid Response. (separately attached)
4. NSW Rural Fire Service General Terms of Approval. (separately attached)
5. Natural Resources Access Regulator General Terms of Approval. (separately attached). (separately attached)
6. Submissions - Round 1. (separately attached)
7. Submissions - Round 2. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER