

Minutes of the Ordinary Meeting of Council

Held via Zoom

on 15 September 2021, commencing at 5.35pm and concluding at 6.34pm.

PRESENT Cr D Kennedy, Cr S Paine, Cr P Cavalier, Cr R Holden, Cr A Karavas, Cr E Martens, Cr J O'Neill, Cr P Shelley, Cr JP Thompson.

IN ATTENDANCE General Manager (Brad Cam), Director Operations (Garry Hemsworth), Director, Community (Simon Jones), Director Development (Julie Robertson), Chief Financial Officer (Leonie Johnson), Executive Manager Human Resources (Michele George), Governance Coordinator (Tim Johnston) and Executive Assistant (Mette Sutton).

Item 1: Apologies

There were no apologies.

Item 2: Disclosure of Interest

There were no disclosures of interest.

Item 3: Confirmation of Minutes

257/21 MOTION: Shelley / Thompson

That the Minutes of the Ordinary Meeting held on 4 August 2021 be taken as read and confirmed.

The motion was carried with the Councillors voting unanimously.

Item 4: Matters in Progress

Purchase of Land Opportunity

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258/21 MOTION: Holden / Shelley

That resolution 126/21 from the Ordinary meeting of Council held on 21 April 2021 be noted as complete.

The motion was carried with the Councillors voting unanimously.

Item 5: Mayoral Minute

Nil

Item 6: Notices of Motion or Rescission

Nil

Item 7: Office of the General Manager

7.1 ELECTION OF THE DEPUTY MAYOR

GOV400088, GOV400087

259/21 MOTION: Shelley / Holden**That Council:**

1. receive the report by the Governance Coordinator on the Election of the Deputy Mayor;
2. determine that the Ballot for the election of the Deputy Mayor be by Open Voting; and
3. designate the General Manager as the Returning Officer for the election with the election to be conducted by the General Manager assisted by the Governance coordinator.

The motion was carried with the Councillors voting unanimously.

Councillors Peter Shelley and Russell Holden nominated Cr Sam Paine for the position of Deputy Mayor.

The Mayor noted that the nomination received for Cr Sam Paine was the only nomination received for the position of Deputy Mayor. He then declared Cr Sam Paine as Deputy Mayor. Cr Paine was appointed Deputy Mayor for the remainder of the Council term.

Item 8: Development

8.1 DA0125/2021 - 18 MARSHFIELD LANE, MUDGEES - TORRENS TITLE SUBDIVISION OF LAND (1 INTO 24 LOTS)

GOV400088, DA0125/2021

260/21 MOTION: Shelley / Cavalier**That Council:**

- A. receive the report by the Planning Coordinator on DA0125/2021 - 18 Marshfield Lane, Mudgee - Torrens Title Subdivision of Land (1 into 24 Lots); and

- B. approve DA0125/2021 - 18 Marshfield Lane, Mudgee - Torrens Title Subdivision of Land (1 into 24 Lots), subject to the following conditions and statement of reasons:

APPROVED PLANS

1. Development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions herein. Any modification otherwise required to the approved plans will require the submission of a modification application under Section 4.55 of the Environmental Planning and Assessment Act.

Title/Name	Drawing No/ Document Ref	Revision /Issue	Dated	Prepared by
Proposed Subdivision	20/422	-	28.05.2021	O'Ryan Geospatial
Concept Landscape Plan	20/422	-	28.05.2021	O'Ryan Geospatial
Subdivision Concept Servicing Plan	TX150100.0 0 - C6.00	E	01.06.2021	Triaxial Consulting
Stormwater Catchment Plan	TX150100.0 0 - C6.01	D	01.06.2021	Triaxial Consulting
Concept Cut and Fill Plan	TX150100.0 0 - C6.02	B	01.06.2021	Triaxial Consulting

GENERAL

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. No structures or earthworks are permitted to encroach within any easements for the purposes of utility infrastructure as specified in Council's Development Control Plan.
4. The strength of the concrete used for any concrete components in the development must be a minimum 25 Mpa.
5. 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.

6. **Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties other than at approved locations and methods of disposal. Discharge of runoff onto 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.**
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. **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.**

ROADS AND FOOTPATHS

9. **The Developer is required to provide for the construction of road upgrades that includes, but may not be limited to:**
 - a) **Construction of kerb and channel for the full road abutments of all lots created by this Subdivision,**
 - b) **The half width pavement construction and bitumen sealing of those parts of Bellevue road and Marshfield Lane that abut the development, and**
 - c) **The construction of concrete footpaths 1.35 metres wide for the full abutment of Bellevue Road and Marshfield Lane.**
10. **The new internal road must provide for a trafficable court bowl no less than 10 metres radius. Road pavements must be designed and constructed in accordance with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document and relevant parts of AUS-SPEC specifications. Note: Construction of Marshfield Lane will require alteration to the existing culvert under Marshfield Lane at the intersection of Bellevue Road to ensure sufficient depth of pavement and provide protective cover for the pipe/s.**

STORMWATER

11. **The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the**

development. The extent of stormwater drainage works will include, but is not limited to:

- construction of a table drain along the southern side of Marshfield Lane to intercept and control surface runoff from upstream catchments and extend from the proposed inlet structure shown on the plans to a point no less than 100 metres beyond the proposed development,
 - alteration and upgrade of the existing culvert under Marshfield Lane at the Bellevue Road intersection such that the required cover for pavement construction is achieved, and
 - extension of the inter-allotment drainage for proposed lots 7 to 12 (inclusive) to provide an inlet for surface runoff from the adjoining property.
12. Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with relevant parts of AUS-SPEC specifications. Easements not less than 3 metres wide shall be created over inter-allotment drainage in favour of upstream allotments.

WATER SUPPLY

13. The developer must provide separate water reticulation services to each allotment within the subdivision.
14. The developer is to meet the full cost of water reticulation to service the development. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council and the National Specification – Water Supply Code of Australia.
15. The extent of water main extension to provide adequate and satisfactory supply will require a new main constructed from the 100mm diameter main in Bellevue Road, along Marshfield Lane and extending to connect with other 100mm diameter main in the vicinity of the Marshfield and Albens Lane intersection. A mains extension to service lots accessed from the proposed new cu-de-sac will also be required.
16. The developer is to provide a water service and meter for each lot in the subdivision. Where the provision of a service connection for a proposed new lot is undertaken during the installation of new water mains by the Developer, and prior to any 'live' connection, the developer can achieve this by making a payment to Council of \$655.00 per lot as specified in Council's Schedule of Fees and Charges, noting that this amount is indexed to increase each financial year.
Note: Council does not permit other bodies to insert new connections into 'live' water mains. The cost referenced above is for the supply of meter only and is subject to CPI increases.

