

8.3 DA0020/2022 - Serviced Apartment at 772 Black Springs Road, Budgee Budgee (Lot 323 DP 1109684)

REPORT BY THE STUDENT PLANNER
TO 15 SEPTEMBER 2021 ORDINARY MEETING
GOV400088, DA0022/2022

RECOMMENDATION

That Council:

- A. receive the report by the Student Planner for DA0020/2022 Serviced Apartment at 772 Black Springs Road, Budgee Budgee (Lot 323 DP 1109684); and
- B. approve DA0020/2022 Serviced Apartment at 772 Black Springs Road, Budgee Budgee (Lot 323 DP 1109684) subject to the following conditions and Statement of Reasons:

APPROVED PLANS

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

<i>Title / Name:</i>	<i>Drawing No / Document Ref:</i>	<i>Issue:</i>	<i>Date:</i>	<i>Prepared by:</i>
Site Plan	3576 – A01	A	July 2021	Giselle Denley Drafting Services
Ground Floor Plan	3576 – A02	A	July 2021	Giselle Denley Drafting Services
Elevations	3576 – A03	A	July 2021	Giselle Denley Drafting Services
BASIX Certificate	1221083S	-	09/07/2021	Giselle Denley Drafting Services

GENERAL

2. This development consent provides approval for a serviced apartment, only.
3. This approval does not provide any indemnity to the owner or applicant under the *Disability Discrimination Act 1992* with respect to the provision of access and facilities for people with disabilities.
4. This development consent does not include approval for any signage for the approved development. A separate Development Consent or Complying Development Certificate may be required for signage, if the signage is not exempt development.
5. All earthworks, filling, building, driveways or other works, are to be designed and constructed 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.

6. 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.
7. 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.
8. 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.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

9. Prior to the issue of a Construction Certificate, approval pursuant to Section 68 of the *Local Government Act 1993* to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.

PRIOR TO THE COMMENCEMENT OF WORKS

10. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a) the appointment of a Principal Certifying Authority, and
 - b) the date on which work will commence.

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

11. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE

12. Prior to the commencement of works on site, the applicant shall advise Council's Development Department, in writing, of any existing damage to Council property.
13. A sign must be erected in a prominent position on any work site on which the alteration of a building is carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority for the work; and
 - d) the sign shall be removed when the erection or demolition of the building has been completed.
14. With the exception of work where there is an exemption under clause 187 and 188 of the *Environmental Planning and Assessment Regulation 2000* all building work that involves residential building work for which the *Home Building Act 1989* requires

there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force.

15. 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;
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

BUILDING CONSTRUCTION

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

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

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

- Monday to Saturday - 7.00am to 5.00pm

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

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

20. The following applicable works shall be inspected and passed by an officer of Council, irrespective of any other inspection works undertaken by an accredited certifier, prior to them being covered. In this regard, at least 24 hours notice shall be given to Council for inspection of such works. When requesting an inspection please telephone Council's Customer Service Counter on 6378 2850 and quote Council's DA reference number located on the front page of this consent.

- a) Internal and external sanitary plumbing and drainage;
- b) Water plumbing;
- c) Final inspection of the installed sanitary and water plumbing fixtures upon the building's completion prior to its occupation or use.

21. Structural members subject to attack by subterranean termites shall be protected by one of the methods outlined in AS 3660.1 and a durable notice must be permanently fixed to the building in a prominent location, such as a meter box or the like, indicating:

- a) The method of protection; and
- b) The date of installation of the system; and
- c) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- d) The need to maintain and inspect the system on a regular basis.

22. A total of one (1) car parking space, is to be provided within the site of the development and must comply with AS 2890.1:2004 and the following requirements:
 - a) The parking space is to have minimum dimensions of 5.5m x 2.4m; and
 - b) The car parking spaces and driveway are to be provided with hard-standing all weather compacted gravel surface, and must be maintained in a satisfactory condition at all times.
23. The requirements of BASIX Certificate number 1221083S issued on 9 July 2021 must be installed and/or completed in accordance with the commitments contained in that certificate. Any alteration to those commitments will require the submission of an amended BASIX Certificate to the Council and/or the Principal Certifying Authority prior to the commencement of the alteration/s.
24. 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.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

25. Prior to the occupation of a building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
26. Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate in accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of Fire and Rescue NSW and a copy is to be prominently displayed in the building.
27. Prior to issue of an Occupation Certificate, all roof water shall be directed to water storage tank/s of sufficient capacity to provide retention to meet all domestic and statutory firefighting requirements. Any additional roof water, and overflow from the water storage tank/s, is to be disposed of a minimum 3m from the building and disposed of in such a way as to not adversely affect the adjoining properties.
28. Prior to issue of the Occupation Certificate, existing crossover from Black Spring Road is to be sealed and must not interfere with existing drainage. The construction must be carried out in accordance with Council requirements and standards. Separate approval for this work must be obtained under the provisions of Section 138 of the *Roads Act 1993*.

Note: The existing crossover does not comply with sight distance requirements for 100km/h speed. Therefore, to improve the sight distance requirement the applicant must install "Slow Down Driveway Ahead" signage (W2-207 Guide Signage to aware northbound vehicles). This must be completed prior to the issues of an Occupation Certificate.

ONGOING/OPERATIONAL

29. For every 12 month period after the issue of the final Fire Safety Certificate the owner/agent of the building must provide Mid-Western Regional Council and the Commissioner of Fire and Rescue NSW with a copy of an Annual Fire Safety

Statement certifying that each specified fire safety measure is capable of performing to its specification.

- 30. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.**
- 31. A minimum of one (1) car parking space is to be maintained and kept clear for guest/visitor parking at all times.**
- 32. Gravel formed internal driveways, manoeuvring and parking areas must be constructed with compacted gravel and maintained to acceptable standards and Council's satisfaction at all times to ensure the safety of users and provide access in all weather conditions. Measures to prevent erosion and scouring and the transport of sediment by stormwater runoff must be put in place and maintained at all times.**
- 33. Access for firefighting must be available to all structures with ample turning area to allow emergency personnel to conduct firefighting operations.**
- 34. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.**
- 35. The serviced apartment is to be managed so that there is no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", dust, lighting or other nuisance.**
- 36. The serviced apartment shall be regularly cleaned or serviced by the owner or manager of the building, or their agents.**

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 Development Department for more information or advice.**
- 4. If you are dissatisfied with this decision Section 8.7 of the EP&A Act 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.**

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning & Assessment Act 1979*.
3. The matters raised within submissions have been addressed through Condition 32 and 35 to regulate the operation of the serviced apartment and mitigate the potential dust and noise pollution generated by additional traffic.