17. In the case of any lots that will not be serviced by a water main constructed by the developer, a full water service will be required. The developer will be required to pay for full Water Service Connection for a 20 mm water supply, for an amount of \$2,150.00 per lot as specified in Council's Schedule of Fees and Charges, noting that this amount is indexed to increase each financial year.
18. Where necessary the adjustment of existing services, infrastructure 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.

SEWERAGE SUPPLY

19. The developer is to extend and meet the full cost of sewer reticulation to service the development plus the cost of connecting to existing services.
20. All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Sewerage Code of Australia.
21. In the case of any lots that will be serviced by a sewer main constructed by the developer the sewer junctions required to service the proposed lots must be installed by the developer.

PRIOR TO ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

22. A Subdivision Works Certificate is required for but not limited to the following civil works;
 - a) Water and sewer main extensions,
 - b) Roads, including concrete kerb, pavement and bitumen seal,
 - c) Stormwater drainage such as inter-allotment drainage, detention basins, culverts, pits and table drains,
 - d) Footpath (concrete paths, 1.35 metres wide and with crossfall and kerb ramps where necessary in accordance with AS1428 and DDA requirements),
 - e) Landscaping of public reserves and nature strips / verges.

No works can commence prior to the issue of the Subdivision Works Certificate.

NOTE: Additional permits and approvals may also be required under other legislation, e.g. Plumbing and Drainage Act 2011, and Plumbing and Drainage Regulation 2017 for water and

sewer infrastructure works.

23. Prior to the issue of a Subdivision Works Certificate a detailed engineering design, specifications, supporting documentation / reports and calculations, and schedules are 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.

Detailed documentation including, but not limited to the following matters, must be submitted with the detailed design. These documents include:

- Runoff calculations.

24. The detailed design plans submitted for the issue of a Subdivision Works Certificate must show all finished surface levels.
25. 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 Mid-Western Regional Council. All requirements of the Traffic Control Plan must be put in place and implemented prior to any work commencing.
26. The detailed design plans submitted for the issue of a Subdivision Works Certificate must show all finished surface levels. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
27. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authorities standards. Each allotment is to be provided with a service point / connection to an underground electricity supply. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with the certified copies of the Electrical and Telecommunications distribution network design for the Subdivision.
28. Prior to the issue of a Subdivision Works Certificate the Applicant must provide a fully detailed Stormwater Drainage Report and Design for approval by Council that provides for control and treatment of stormwater runoff generated by future residential development of the land. The report must demonstrate that proposed detention arrangements do not increase the rate of discharge of stormwater runoff from the site beyond the existing undeveloped state for a storm event

up to and including a 1:100 year ARI event. Methods of stormwater detention must be included in the design to ensure that the rate of stormwater runoff flows from the development do not exceed the volume and rates generated by a 1:5 year ARI storm event from the undeveloped site.

29. 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; and
 - d) Maintenance of erosion and sediment control structures.

PRIOR TO THE COMMENCEMENT OF WORKS

30. Prior to the commencement of construction of infrastructure, the developer must obtain a Subdivision Works Certificate.
31. 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.
32. 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.
33. Prior to the commencement of subdivision works, the following actions are to be carried out:
- a) A site supervisor is to be nominated by the applicant;
 - b) Council is to be provided with two (2) days' notice of works commencing; and
 - c) Council is to be notified in writing of any existing damage to Council's infrastructure.

NOTE: Failure to comply with these conditions may result in damage to Council's infrastructure. Any damage will be rectified at the applicant's cost.

34. Runoff and erosion controls shall be installed prior to clearing and incorporate:
- a) Diversion of uncontaminated on-site runoff around cleared

- and/or disturbed areas and areas to be cleared and/or disturbed;
- b) Sediment control fences on the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water.
 - c) Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.
35. 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.

DURING CONSTRUCTION

36. The subdivision works are to be inspected by Council (or an Accredited Certifier on behalf of Council) 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) Water and sewer line installation prior to backfilling.
 - c) Vacuum / pressure testing of all water and sewer mains.
 - d) Stormwater drainage pipe installation prior to backfilling.
 - e) CCTV inspection of all sewer mains and stormwater drainage.
 - f) Proof roll inspection of sub-grade prior to placement and compaction of sub-base.
 - g) Proof roll inspection of sub-base prior to installation of concrete kerb.
 - h) Proof roll inspection of compacted sub-base prior to placement of base course.
 - i) Proof roll inspection of compacted base prior to sealing.
 - j) CCTV inspection of all sewer mains and stormwater drainage once final earthworks have been completed to finished surface levels.
 - k) Practical Completion.
 - l) At completion of the Defects Liability Period a further CCTV inspection of all sewer mains and stormwater drainage is to be undertaken prior to the issue of a certificate of Final Completion and the release of Defects Liability bond monies.

Note: In addition to proof roll inspection compaction testing may also be required.

37. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.
38. All road crossings for services and utilities are to cross perpendicular to the road alignment and must be installed prior to the commencement of construction of base course and kerb and channel.
39. The finished surface of all nature strips and verges must be graded to fall toward the kerb and channel and formed with a minimum 100 mm thick layer of clean topsoil free of stones and other impurities. Nature strips and verges are to be seeded or hydro-mulched with an approved grass prior to the issue of a Certificate of Practical Completion.
40. All works are to be constructed at the full cost of the developer, in a manner consistent with relevant parts of AUS-SPEC specifications and Council's standard drawings.
41. No trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction of the subdivision works including the erection of any fences or hoardings.
42. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer's / Demolisher's expense.
43. 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.
44. 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.
45. 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.

46. 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.
47. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
48. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
49. 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.
50. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
51. Fill placed in any residential lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
52. Street trees of a species approved by Council are to be provided at a minimum rate of two trees per allotment, other than proposed Lots 11 and 14 (battle-axe lots).

PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE

53. An application for a Subdivision Certificate, application fee and the linen plan(s) are to be submitted to Council for approval and endorsement by the General Manager (or their delegate). The application is to be made via the NSW Planning Portal.
54. Following completion of the subdivision works, work-as-executed plans (WAE) are to be provided to Council, prior to issue of the Subdivision Certificate, in the following formats:
- a) PDF; and

- b) Dwg format or “Autocad compatible”
- c) Mapinfo

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.

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

- 55. The developer shall provide separate water and sewer services for each allotment within the subdivision, prior to issue of the Subdivision Certificate.
- 56. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
- 57. To ensure that increased runoff from the future development of dwellings does not adversely affect the flood risk to downstream properties, suitably worded Section 88B documentation placing a restrictive covenant on each allotment requiring detention devices to be included for all building works is to be provided to Council, prior to issue of the Subdivision Certificate. Detention devices must provide a minimum 2000 litres detention storage to be discharged to empty after each rain event through an orifice no greater than 19mm diameter. Detention devices are to be maintained by the owner to the satisfaction of Council at all times.
- 58. Prior to the release of the Subdivision Certificate, a Defects Liability bond in a form acceptable to Council to the value of 5% of the value of all works must be lodged with Council to be held for a period of twenty-four (24) months to ensure any defects that become apparent during that time are remedied by the developer.

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 a bank guarantee to the satisfaction of Council.

- 59. The developer is to ensure that any defects in the works that become apparent before and within the succeeding six (6) months after the registration of the subdivision plan, are remedied to Council's satisfaction. If these defects are not

satisfactorily remedied, Council may use bond money to carry out rectification works.

Any unspent bond money will be returned to the developer at the end of the six (6) month period, less the cost of any rectification works carried out by Council.

60. The developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council, prior to issue of a Subdivision Certificate.

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

61. 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. Contributions are subject to the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions		
24 lots (minus 1 credit for existing lot)		
Mudgee Catchment	Per Lot	23 Lots
Transport Facilities	\$ 4,379.00	\$ 100,717.00
Recreation and Open Space	\$ 2,199.00	\$ 50,577.00
Community Facilities	\$ 640.00	\$ 14,720.00
Stormwater Management	\$ 462.00	\$ 10,626.00
Plan Administration	\$ 1,003.00	\$ 23,069.00
TOTALS	\$ 8,683.00	\$ 199,709.00

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.

62. Any unpaid contributions or charges nominated in the development consent will be indexed to CPI at the beginning of each new financial year.

63. 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.
64. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements, prior to issue of the Subdivision Certificate.
65. Easements for electricity purposes, as required by the electricity supply authority, shall be created. 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.
66. 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.
67. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision in accordance with the relevant authority's standards, prior to issue of the Subdivision Certificate.
68. The proposed Road No.1 within the subdivision 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.

ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the Water Management Act 2000 to be obtained prior to the issue of a Subdivision Certificate.
A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the Water Management Act 2000.
Please be advised that as a precondition to the granting of a Compliance Certificate, the following is to occur:
 - a) A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable):

Section 64 Contributions		
24 Lots (minus credit for 1 Large Residential Lot at 1.5ET Water and 1.05ET Sewer)		
	Charge	23 Lots
Water Headworks	\$8,756.00	\$ 197,010.00
Sewer Headworks	\$3,997.00	\$ 89,932.50
TOTAL HEADWORKS		\$ 286,942.50

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

2. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
3. Council has no regulatory authority in regards to dividing fencings under the Dividing Fences Act 1991 and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
4. 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.

5. **Division 8.2 of the Environmental Planning and Assessment Act (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.**
6. **If you are dissatisfied with this decision section 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).**
7. **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. **No submissions were received during the public notification period.**

AMENDMENT: Martens / Holden

That the matter be deferred and that discussions be held between the Director Development and developer with a view to making a contribution towards open space as the application as it stands doesn't satisfy the DCP.

The amendment was put and lost with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy		✓
Cr Paine		✓
Cr Cavalier		✓
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr O'Neill		✓
Cr Shelley		✓
Cr Thompson	✓	

The motion, on being put, was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas		✓
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

8.2 DA0008/2022 - DEMOLITION WORKS, ALTERATIONS AND ADDITIONS AND CHANGE OF USE FROM CHILDCARE CENTRE TO COMMUNITY FACILITY - 2-6 DOURO STREET, MUDGEE

GOV400088, DA0008/2022

261/21

MOTION: Holden / Paine

That Council:

- A. receive the report by the Planning Coordinator on the DA0008/2022 - Demolition Works, Alterations and Additions and Change of Use from Childcare Centre to Community Facility at 2-6 Douro Street, Mudgee; and**
- B. approve DA0008/2022 - Demolition Works, Alterations and Additions and Change of Use from Childcare Centre to Community Facility at 2-6 Douro Street, Mudgee subject to the following conditions and Statement of Reasons:**

CONDITIONS

APPROVED PLANS

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

Title / Name:	Drawing No / Document Ref	Revision / Issue:	Date	Prepared by:
Cover Page	DA-001	A	24/6/21	BKA Architecture
Site Images	DA-002	A	24/6/21	BKA Architecture
Existing Site and Ground Floor Plan	DA-003	A	24/6/21	BKA Architecture

Demolition Plan	DA-004	A	24/6/21	BKA Architecture
Site Plan	DA-0010	A	24/6/21	BKA Architecture
Ground Floor Plan	DA-100	A	24/6/21	BKA Architecture
Elevations and Sections	DA-200	A	24/6/21	BKA Architecture
Area Schedule	DA-700	A	21/6/21	BKA Architecture
Hardscape Plan	LPDA – 334	B	24.6.20 21	Concept Landscape Architects
Landscape Plan	LPDA21 - 334	B	24.6.20 21	Concept Landscape Architects
Image Palette	LPDA21 – 334	B	24.6.20 21	Concept Landscape Architects

GENERAL

2. 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.
3. 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.
4. This development consent includes approval for demolition works, alterations / additions to the existing commercial building, and change of use to a Community Facility.
5. All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc., should be handled, conveyed and disposed of in accordance with guidelines and requirements from SafeWork NSW. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.
6. Notwithstanding the approved plans, the structure is to be located clear of any easements and/or 1.5 metres from any water and sewer mains in accordance with Council Policy.
7. Costs associated with all development works including any

necessary alterations, relocations of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.

8. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) protect and support the building, structure or work from possible damage from the excavation, and
 - b) where necessary, underpin the building, structure or work to prevent any such damage.

Note - Prescribed condition pursuant to clause 98E of the Environmental Planning and Assessment Regulation 2000 and Council requirement to preserve the stability of adjoining roads/public places.