Executive summary

OWNER/S	Andrew D. Heighway and Nicole C. Heighway
APPLICANT:	Nicole Heighway
PROPERTY DESCRIPTION	772 Black Springs Road, Budgee Budgee (Lot 323 DP 1109684)
PROPOSED DEVELOPMENT	Serviced Apartment
ESTIMATED COST OF DEVELOPMENT:	\$19,900
REASON FOR REPORTING TO COUNCIL:	Number of Submissions < 6
PUBLIC SUBMISSIONS:	1

Council is in receipt of Development Application DA0020/2022 that seeks approval for a Serviced apartment, located at 772 Black Springs Road, Budgee Budgee.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 11 August 2021. During the notification period, 1 submission was received in objection to the proposed development. The proposed development has been assessed in accordance with the Mid-Western Regional Development control Plan 2013 (MWRDCP 2013) and the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). The proposed development is considered generally consistent with Council's planning controls.

In accordance with staff's *Delegation of Authority*, Councillors were notified for a period of 5 working days, during which the application was called up by Councillors for consideration.

The application is recommended for Approval.

Disclosure of Interest

Nil.

Detailed report

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

Site Description:

The subject 20.44ha large lot residential land is located approximately 12.5km northeast from Mudgee, situated on the eastern side of Black Springs Road.

The site currently contains a dwelling house, a small shed adjacent to the house, a large carport/farm shed approved under CDCP0124/2018, and a 200,000L rainwater tank. Access from the house on site is provided by a dirt internal access connecting Black Springs Road.

Development Details

Approval is sought for the following:

- Conversion of the carport portion of the existing farm shed into a 95.4m² 2-bedroom serviced apartment equipped with an open style kitchen/living room and a bathroom. A new verandah will be constructed at the entrance of the serviced apartment.



Figure 1 – Site Context

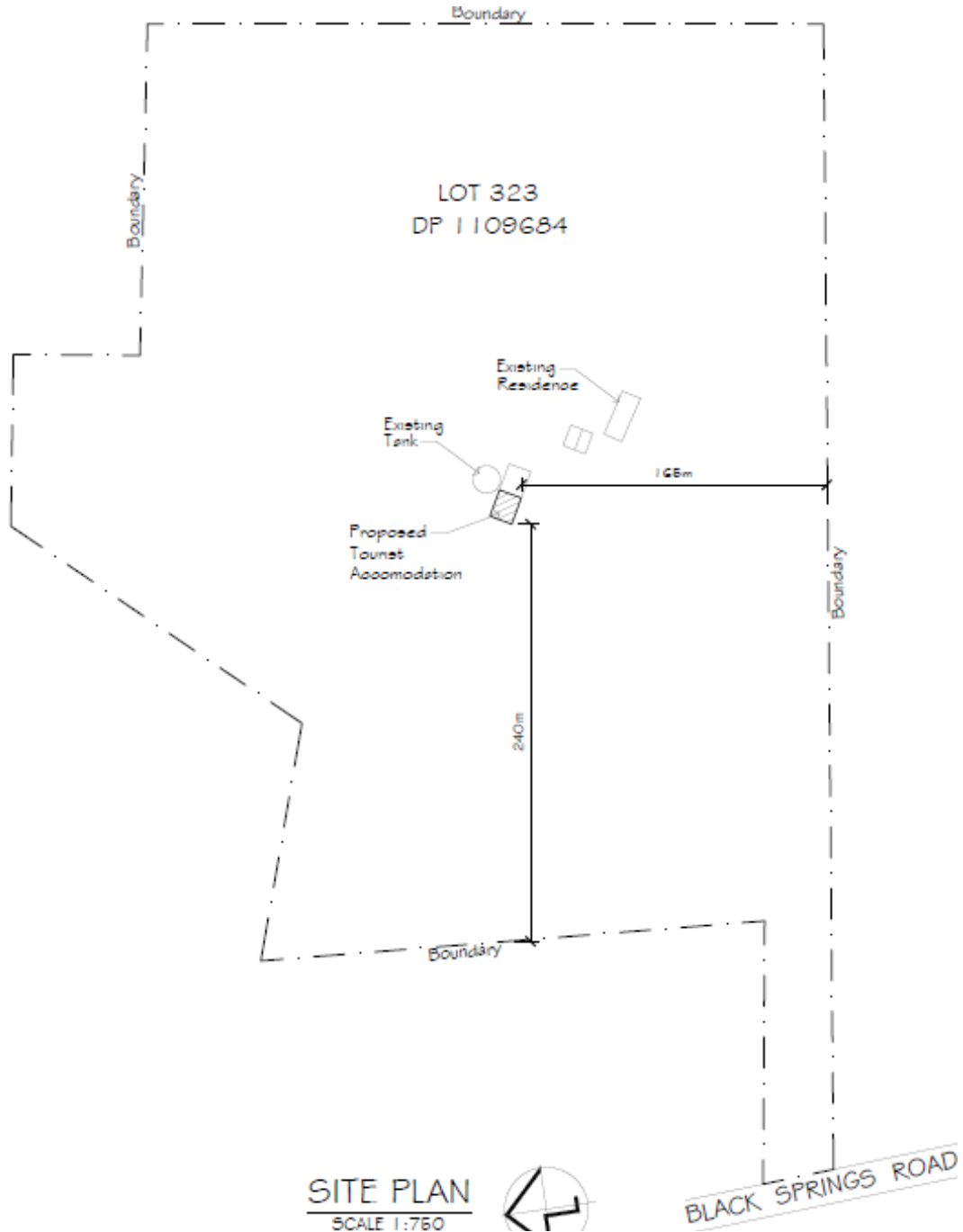


Figure 2 – Site Plan

REQUIREMENTS OF REGULATIONS AND POLICIES

State Environmental Planning Policy

State Environmental Planning Policy no 55 – Remediation of Land

A site inspection and a search of Council's records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

State Environmental Planning Policy (Koala Habitat Protection) 2020

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

However, the proposal does not involve the clearing of any trees and therefore no further consideration is warranted.

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

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

Mid-Western Regional Local Environmental Plan 2012

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

Clause 1.2 Aims of Plan

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

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as a:

Serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note:

Serviced apartments are a type of ***tourist and visitor accommodation***.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned R5 Large Lot Residential and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned R5 Large Lot Residential pursuant to MWRLEP 2012. The proposal, being a serviced apartment is permissible with consent in the zone and complies with the relevant objectives.

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

R5 Large Lot Residential

- 1. To provide residential housing in a rural setting while preserving and minimising impacts on environmentally sensitive locations and scenic quality.*

Comment The proposal will not reduce the housing stock in a rural area. The proposed serviced

apartment, modified from an existing farm shed, is sympathetic to the rural landscape.