9. 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.
10. All trafficable pavements are to be constructed and sealed with an impervious surface, either bitumen or concrete, and maintained to the satisfaction of Council at all times.
11. 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.
12. A total of 12 car parking spaces are to be provided within the site of the development and comply with AS 2890.1: 2004 – Parking facilities – Part 1: Off-street car parking and the following requirements:
- Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009;
 - Line marking, wheel stop and signage is to be installed as per the relevant Australian Standard;
 - Off street visitor parking is to be encouraged by the placement of prominent signs indicating the availability of visitor parking;
 - All car parking spaces must be maintained in a satisfactory condition at all times.
13. Fill placed in residential or commercial lots shall be compacted

in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

14. The only waste derived fill material that may be received at the development site must be:
 - a) Virgin excavated natural material, within the meaning of the Protection of the Environment Operations Act 1997; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.
15. 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.
16. Site works and landscaping must be designed and constructed in such a manner as to have no negative effect on the cross sectional area at any point of the adjacent waterway/drainage feature.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

17. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
18. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
19. Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993, prior to the issue of a Construction Certificate.
20. Details of the internal driveway and car parking spaces are to be submitted to and approved by the Certifier (i.e. Council or a private Certifier), prior to the issue of a Construction Certificate. These details shall comply with the requirements of AS/NZS 2890.1:2004 – Parking Facilities – Part 1: Off-street Car Parking and the relevant conditions of this development consent.
21. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work

costing \$25,000 or more.

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

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

22. Prior to the issue of a Construction Certificate, the developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.
23. Prior to issue of a Construction Certificate, a liquid trade waste approval is to be obtained from Council.

PRIOR TO THE COMMENCEMENT OF WORKS

24. 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.

25. 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 PRIOR TO SUBSEQUENT DISPOSAL AT AN APPROVED WASTE DISPOSAL FACILITY.
26. 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.
27. Sediment erosion controls shall be installed within the development site, to the satisfaction of the Certifier (i.e. Council or the Principal Certifier), prior to the commencement of works.

28. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is carried out:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority for the work; and
 - d) the sign shall be removed when the erection or demolition of the building has been completed.
29. If the work involved in the erection/demolition of the building:
- a) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) Building involves the enclosure of a public place; then
- A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

DURING CONSTRUCTION

30. 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.
31. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
32. 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.
33. 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.
34. The strength of the concrete used for the reinforced concrete floor slab must be a minimum 25Mpa.

35. All stormwater is to discharge to the street with the use of non-flexible kerb adaptors.
36. All building work is to comply with the requirements of the Access to Premises Standard.
37. The licensed demolition contractor and/or principal contractor must comply with the following specific requirements in respect of the proposed demolition works:-
- a) Demolition work is not to be undertaken until:
 - Council has been provided with a copy of any required Hazardous Substances Management Plan;
 - The licensed demolition contractor and/or principal contractor has inspected the site and is satisfied that all measures are in place to comply with the provisions of such Plan;
 - b) The removal, handling and disposal of any asbestos material (in excess of 10m²) is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW, and in accordance with the requirements of WorkCover NSW, the Work Health and Safety Act 2011 and Australian Standard 2601-2001;
 - c) All asbestos and other hazardous materials are to be appropriately contained and disposed of at a facility holding the appropriate license issued by the NSW Environmental Protection Agency;
 - d) Seven working days notice in writing is to be given to Council prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor.
38. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.
39. The development site is to be managed for the entirety of work in the following manner:
1. 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;
 2. Appropriate dust control measures;
 3. Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained; and

4. 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.
40. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the developer's/demolisher's expense.
41. 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.
42. If historical archaeological remains are found during works, works should immediately cease and the Heritage Branch of the Office of Environment and Heritage should be contacted for further advice, as required under Section 139 of the Heritage Act 1977.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

43. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
44. Prior to the issue of an Occupation Certificate all access, car parking and associated manoeuvring areas are to be completed.
45. Prior to issue of an Occupation Certificate, a Flood Evacuation Management Plan shall be prepared and submitted to the Certifying Authority. The Plan is to detail the procedure for early evacuation of occupants from the building and all relevant flood emergency management information to be incorporated within the site. A copy of the Plan is to be kept within a publically accessible area in the building for the life of operations.
46. 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 the Fire and Rescue NSW and a copy is to be prominently displayed in the building.
47. Prior to the issue of an Occupation Certificate, for any

buildings on site, the building is to be connected to reticulated water supply, stormwater and sewerage in accordance with the relevant Section 68 approval/s.

48. Prior to issue of an Occupation Certificate, all plants shown on the approved landscape plan/s are to be planted and all hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed prior to occupation of the development.
49. Prior to use of the development and/or issue of an Occupation Certificate, all works included in any Trade Waste Approval are to be completed.

OPERATIONAL/ ONGOING CONDITIONS

50. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
51. 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. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
52. The hours of operation of the development are limited to 8am to 10pm, 7 days per week.
53. All vehicles are required to enter and leave the site in a forward direction at all times.
54. All line-marking for the on-site car parking spaces and footpath areas are to be maintained in a visible condition, at all times.
55. All loading and unloading in connection with the premises shall be carried out wholly within the site and at the approved loading dock.
56. All car parking spaces, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.
57. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".

58. **Garbage storage areas are to be adequately screened from public view.**
59. **No display or sale of goods is to take place from public areas or footpaths fronting the premises.**
60. **The development is to be maintained in a clean and tidy manner, at all times.**

REASONS FOR DECISION

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. **No submissions were received during the public notification period.**

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.**

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson	✓	

8.3 DA0020/2022 - SERVICED APARTMENT AT 772 BLACK SPRINGS ROAD, BUDGEE BUDGE (LOT 323 DP 1109684) GOV400088, DA0022/2022

MOTION: Thompson / Martens

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 conditions and Statement of Reasons as written; and
- C. condition that a 50 metre long single lane be sealed adjacent to the neighbour's house and that tall evergreen trees be planted to mitigate dust.

262/21

AMENDMENT

Paine / Shelley

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.