2. *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*

Comment The proposal relates to an existing lot within the R5 zone. Accordingly, the development will not further hinder the proper and orderly development.

3. *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

Comment The proposal is not expected to unreasonably increase the demand for public services and facilities subject to compliance with the conditions of consent.

4. *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Comment The proposal will not result in any significant conflict with adjoining land uses subject to compliance with conditions of the consent.

Clause 4.3 Height of buildings

The subject site is not mapped for a maximum height limit.

Clause 5.10 Heritage Conservation

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

Clause 5.21 Flood planning

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

Clause 6.1 Salinity

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

Clause 6.3 Earthworks

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

Clause 6.4 Groundwater vulnerability

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

Clause 6.5 Terrestrial biodiversity

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

Clause 6.7 Active street frontages

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

Clause 6.8 Airspace operations – Mudgee Airport

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

Clause 6.9 Essential Services

The proposed serviced apartment is cleared of all utility infrastructure and associated easements. The site is already connected to grid electricity and equipped with a 200,000L rainwater tank for water supply. The applicant has proposed to connect the serviced apartment with an individual on-site sewage management system.

Conditions are imposed to require the applicant to obtain a Section 68 approval prior to the installation of the on-site sewage management system.

Clause 6.10 Visually sensitive land near Mudgee

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

Mid-Western Regional Development Control Plan 2013

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

Part 4.7 Tree Preservation Order

No trees to be removed.

Part 5.1 Car Parking

Proposed Use	Required	Compliance
Serviced apartment, classified as 'Tourist and Visitor Accommodation' in the DCP	1 per unit (1 space required)	Complies. Ample space available on rural property to accommodate parking.

Part 5.2 Flooding

Not applicable.

Part 5.3 Stormwater Management

Conditions concerning adequate disposal of stormwater have been included in the consent.

Part 5.4 Environmental Controls

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

Part 6.1 Dwellings in Rural Area**Setbacks**

The minimum front setback as prescribed within the table is 60m. The proposed serviced apartment is setback 240m from Black Springs Road. Accordingly, the proposal complies.

The minimum side/rear setback as prescribed within the table is 20m. The proposed serviced apartment has a minimum side setback of 165m to the eastern boundary. Accordingly, the proposal complies.

Part 6.4 Tourist and Visitor Accommodation

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Location	
Must comply with the MLS map or demonstrate compliance with Clause 4.2A of the MWRLEP 2012.	Complies – the minimum lot size applicable is 12ha. The subject site is sized 20.44ha. Accordingly, the site has dwelling entitlement and a serviced apartment is permissible.
All tourist and visitor accommodation has a residential component and therefore Council will not consider the establishment of any tourist and visitor accommodation on land on which a single dwelling is not permissible in the MWRLEP 2012.	Complies – single dwelling house exists on the site.
Design and Layout	
The development should address the constraints of the site including topography, existing vegetation.	Complies – the existing structure is built on a gentle slope with a discreet building bulk that compliments the rural landscape.
Development for the purpose of services apartments (cabins or the like) shall be limited to a maximum of 6 individual accommodation units and one permanent dwelling (or manager's residence).	Complies – only one unit is proposed.
Parking	
Parking and manoeuvring areas are hard stand	Conditioned.
Driveways are located a minimum of 6m from any intersection	Complies – the existing driveway is 350m from the nearest intersection.
Water Cycle Management	
Council will require a Water Cycle Management Report for each lot in the subdivision which identifies that there is a suitable area capable of the disposal of on-site wastewater.	Not applicable – subdivision not proposed. Notwithstanding this, there is ample space in the large lot residential property to install a disposal system for on-site wastewater. Requirement to obtain Section 68 approval prior to commencement of work is conditioned.
Electricity	
The proponent shall demonstrate that the development can be serviced by electricity either via connection to the grid or solar power. Generators will generally not be accepted as a source of electricity.	Complies – the site is already connected to grid electricity.

SECTION 7.11 CONTRIBUTIONS

Mid-Western Regional Contributions Plan 2019

Council's Development Contributions Plan 2019 is applicable to the proposed development. Contributions are applicable to commercial development where the cost of works exceeds \$100,000. The cost of works for the proposed serviced apartment is \$19,900. Therefore, no contribution is applicable to the proposed development.

IMPACT OF DEVELOPMENT

Context and Setting

The subject site is located within the R5 zone, in an area characterised by cleared grazing land and large lot residential properties. The majority of surrounding properties contain residential dwellings and farm sheds, at a distance of over 300m from the proposed serviced apartment. The proposed serviced apartment, being a conversion of an existing carport/farm shed, is compatible with regards to the surrounding rural context and setting.

Access, transport and traffic

The development is not expected to generate a substantial volume of traffic. Sufficient capacity is available on Black Springs Road to absorb the additional traffic. The potential traffic impact is further discussed in the *Public Submission* section of the report.

Public domain

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

Utilities

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

Heritage

Not Applicable. No items of Aboriginal significance or a heritage item are recorded on the site or in the vicinity.

Other land resources

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

Water

There is no mains water supply for the subject site and it is understood that roof runoff will be captured and stored in rainwater tanks for re-use.

Conditions have been included such that overflow from the tanks and all other developed surfaces are controlled and dispersed on site. Appropriate controls are included at outlets to prevent erosion and scouring.

Soils

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

Air and Microclimate

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

Flora & fauna

Not significant impact. No vegetation will be removed.

Waste

Waste is to be disposed of at a properly licensed waste facility. The serviced apartment is to be kept in a clean and tidy manner at all times. All waste will be contained in enclosed containers screened from public view. In relation to on-site disposal of sewage waste, a Section 68 approval is required prior to the issue of a Construction Certificate.

Energy

No significant impact. The site is already supplied by grid electricity. The proposed development will not result in significant additional load on the local electricity supply system.

Noise & vibration

No significant impact. Traffic on site will remain at a low level without creating obtrusive noise impacts to neighbouring properties. The distance between the nearest residence and the internal driveway is approximately 80m, which will ensure the dissipation of any traffic noise and vibration.

Noise generated at the proposed development will not cause significant disturbance to neighbouring properties as the serviced apartment is approximately 320m away from the nearest residence. A serviced apartment is not expected to have any greater noise impacts to that of a residential dwelling. This is not an unexpected development in the area.

Natural Hazards

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

Technological hazards

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

Safety, security and crime prevention

The proposed development will not generate adverse effect on the safety of the area.

Social impact in the locality

Generally positive.

Economic impact in the locality

Generally positive, creating additional tourist accommodation in the Mudgee Region.

Site design and internal design

Adequate as discussed throughout this report.

Construction

To comply with the Building Code of Australia where relevant.

Cumulative Impacts

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

SUITABILITY OF SITE FOR DEVELOPMENT**Does the proposal fit in the locality**

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

Are the site attributes conducive to development

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

SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS

Public Submissions

Traffic dust pollution

The submission raised concerns that the additional traffic during the construction and operation phases of the serviced apartment will generate additional dust pollution, posing significant health impacts to neighbouring residents.

Comment

As the main structure for the proposed serviced apartment has already been erected, the development only involves minor building works such as installation of concrete slabs and windows. This will require only a small number of construction vehicles. Subject to compliance with conditions of consent, it is not unreasonable for construction crew to undertake works on a temporary basis. The distances from the nearest adjoining residence to the internal access (80m) and the proposed serviced apartment (320m) are relatively significant which will ensure any dust dissipates.

Furthermore, as the applicant is proposing only one unit of serviced apartment, visitor traffic is expected to remain at a minimum, and to a lesser extent than a residential dwelling. Pursuant to the traffic volume estimation outlined in the 'Guide to Traffic Generating Developments', the approximate daily vehicle trips on the property is shown below:

- Single Dwelling House – 9 trips
- Serviced apartments (based on traffic generation rate for motels) – 3 trips per unit
- Total daily trips on property – 12 trips

Noting the estimation above and the minor nature of the building works, the proposed serviced apartment will not generate substantial traffic in addition to the existing level of traffic on site. The proposed development therefore will not generate substantial dusting effects on neighbouring properties.

Notwithstanding this, Council's Engineering Department has recommended a condition which will require the applicant to upgrade the existing dirt internal access to gravel-formed surface to further mitigate dusting.

In response to the submission, the applicant has proposed to impose a speed limit on the internal access road and allow construction vehicles to travel on the paddock under heavy wind condition to mitigate dust pollution generated by the additional vehicles.



Figure 3: The distance of the nearest adjoining residence from the proposed development (320m) and existing internal access (80m).

Traffic noise

The submission raised concern that the development will generate additional traffic noise during and after the construction period along the subject property.

Comment

As discussed above, construction traffic will remain at a low level. A single serviced apartment limits the amount of visitor traffic on site and within the wider area.

Vehicles associated with a single serviced apartment will not create obtrusive noise impacts to neighbouring properties. The surrounding area will remain a low-traffic area after the completion of the proposed development.

Submissions from public authorities

No submissions were sought or received from public authorities.

THE PUBLIC INTEREST

Federal, State and local government interests and community interests

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

CONSULTATIONS

Health & Building

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

Development Engineer

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

Heritage Advisor

No consultation necessary.

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 Contributions Plan 2019

Council Policies

Not Applicable.

Legislation

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

Financial implications

Not Applicable.

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.

JAMES WONG
STUDENT PLANNER

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

25 August 2021

- Attachments:*
1. Statement of Environmental Effects.
 2. Site Plans.
 3. Submission.
 4. Response to Submission.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



MID-WESTERN REGIONAL COUNCIL
PO Box 156, MUDGEES NSW 2850
86 Market Street, Mudgee | 109 Herbert Street, Gulgong | 77 Louee Street, Rylstone
T 1300 765 002 or 02 6378 2850 | F 02 6378 2815
E council@midwestern.nsw.gov.au

Statement of Environmental Effects

Pro-forma for minor development

ABOUT THIS FORM

This statement must be completed by the applicant and/or their representative to comply with the requirement of Section 4.15 of the *Environmental Planning and Assessment Act, 1979*. The completed statement must accompany the Development Application and accompanying plans.

Each of the following categories must be completed for all forms of development, building works or activity requiring development consent. The level of detail required will depend upon the nature and scale of the proposed development. Should you be uncertain of any aspect, you should contact Council's Planning and Development Group for advice.

1. PROPERTY DETAILS

Lot Number	Section no.	DP / SP
323		1109684
Unit / Street number	Street name	
772	Black Springs Road	
Suburb / Locality	Postcode	
Budgee Budgee NSW	2850	

2. DESCRIPTION OF THE PROPOSAL

What is the proposed development?

Convert half of an existing 20m x 9m Colorbond shed into a 2 bedroom dwelling to be used as tourist accommodation

Describe your proposal in detail. (Include details such as whether the development will use whole or part of the building(s) or land(s), whether new buildings are proposed, the physical features of the proposed building(s), the nature of the building(s) [eg office, retail industrial etc], materials and colour scheme, signage, disabled access and facilities, seating capacity, tree or vegetation removal).

To convert half of an existing six bay shed into a 2 bedroom dwelling, with one bathroom, kitchen and open planned living area. Erect an awning at the front and install 3 x double glazed sliding window doors. Existing features are colourbond and new awning will be colourbond. No tree or vegetation removal.

3. DESCRIPTION OF THE SITE

What is the area of the site?

50 acres

Describe the site (elaborate on the information provided on the site analysis plan. Include information such as the physical features of the site, for example slope and vegetation, existing services).

Slightly sloping grass paddock, with 6 bay farm shed and 200000 litre water tank.

Describe the use of lands adjoining the site. Will the proposal impact on adjoining property? (Consider issues such as noise, privacy, overland flow of stormwater and other amenity impacts).

Adjoining the site are farm paddocks.
The nearest neighbouring residence is 250 meters away from the proposed Tourist Accommodation.
There is an existing tree line on the boundary of the property to provide privacy to and from neighbours.

4. PRESENT AND PREVIOUS USES

What is the present use of the site and when did this use commence? Did this use receive development consent?

Farm Shed, DA Approved 2018

List the previous uses of the site.

Paddock

STATEMENT OF ENVIRONMENTAL EFFECTS | MID-WESTERN REGIONAL COUNCIL

Have any potentially contaminating activities been undertaken on the property? (Apart from obvious activities such as petrol bowzers and industries, there may be less obvious sources of contamination such as asbestos disposal, old sheep dips and sawmills).

No

Yes – please identify:

If yes, you will need to provide the relevant documentation as outlined in Council's Development Control Plan (DCP).

5. ENVIRONMENTAL CONSTRAINTS

Has the proposed development been designed to respond to the following environmental constraints, where applicable? (Indicate yes, no, or not applicable to each of the following).

	YES	NO	NOT APPLICABLE
Flooding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bushfire (if yes, is a bushfire report included in your application?) <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Groundwater vulnerability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sensitive biodiversity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Saline soils	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Threatened species or habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Minimise vegetation removal	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If yes to any of the above, indicate how the proposed development responds to the constraints

6. UTILITIES AND SERVICES

Provide details of the existing and proposed method of **stormwater** disposal.