Title / Name:	Drawing No / Document Ref:	Issue:	Date:	Prepared by:
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.**

The amendment was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden		✓
Cr Karavas		✓
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

The amendment, on becoming the motion, was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden		✓
Cr Karavas		✓
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley		✓
Cr Thompson	✓	

8.4 ME0051/2021 - MODIFICATION TO DA0314/2008 FOR A STAGED THREE LOT SUBDIVISION - 6-8 CLARE COURT, MUDGEE - LOT 2 DP1169777 (FORMERLY PART OF LOT 6 DP1058178)

GOV400088, P1348861

263/21

MOTION: Shelley / Holden

That Council:

- A. receive the report by the Town Planner on the ME0051/2021 - Modification to DA0314/2008 for a staged three lot subdivision - 6-8 Clare Court, Mudgee - Lot 2 DP1169777 (formerly part of Lot 6 DP1058178); and
- B. approve ME0051/2021 - Modification to DA0314/2008 for a staged three lot subdivision - 6-8 Clare Court, Mudgee - Lot 2 DP1169777 (formerly part of Lot 6 DP1058178) subject to the following conditions and statement of reasons:

APPROVED PLAN

- 1 Development is to be carried out generally in accordance with the plan prepared by Barnson ~~depicting subdivision of Lot 6 DP1058178~~ **Drawing Number 35957_L01 Revision A, dated 07/06/2021** and with the application received by Council on ~~20 February 2008 (as amended on 23 September 2009)~~ **21 June 2021** except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

STAGES 1 & 2

ENGINEERING REQUIREMENTS

- 2 The applicant is to provide separate water and sewer reticulation services to each lot.
 - 3 **Where a mains extension is required, a “Subdivision Works Certificate” approval is required prior to carrying out any construction activities.** The developer is to extend and meet the full cost of water and sewerage reticulations to service the new lots plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
- (AMENDED BY ME0051/2021)**
- 4 The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1,040 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE – STAGE 1	1	x	\$1,040	=	\$1,040
TOTAL PAYABLE – STAGE 2	1	x	\$1,040	=	\$1,040

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

- 5 Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with AusSpec #1.**
- 6 Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed inter-allotment drainage, water, or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.**
- 7 All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.**
- 9 ~~Following completion of the subdivision works, one full set of work as executed plans, in pdf and dwg format, which is "Autocad compatible" is to be submitted on disk to Council. All work as executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.~~**

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

(AMENDED BY ME0051/2021)

PRIOR TO THE ISSUE OF SUBDIVISION WORKS CERTIFICATE

- 10 ~~Engineering plans of any mains extensions are to be submitted to and approved by Council or an Accredited Certifier prior to the issue of a Construction Certificate~~**

A detailed Engineering Design is to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate. The Engineering Design is to comply with Council's Development Control Plan, WSAA code. A Subdivision Works Certificate is required for, but not limited to the following Civil Works:

- Sewer Extensions works;

NOTE:

No work is permitted to commence prior to the issue of the Subdivision Works Certificate

(AMENDED BY ME0051/2021)

- 11** ~~A detailed engineering design supported by plans, and an “Autocad compatible” Plan, (in dwg format including pen-map), material samples, test reports and specifications is to be prepared in accordance with AUS SPEC #1 (as modified by Mid Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council prior to the issue of a Construction Certificate.~~

(DELETED BY ME0051/2021)

- 12** Contractor’s public liability insurance cover for a minimum of \$10,000,000 is to be sighted and to be shown to Mid Western Regional Council as an interested party.
All work is to be at no cost to Council.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

These conditions have been imposed to ensure that the proposed subdivision complies with the requirements of the Environmental Planning and Assessment Act, 1979, Council policy and the relevant standards.

- 13** Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Titles Office.
- 14** A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.

NOTE: Council’s fee to issue a Subdivision Certificate is set out in Council’s fees and charges and for this development is \$210 (Stage 1 and \$280 Stage 2) at the date of determination.

- 15** If the Subdivision Certificate is not issued, for any reason whatsoever, within twelve (12) months of the date of determination, then the charges and contributions contained in this consent may be increased to the current rate at the time of payment.
- 16** Prior to the issue of a Subdivision Certificate:
- (a) all contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or
 - (b) an agreement be made between the developer and Council;
 - (i) as to the security to be given to Council that the works will be completed or the contribution paid, and
 - (ii) as to when the work will be completed or the

contribution paid.

- 17 Electricity, and telecommunications are to be supplied to each lot. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
- (a) A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the development.
 - (b) A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the development.
- 18 The developer must provide Council and land purchasers with a site classification for the new vacant allotment 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 AS2870 - 1996. Results to be submitted to Council prior to issue of the Subdivision Certificate.
- 19 Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained and lodged with Council prior to the issue of the Subdivision Certificate.

STAGE 1

- 20 In accordance with the provisions of section 94 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94 Developer Contributions Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of: **SUBJECT TO CPI INCREASE**

Program	Levy per Lot \$	Total \$
Transport Management		
Traffic Management	\$962.70	\$962.70
Open Space		
Local Open Space	\$1,511.30	\$1,511.30
District Open Space	\$2,052	\$2,052.00
Community Facilities		
Library Buildings	\$197.80	\$197.80
Library Resources	\$237.40	\$237.40
Administration		
Plan Administration	\$461.60	\$461.60
TOTAL PAYABLE	\$5,422.80	\$5,422.80

21 The developer shall obtain a Certificate of Compliance under the Water Management Act. This will require:

(a) Payment of a contribution for water and sewerage headworks at the following rate:

Water Headworks	\$7,004
Sewerage Headworks	\$3,198
Total	\$10,202

(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.

STAGE 2

22 In accordance with the provisions of section 94 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94 Developer Contributions Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of: **SUBJECT TO CPI INCREASE**

Program	Levy per Lot \$	Total \$
Transport Management		
Traffic Management	\$962.70	\$962.70
Open Space		
Local Open Space	\$1,511.30	\$1,511.30
District Open Space	\$2,052	\$2,052.00
Community Facilities		
Library Buildings	\$197.80	\$197.80
Library Resources	\$237.40	\$237.40
Administration		
Plan Administration	\$461.60	\$461.60
TOTAL PAYABLE	\$5,422.80	\$5,422.80

23 The developer shall obtain a Certificate of Compliance under the Water Management Act. This will require:

(a) Payment of a contribution for water and sewerage headworks at the following rate:

Water Headworks	\$3,501
Sewerage Headworks	\$3,038
Total	\$6,539

- (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.

GENERAL

The following conditions have been applied to ensure that the use of the land and/or building is carried out in a manner that is consistent with the aims and objectives of the environmental planning instrument affecting the land

- 24 If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.

(Note: A suitably qualified person would be required to be present during earthworks to identify whether any artefacts were uncovered)

ADVISORY NOTES

1. At such time as proposed Lot 1 is developed, a Stormwater Management Plan may be required to demonstrate how surface runoff from proposed Lot 1, which slopes down towards the western boundary and has lowest level at the mid-point of the block does not affect proposed Lot 2.

ADDED BY ME0051/2021

STATEMENT OF REASONS

1. The proposed modification is substantially the same development as that approved and will have minimal environmental impacts.
2. The proposed modification complies with all the relevant matters required to be taken into consideration in accordance with sections 4.15 and 4.55 of the Environmental Planning and Assessment Act 1979.
3. The proposed variation to the minimum lot size has been adequately justified in accordance with Clause 4.6 Mid Western Regional Local Environmental Plan 2012.