Storm water is collected and stored into a 200000Ltr water tank.

Provide details of proposed **electricity** supply.

Use of existing power supply to the shed.

Provide details of proposed **water** supply.

Use of water storage from close by water tanks.

Provide details of proposed **bushfire** firefighting water supply, where relevant.

Stored water.

Provide details of proposed **sewage management**.

Installation of septic system.

7. OPERATIONAL AND MANAGEMENT DETAILS (E.G. HOME BUSINESS)

NOTE: This section is not applicable to the construction of a dwelling-house, additions and alterations to a dwelling-house or structures ancillary to a dwelling-house.

Describe in detail the proposed business activity.

operate tourist and visitor accommodation

Total number of staff	Max no. of staff on duty at any one time	Max no. of clients / customers expected in a day	Max no. of clients / customers expected at any one time
2	2	6	6

Hours and days of operation

	AM	to		PM	Monday to Friday
	AM	to		PM	Saturday
	AM	to		PM	Sunday
	AM	to		PM	Extended hours on: 24 hours / 7 days a week

What are the existing and proposed fire safety measures for the building?

Electrical safety switches, RCD's and wired Fire Alarms, fire extinguisher, water hoses

STATEMENT OF ENVIRONMENTAL EFFECTS | MID-WESTERN REGIONAL COUNCIL

Is legal (eg. Right of Way) vehicular access available from the street to the site? What are the site distances (left and right)? What is the speed limit?

yes
site distance -
speed limit

Expected vehicle types associated with the proposal

private vehicles

Number of car parking spaces provided

2

Location of car parking spaces provided

next to the shed

What are the arrangements for transport, loading and unloading goods? What is the expected frequency of deliveries, size of vehicles and frequency of truck movements?

na

List machinery associated with the proposed business / activity.

na

List the type and quantity of raw materials, finished products and waste materials

na

How will waste be disposed of? (Note: A Trade Waste Approval may be required. Please see Council's website for details)

residential waste transfer station - Home Rule or Mudgee

Identify any proposed hazardous material or processes

na

8. MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP)

What is the land zoned?

R5 Large Lot Residential

What is the proposal for (as defined by MWRLEP)? (There are parent definitions and child definitions in MWRLEP – please use the child definition)

Is this use permissible within the zone??

Yes

No – are you relying on existing use rights?

Yes

No – the development is prohibited in the zone and cannot be approved by Council

Expand on how your proposal meets the objectives of the zone.

Does the proposal comply with all the relevant requirements of the MWR LEP? (Please list and address all relevant clauses to your development from the LEP – add extra pages if necessary)

Yes.

STATEMENT OF ENVIRONMENTAL EFFECTS | MID-WESTERN REGIONAL COUNCIL

9. MID-WESTERN REGIONAL DEVELOPMENT CONTROL PLAN 2013 (DCP)

Mid-Western Regional DCP 2013 is structured into sections that are relevant to specific development.

- Part 1 – Introduction
- Part 2 – Fast Track Development Applications
- Part 3 – Discretionary Development Standards
- Part 4 – Specific Types of Development
- Part 5 – Development Standards
- Part 6 – Development in Rural Areas
- Part 7 – Subdivision
- Part 8 – Site Specific Controls
- Appendix A – Flood schedules
- Appendix B1 – MWRC Auspec Stormwater Drainage Design
- Appendix B2 – Stormwater to Stormwater
- Appendix C – Carleon Development Control Plan
- Appendix D – Implementing a Subdivision Consent

NOTE

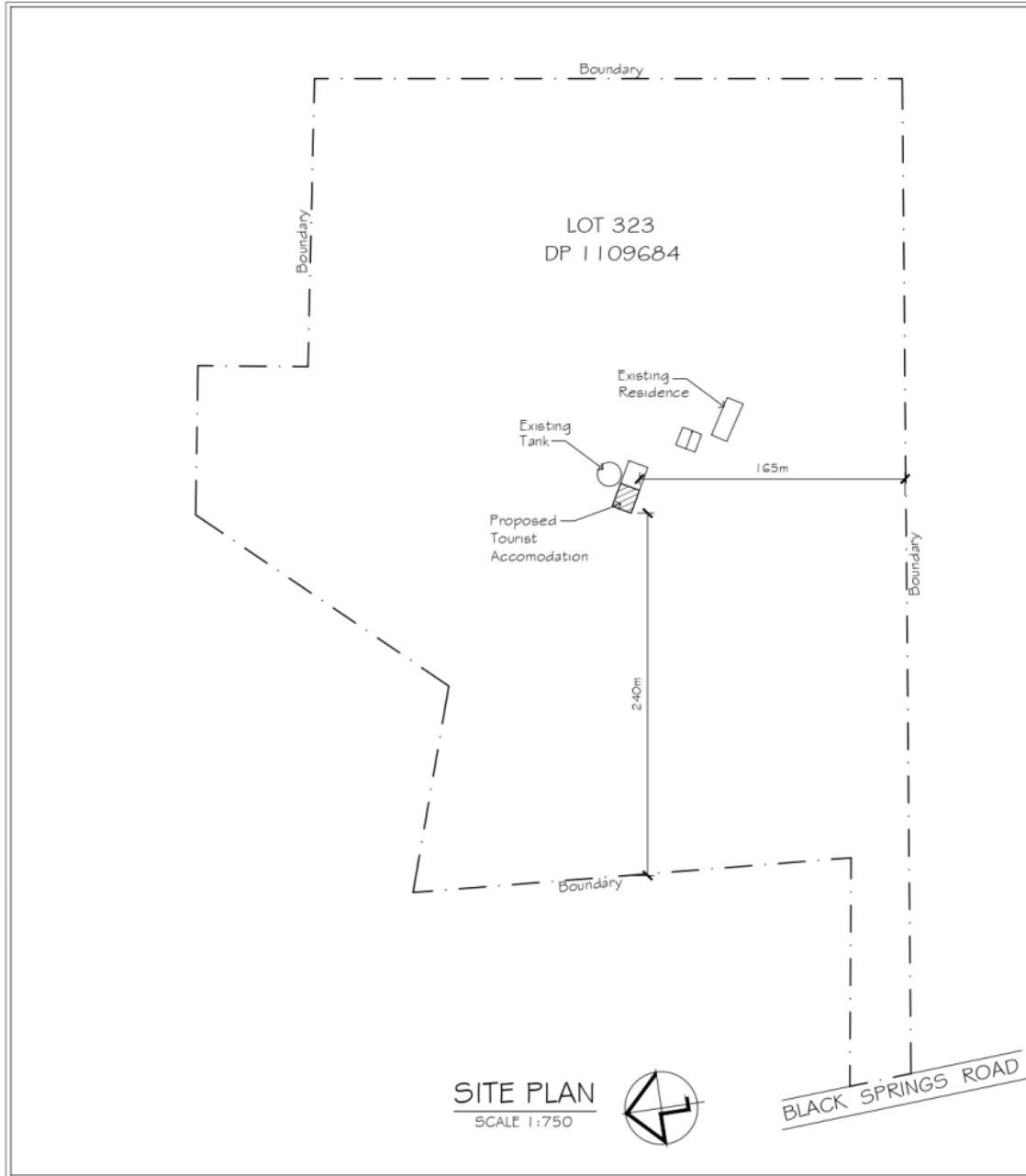
Mid-Western Regional Community Participation Plan 2019 may require the development to be neighbour notified and/or advertised.

Please list and address the relevant clauses to your development based on the zone of your land (add extra pages if necessary).

Meets all requirements of section 6.4 of the DCP, Tourist and Visitor Accommodation.

STATEMENT OF ENVIRONMENTAL EFFECTS | MID-WESTERN REGIONAL COUNCIL

Where the proposed development does not comply with a relevant "deemed to satisfy" standard in the DCP, please provide justification for the variation to the standard. (Refer to Section 1.7 of the DCP).



BASIX Notes

Water

100,000L Rain Water Tank Connected to:

- All toilets in the development
- The cold water tap that supplies each clothes washer in the development
- At least one outdoor tap in the development
- All hot water systems in the development
- All indoor cold water taps in the development

Rain Water Tank to collect water from at least 240m² from the roof of the development.

Fixtures:

Showerheads - Minimum 3 Star Rating
 Toilet - Minimum 3 Star Rating
 Kitchen Taps - Minimum 3 Star Rating
 Bathroom Taps - Minimum 3 Star Rating

Thermal Comfort

See Section for Thermal Comfort Commitments

Energy

HW - Gas Instantaneous (Rated G star)

Cooling System - Living Area - Air Conditioning 1 Phase, Rated 5 stars
 - The Bedrooms - Ceiling Fans

Heating System - Living Area - Air Conditioning 1 Phase, Rated 5 stars
 - The bedrooms must not incorporate any heating system.

Ventilation Systems:

1 Bathroom - Individual Fan - not ducted (Manual Switch On/Off)
 Kitchen - Individual Fan - not ducted (Manual Switch On/Off)
 Laundry - Natural ventilation only

Other:

350 - Gas Cooktop & Electric Oven

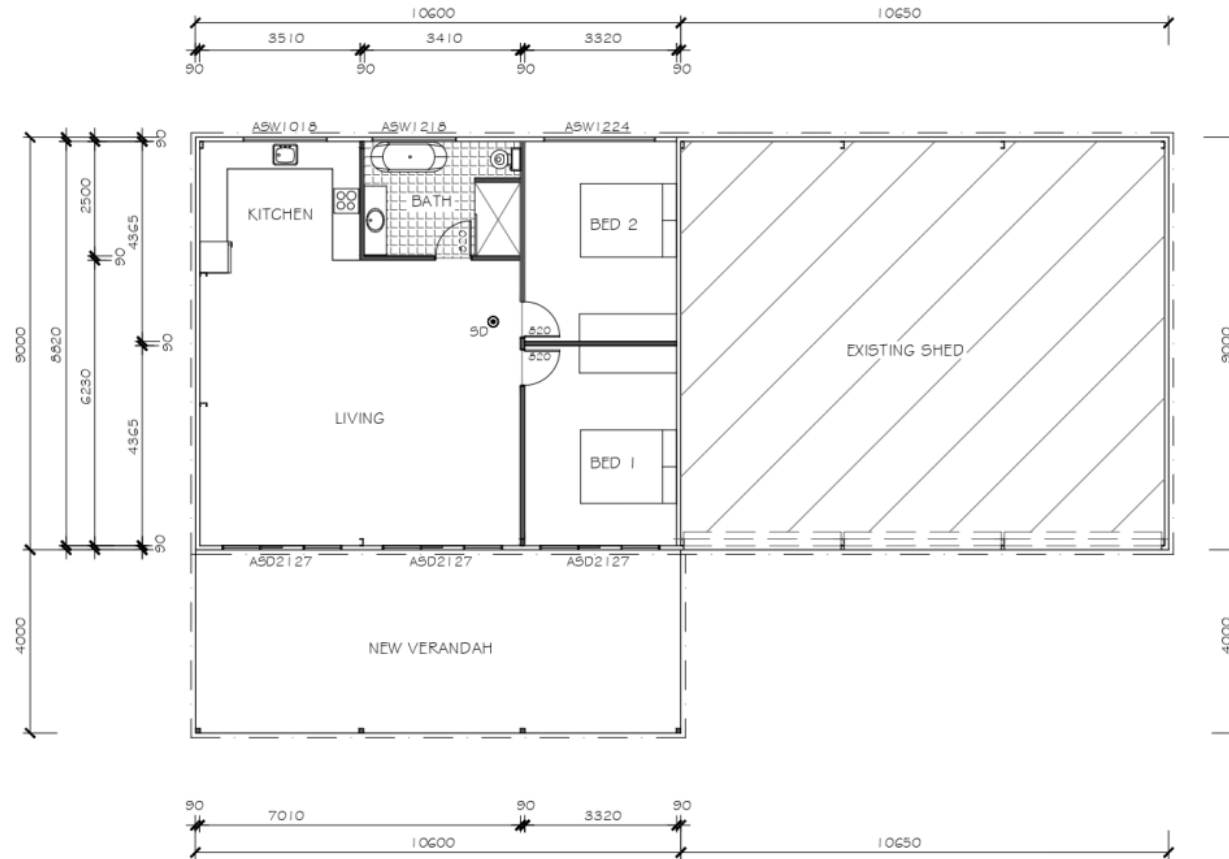
A fixed outdoor clothes drying line must be installed as part of the development for each unit

Each refrigerator space in the development must be constructed so that it is well ventilated in each unit

A	JULY 2021	G.D.	ISSUED FOR APPROVAL
REV	DATE	BY	DESCRIPTION
 <p>Giselle Denley Drafting Services</p> <p>giselle.denley@bigpond.com 0417 888 326 53 Hill Sixty Drive Mudgee NSW 2850</p>			
CLIENT: HEIGHWAY			
TITLE: PROPOSED ACCOMMODATION UNIT			
772 BLACKSPRINGS RD BUDGEE BUDGEE			
SCALE: 1:100	FILE: 3576-A01	DWG. No.	REV.
DRAWN: G.D.	DATE: JULY 2021	3576-A01	A
CKD: A.W.	DATE: JULY 2021		