ADDED BY ME0051/2021

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson	✓	

The following recommendations (item 8.5 to item 11.2) were adopted as a whole, being moved by Cr Shelley, seconded by Cr Paine and carried with Councillors voting unanimously. Each recommendation is recorded with separate resolution numbers commencing at Resolution No. 264/21 and concluding at Resolution No. 280/21.

8.5 HOUSEKEEPING AMENDMENT TO THE MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012

GOV400088, LAN900121

264/21

MOTION: Shelley / Paine

That Council:

1. **receive the report by the Manager, Strategic Planning on the Housekeeping Amendment to the Mid-Western Regional Local Environmental Plan 2012;**
2. **provide initial support for the Housekeeping Amendment to:**
 - a) **update the property address and/or legal description of Heritage Items in Schedule 5 Environmental Heritage and remove incorrect listings;**
 - b) **include 6 Bulga Street, Gulgong (dwelling) – Lot 3 DP 570476 in Schedule 5 Environmental Heritage;**
 - c) **rezone Lot 3 DP 1172889 and part of a crown road to E1 National Parks and Nature Reserves;**
 - d) **include a dwelling entitlement for Lots 4, 5, 6 and 8 DP 271077 in Schedule 1 Additional Permitted uses;**
3. **forward the Planning Proposal to amend the Mid-Western Regional Local Environmental Plan 2012 to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979;**

and

4. **undertake community consultation as outlined within any approved Gateway Determination.**

The motion was carried with the Councillors voting unanimously.

8.6 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING
AND DETERMINED

GOV400088, A0420109

265/21 MOTION: Shelley / Paine

That Council receive the report by the Director Development on the Monthly Development Applications Processing and Determined.

The motion was carried with the Councillors voting unanimously.

8.7 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING
AND DETERMINED

GOV400088, A0420109

266/21 MOTION: Shelley / Paine

That Council receive the report by the Director Development on the Monthly Development Applications Processing and Determined.

The motion was carried with the Councillors voting unanimously.

Item 9: Finance

9.1 NAMING OF NEW STREETS IN A SUBDIVISION OFF SPRING
FLAT ROAD SPRING FLAT / BURRUNDULLA

GOV400088, P19766 R0790041

267/21 MOTION: Shelley / Paine

That Council:

1. **receive the report by the Property Support Officer on the naming of new streets in a subdivision off Spring Flat Road Spring Flat / Burrundulla; and**
2. **name Street 1 Polo Crescent and Street 2 Goodman Lane.**

The motion was carried with the Councillors voting unanimously.

9.2 NAMING OF A NEW STREET IN A SUBDIVISION OFF
WILBETREE ROAD MENAH

GOV400088, P11946 R0790041

268/21 MOTION: Shelley / Paine**That Council:**

1. receive the report by the Property Support Officer on the naming of a new street in a subdivision off Wilbetree Road Menah; and
2. name this new street Sallarges Lane.

The motion was carried with the Councillors voting unanimously.

9.3 NAMING OF NEW STREETS IN A SUBDIVISION OFF HONE CREEK DRIVE CAERLEON

GOV400088, P26182 R0790141

269/21 MOTION: Shelley / Paine**That Council:**

1. receive the report by the Property Support Officer on the naming of new streets in a subdivision off Hone Creek Drive Caerleon;
2. name Road 1 Davis Crescent and name Road 2 Shearman Street; and
3. approve Orchard for the pre-approved names list for later use in the Caerleon Estate subdivision.

The motion was carried with the Councillors voting unanimously.

9.4 AMENDMENT TO ROAD CLOSURE LAND TRANSFER DEED ULAN-WOLLAR ROAD

GOV400088, Roa1000367

270/21 MOTION: Shelley / Paine**That Council:**

1. receive the report by the Manager Property and Revenue on the Amendment to Road Closure Land Transfer Deed Ulan-Wollar Road;
2. agree to the terms in the revised Road Closure Land Transfer Deed as appended as Attachment 1 to this Report;
3. authorise the General Manager to endorse the revised

Road Closure Land Transfer Deed as appended as Attachment 1 to this Report;

4. **require Peabody Pastoral Holdings P/L or Wilpinjong Coal P/L be responsible for all reasonable costs incurred by Council in discharging its tasks in accordance with the revised Road Closure Land Transfer Deed as appended as Attachment 1 to this Report, including all legal and other out of pocket costs;**
5. **authorise the General Manager to sign all documentation, where necessary, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the revised Road Closure Land Transfer Deed appended as Attachment 1 to this Report;**
6. **authorise the Mayor to sign all documentation, where additionally required to do so, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the revised Road Closure Land Transfer Deed appended as Attachment 1 to this Report; and**
7. **authorise the Common Seal of Council be affixed to all documentation, where necessary, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the revised Road Closure Land Transfer Deed appended as Attachment 1 to this Report.**

The motion was carried with the Councillors voting unanimously.

9.5 ACQUISITION OF ARTC LAND ULAN-WOLLAR ROAD

GOV400088, Roa100367, 25501

271/21 MOTION: Shelley / Paine

That Council:

1. **receive the report by the Manager Property and Revenue on the Acquisition of ARTC Land Ulan-Wollar Road;**
2. **notes that the acquisition of Lot 1 DP 1254551 is a condition precedent referred to in cl2.2(d) of the Heads of Agreement endorsed 15 May 2019;**
3. **resolves to acquire Lot 1 DP 1254551 by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991;**
4. **in pursuance of same, enter into the agreement annexed as**

Attachment 3 to this Report under s29 of the Land Acquisition (Just Terms Compensation) Act 1991 with TfNSW and the ARTC being the Deed of Compulsory Acquisition by Agreement;

5. **thereafter make application to the Minister and the Governor for approval to acquire the land identified as Lot 1 DP 1254551, being 2074m3, by compulsory process for the purposes of public road, under sections 177 and 178 of the Roads Act 1993;**
6. **authorises the General Manager and the Mayor, if required to do so, to execute all necessary documentation including following said approval or Deed -**
 - a. **for the publication of an acquisition notice in the NSW Government Gazette under s19 of the Land Acquisition (Just Terms Compensation) Act 1991;**
 - b. **the dedication of the subject land as a Council public road in accordance with s10 Road Act 1993;**
 - c. **the agreement annexed as Attachment 3 to this Report under s29 of the Land Acquisition (Just Terms Compensation) Act 1991 with TfNSW and the ARTC being the Deed of Compulsory Acquisition by Agreement; and**
7. **authorises the affixing of the Common Seal to all documents necessary to formalise the acquisition of Lot 1 DP 1254551 as shown on Attachment 2 to this Report.**

The motion was carried with the Councillors voting unanimously.

9.6 MONTHLY STATEMENT OF INVESTMENTS AS AT 31 JULY 2021

GOV400088, FIN300053

272/21

MOTION: Shelley / Paine

That Council:

1. **receive the report by the Financial Planning Coordinator on the Monthly Statement of Investments as at 31 July 2021; and**
2. **note the certification of the Responsible Accounting Officer.**

The motion was carried with the Councillors voting unanimously.

9.7 MONTHLY STATEMENT OF INVESTMENTS AS AT 31
AUGUST 2021

GOV400088, FIN300053

273/21 MOTION: Shelley / Paine

That Council:

- 1. receive the report by the Financial Planning Coordinator on the Monthly Statement of Investments as at 31 August 2021; and**
- 2. note the certification of the Responsible Accounting Officer.**

The motion was carried with the Councillors voting unanimously.

9.8 MONTHLY BUDGET REVIEW - AUGUST 2021

GOV400088, FIN300315

274/21 MOTION: Shelley / Paine

That Council:

- 1. receive the report by the Financial Planning Coordinator on the Monthly Budget Review - August 2021;**
- 2. amend the 2021/22 budget in accordance with the variations as listed in the Monthly Budget Review attachment to this report; and**
- 3. note that the General Manager used the emergency delegation conveyed to him at 3.1 of his delegation to authorise the contract of 2 Urgent Relief Treatment Plant Operators.**

The motion was carried with the Councillors voting unanimously.

9.9 KANDOS LOOKOUT

GOV400088, P1681411

275/21 MOTION: Shelley / Paine

That Council:

- 1. receive the report by the Manager Property and Revenue on the Kandos Lookout; and**
- 2. note the result of the further ownership investigations which confirms the site, previously used as the Kandos**

Lookout, is held under private ownership.

The motion was carried with the Councillors voting unanimously.

**9.10 GRANTS COMMISSION FINANCIAL ASSISTANCE GRANT
2021-22**

GOV400088, GRA600041

276/21**MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the Financial Planning Coordinator on the Grants Commission Financial Assistance Grant 2021-22;**
- 2. note the correspondence received from the Local Government Grants Commission attached to this report;**
- 3. amend the 2021/22 Budget to recognise a transfer from other internal restrictions due to the advance payment of part of the 2021/22 financial assistance grant being a general purpose component of \$2,191,640 and local roads component of \$1,309,394 and offset with an equal amount of reduction in grant income;**
- 4. amend the 2021/22 Budget to increase grant income for the general purpose component by \$267,560 and the roads component by \$118,020; and**
- 5. amend the 2021/22 Budget to increase the Rural Sealed Road Rehabilitation Budget Only expenditure budget by the increased roads component grant amount of \$118,020, with the balance of funds to increase General Fund unrestricted cash by \$267,560.**

The motion was carried with the Councillors voting unanimously.

9.11 POLICY REVIEW - INVESTMENTS

GOV400088, GOV400047

277/21**MOTION: Shelley / Paine****That Council:**

- 1. receive the report by the Financial Planning Coordinator on the Policy Review - Investments;**
- 2. place the revised Investment Policy on public exhibition for 28 days; and**
- 3. adopt the revised Investment Policy if no submissions are**

received.

The motion was carried with the Councillors voting unanimously.

Item 10: Operations

- 10.1 ACCEPTANCE OF FIXING LOCAL ROADS ROUND 3 FUNDING FOR QUEENS PINCH RD, CORICUDGY RD AND BOCOBLE RD SEAL EXTENSIONS IF SUCCESSFUL
GOV400088, GRA600015

278/21 MOTION: Shelley / Paine

That Council:

1. receive the report by the Manager Works on the Acceptance of Fixing Local Roads Round 3 funding for Queens Pinch Rd, Coricudgy Rd and Bocoble Rd seal extensions if successful;
2. if successful, accept up to \$5,517,000 in grant funding from the Fixing Local Roads program for seal extensions;
3. amend the 2021/22 Budget to allocate \$7,356,000 to seal extension projects as follows:
 - 3.1 Queens Pinch Road seal extension \$2,294,000
 - 3.2 Coricudgy Road seal extension \$2,886,000
 - 3.3 Bocoble Road seal extension \$2,176,000
4. amend the 2021/22 Budget to allocate \$5,517,000 in grant funding as follows:
 - 4.1 Queens Pinch Road seal extension \$1,720,500
 - 4.2 Coricudgy Road seal extension \$2,164,500
 - 4.3 Bocoble Road seal extension \$1,632,000
5. amend the 2021/22 Budget to allocate \$1,839,000 reserve funding as follows:
 - 5.1 Queens Pinch Road seal extension \$573,500 seal extension reserve
 - 5.2 Coricudgy Road seal extension \$526,500 seal extension reserve, and \$195,000 public road closure compensation reserve

5.3 Bocoble Road seal extension \$544,000 public road closure compensation reserve

6. authorise the General Manager to finalise and sign the funding agreement with Transport for NSW.

The motion was carried with the Councillors voting unanimously.

Item 11: Community**11.1 ARTS OUTWEST - MEMORANDUM OF UNDERSTANDING**

GOV400088, REC800047, REC800019

279/21**MOTION: Shelley / Paine****That Council:**

1. receive the report by the Manager, Community & Cultural Services on the Arts OutWest - Memorandum of Understanding;
2. authorise the General Manager to execute the Memorandum of Understanding with Arts OutWest on behalf of Council; and
3. nominate Lizzy Galloway to the Arts OutWest Advisory Council for a period appropriate until Local Government elections are finalised and a new Council convenes to endorse a representative.

The motion was carried with the Councillors voting unanimously.

11.2 RFT 2019-32 PROVISION OF CLEANING SERVICES - VARIATION TO CONTRACT

GOV400088, COR400247

280/21**MOTION: Shelley / Paine****That Council:**

1. receive the report by the Building Services Coordinator on the RFT 2019-32 Provision Of Cleaning Services - Variation to Contract;
2. authorise a variation to contract RFT 2019-32 Provision of Cleaning Services to include a regular service of Mudgee Arts Precinct;
3. authorise a variation to contract RFT 2019-32 Provision of Cleaning Services to include a regular service of new office

space located on Depot Road; and

4. delegate the General Manager authority to approve additional variations to contract for cleaning services under this contract which exceed 10% of the original contract term when it has been identified best value for money can be reached.