Floor Areas

Existing Shed	=	96.70 m ²
Proposed Living	=	94.50 m ²
Proposed Verandah	=	42.36 m ²
Total	=	233.56 m²



GROUND FLOOR PLAN
SCALE 1:100

A	JULY 2021	G.D.	ISSUED FOR APPROVAL
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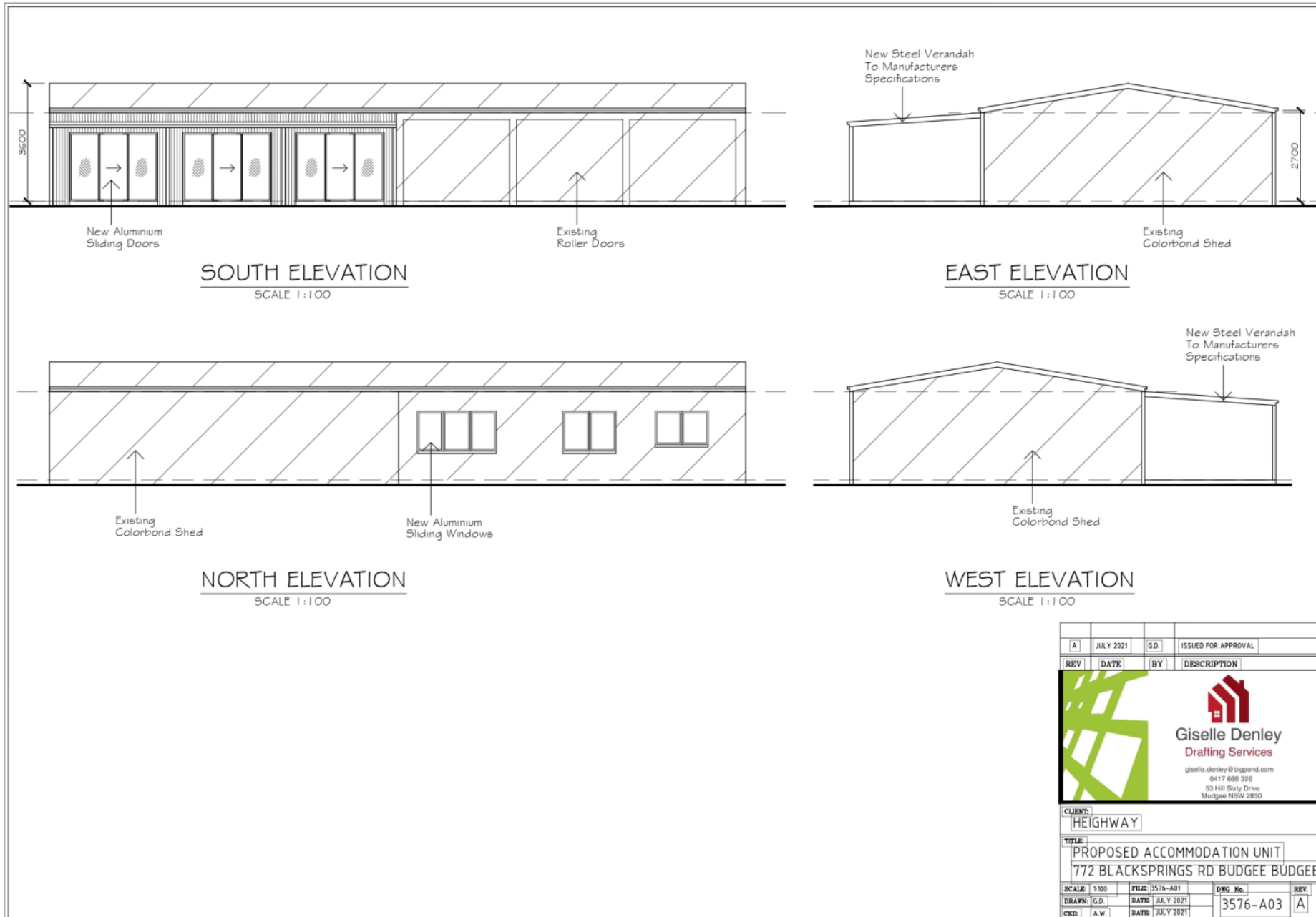
REV	DATE	BY	DESCRIPTION
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Giselle Denley
Drafting Services
giselle.denley@bigpond.com
0417 688 326
53 Hill Sixty Drive
Mudgee NSW 2850

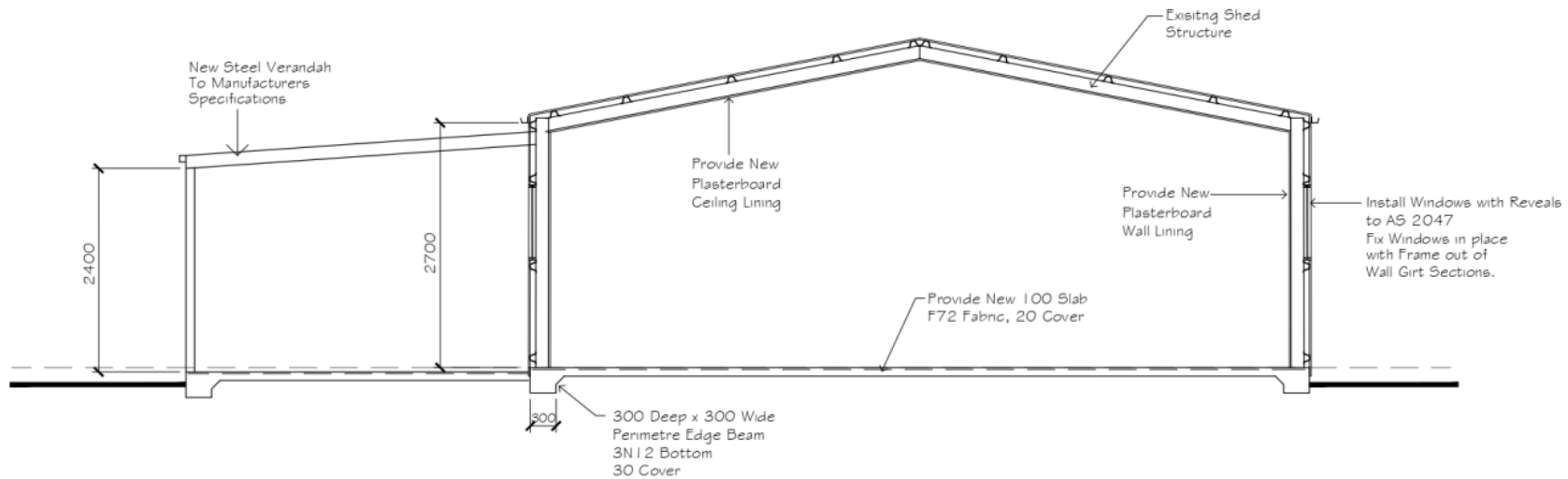
CLIENT: HEIGHWAY

TITLE: PROPOSED ACCOMMODATION UNIT
772 BLACKSPRINGS RD BUDGEE BUDGE

SCALE: 1:100	FILE: 3576-A01	DRG. No.	REV.
DRAWN: G.D.	DATE: JULY 2021	3576-A02	A
CRD: A.W.	DATE: JULY 2021		



A	JULY 2021	G.D.	ISSUED FOR APPROVAL
REV	DATE	BY	DESCRIPTION
 <p>Giselle Denley Drafting Services giselle.denley@bigpond.com 0417 688 326 53 Hill Sixty Drive Mudgee NSW 2850</p>			
CLIENT: HEIGHWAY			
TITLE: PROPOSED ACCOMMODATION UNIT 772 BLACKSPRINGS RD BUDGEE BUDGEE			
SCALE: 1:100	FILE: 3576-A01	DWG No.	REV.
DRAWN: G.D.	DATE: JULY 2021	3576-A03	A
CKD: A.W.	DATE: JULY 2021		




TYPICAL SECTION

SCALE 1:50

SLAB NOTES:

1. Concrete 25MPa 80 Slump
2. Reinforcement must be supported by bar chairs at Max 1000 Cts.
3. If edge beam width exceeds 330mm, provide 1 extra N12 to bottom.
4. If edge beam does not bear into firm natural ground provide $\varnothing 300$ piers at 2500 Max Cts and add 1 N12 to top.
5. Internal ribs located on more than 300 fill must be piers $\varnothing 300$ at 3600 Max Cts.
6. 311-TM may be used in lieu of 3N12
7. Site drainage should be constructed so that storm water does not pond against or close to footings.
8. Damp proof membrane must extend up to finished ground level.
9. Alfresco and porch slabs to be poured separately to main slab. Provide tool grooves at 2500 and 1250 Cts.
10. Site class M

A	NOV 2018	G.D.	ISSUED FOR APPROVAL
REV	DATE	BY	DESCRIPTION
 <p>Giselle Denley Drafting Services giselle.denley@bigpond.com 0417 688 326 53 Hill Sixty Drive Mudgee NSW 2850</p>			
CLIENT: HEIGHWAY			
TITLE: PROPOSED ACCOMMODATION UNIT 772 BLACKSPRINGS RD BUDGEE BUDGEE			
SCALE: 1:50	FILE: 3576-A01	DRG. No.	REV.
DRAWN: G.D.	DATE: NOV 2018	3576-A04	A
CRD: A.W.	DATE: NOV 2018		



8th August, 2021

Attention: Brad Cam
General Manager, Midwestern Council

Re: Development Application DA0020/2022
Crestview, 772 Black Springs Rd
Budgee Budgee NSW 2850
Lot 323 DP1109684

Dear Mr Cam

I have been advised of the above business developmental proposal and would like to submit my objection.

My objection is in regard to the increased traffic & pollution that will occur during the building stage & thereafter on the unsealed dirt road which is situated along my boundary fence. This road already has health impacts upon me due to my Medically diagnosed Asthma. High levels of dust can irritate my lungs and cause my asthma to flare creating breathing difficulty. Any increased use of this dirt road will only serve to have an increased negative impact on my health.

In addition to this, there will be increased noise due to increased traffic along the property, both during and after construction.

I have been the owner & resident of my property [REDACTED] for 32 years & chose this property & area for its rural appeal & it's peace & quiet. There is concern what impact this development will have on me & the surrounding area.

Please consider my honest concerns when considering approval of the Development.

Regards



From: [Nicole Heighway](#)
To: [James Wong](#)
Subject: Re: Submission letter Re: DA0020/2022 - Serviced Apartment - 772 Black Springs Road, Budgee Budgee NSW 2850
Date: Monday, 9 August 2021 5:53:20 PM

Dear James,

I write in response to the objection submitted against our Development Application DA0020/2022 and the concerns our front neighbour has.

We acknowledge that our driveway which is approximately 80 meters from [REDACTED] house at the closest point is dirt with a granite wearing surface on top and when dry and windy does blow dust when driven on, but it also does blow dust when it's dry, windy and not driven on, in any direction, similar to her own driveway.

To mitigate the dust we are happy to erect a speed limit sign to reduce speed which will not only reduce the dust that blows up but it will also protect the wildlife and livestock that are currently on our property.

We will inform all tradesman and guests prior to arrival of these limits and driving conditions so that visitors who are unfamiliar with dirt road conditions, wildlife and livestock drive at a safe and courteous speed for all our neighbours.

During the build of the accommodation we are more than happy to have any tradesman and their vehicles travel directly across the paddock when winds are blowing in her direction. However we do not envisage there to be a high increase of traffic over this time as the major building (the shed) is already erected.

We believe that the increased traffic and noise on the driveway will have minimal impact on all of our neighbours as our guests will be in one or two cars only at any one time.

The actual accommodation is in an existing shed which is set more than 370 meters from [REDACTED] house and therefore we do not believe this will impact on her peace and quiet and nor the rural appeal of the area.

We feel that this accommodation will be beneficial to the Greater Mudgee Region and bring tourists and their money into our diverse, progressive and growing region.

Kind Regards

Nicole and Andrew Heighway

On Mon, Aug 9, 2021 at 4:27 PM James Wong <James.Wong@midwestern.nsw.gov.au> wrote:

Dear Nicole,

Council has received a submission regarding your Development Application DA0020/2022 for a serviced apartment at 772 Black Springs Road, Budgee Budgee. I have attached the submission letter for your reference. You may submit a response to the submission to Council if you wish to.

For your information, a memo on the subject submission will be circulated to the

Councillors within the next two days as per the staff delegation. The Councillors may call this Development Application up at the next monthly Council meeting, but this is not likely to occur.

Should you have any inquiries, please reply to this email or contact Council on phone at 6378 2850.

Yours faithfully,

James Wong | Student Town Planner

Mid-Western Regional Council

☎ 02 6378 2850 | ☎ 02 6378 2815

council@midwestern.nsw.gov.au

📍 86 Market Street | PO Box 156 Mudgee NSW 2850

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