The motion was carried with the Councillors voting unanimously.

11.3 RFT2021-29 SUPPLY AND INSTALLATION OF MODULAR CABINS AT MUDGEES VALLEY CARAVAN PARK

GOV400088, COR400446

281/21

MOTION: Holden / Shelley

That Council:

1. receive the report by the Director Community on the RFT2021-29 Supply and Installation of Modular Cabins at Mudgee Valley Caravan Park;
2. note the details provided in the attached confidential report and accept the tender submission for the RFT2021-29 Supply and Installation of Modular Cabins at Mudgee Valley Caravan Park in accordance with Clause 178 of the Local Government (General) Regulations 2005 at the tendered price of \$5,027,983.60 excluding GST;
3. authorise the General Manager to finalise and execute the contract on behalf of Council with Hoek Modular Homes Pty Ltd for RFT2021-29 Supply and Installation of Modular Cabins at Mudgee Valley Caravan Park;
4. grant delegation to the General Manager to approve variations to the contract up to an accumulative total of 10% of the original contract sum; and
5. notify other tenderers that their tenders were unsuccessful.

Councillors	Ayes	Nays
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

The motion was carried with the Councillors voting unanimously.

The following recommendations (item 12.1 to item 12.3) were adopted as a whole, being moved by Cr Shelley, seconded by Cr Martens and carried with Councillors voting unanimously. Each recommendation is recorded with separate resolution numbers commencing at Resolution No. 282/21 and concluding at Resolution No. 284/21.

Item 12: Reports from Committees

12.1 AUDIT RISK AND IMPROVEMENT COMMITTEE MINUTES 6 AUGUST 2021

GOV400088, COR400236

282/21

MOTION: Shelley / Martens

That Council:

1. receive the report by the Executive Manager, People and Performance on the Audit Risk and Improvement Committee Minutes 6 August 2021; and
2. endorse the minutes and recommendations of the Audit Risk and Improvement Committee meeting 6 August 2021.

The motion was carried with the Councillors voting unanimously.

12.2 AUDIT RISK AND IMPROVEMENT COMMITTEE'S 20/21 ANNUAL REPORT

GOV400088, COR400236

283/21

MOTION: Shelley / Martens

That Council:

1. receive the report by the Executive Manager, People and Performance and ARIC Chair on the Audit Risk and Improvement Committee's 20/21 Annual Report; and
2. note the Audit Risk and Improvement Committee 20/21 Annual Report.

The motion was carried with the Councillors voting unanimously.

12.3 MUDGE SPORTS COUNCIL MEETING MINUTES 19 JULY 2021

GOV400088, A0360013

284/21

MOTION: Shelley / Martens

That Council:

1. receive the report by the Manager - Recreation Services on the Mudgee Sports Council Meeting minutes 19 July 2021; and
2. note the minutes for the Sports Council Meeting held 19 July 2021

The motion was carried with the Councillors voting unanimously.

Item 133: Urgent Business Without Notice

285/21 MOTION: Holden / Karavas

That Council consider the allocation of funds for a valuation of land for the Mudgee Lookout at Caerleon Estate as Urgent Business without Notice.

The Mayor ruled that the business is urgent and can proceed.

286/21 MOTION: Holden / Karavas

That Council allocate \$5,000 to obtain a valuation on a 1 hectare block of land within Caerleon Estate with a view to using it as a lookout over the Mudgee Valley, and that a report be brought back to Council.

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nays
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley		✓
Cr Thompson		✓

Item 14: Confidential Session

287/21 MOTION: Shelley / Martens

That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public.

The motion was carried with the Councillors voting unanimously.

Following the motion to close the meeting being moved and seconded, the General Manager announced that the following matters would be considered in confidential session and the reason why it was being dealt with in this way.

14.1 Review of the General Manager's Remuneration

The reason for dealing with this report confidentially is that it relates to personnel matters concerning particular individuals (other than Councillors) in accordance with Section 10A(2)(a) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of an individual, namely the performance and remuneration of the General Manager.

14.2 Opportunity to Purchase Land

The reason for dealing with this report confidentially is that it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business in accordance with Section 10A(2)(c) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Following an enquiry from the Mayor, the General Manager advised that there were no written representations in respect of this matter and that no person in the gallery wished to make verbal representations.

All staff left the meeting at 6.18pm.

14.1 REVIEW OF THE GENERAL MANAGER'S REMUNERATION GOV400088, GOV400043, A0381418

288/21 MOTION: Shelley / Paine

That Council:

- 1. receive the report by the Executive Manager, People and Performance on the Review of the General Manager's Remuneration; and**
- 2. increase the General Manager's Total Remuneration Package by 5% effective from the first full pay period on or after 1 July 2021.**

AMENDMENT Thompson / Martens

That Council:

- 1. receive the report by the Executive Manager, People and**

Performance on the Review of the General Manager's Remuneration; and

2. do not increase the General Manager's Total Remuneration Package.

The amendment was put and lost with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy		✓
Cr Paine		✓
Cr Cavalier		✓
Cr Holden		✓
Cr Karavas		✓
Cr Martens	✓	
Cr O'Neill		✓
Cr Shelley		✓
Cr Thompson	✓	

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

All staff returned to the meeting at 6.30pm.

14.2 OPPORTUNITY TO PURCHASE LAND

GOV400088, 22362, 11105

289/21

MOTION: Holden / Shelley

That Council:

1. receive the report by the Manager Property and Revenue on the Opportunity to Purchase land;
2. subject to due diligence, agree to purchase the allotment identified in this Report for a value within approved budgets;
3. authorise the Mayor and General Manager to negotiate, finalise and execute the purchase of the allotment identified in this Report, including the endorsement of all

relevant documents to formalise the purchase;

4. authorise the affixing of the Common Seal to all documents necessary to formalise the purchase of the allotment identified in this Report;
5. amend the 2021/2022 Budget to allocate a budget amount as specified in this Report for the purchase of the allotment identified in this report, to be funded from the Land Development Reserve;
6. give public notice of a proposed resolution to classify the allotment identified for purchase in this Report as Operational Land in accordance with Chapter 6, Part 2, Division 1 Local Government Act 1993 (the Act); and
7. receive a further report after the exhibition period to consider any submissions and deal with the next steps in the classification process for the allotment identified for purchase in this Report, as required by the Act.

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Cavalier	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens		✓
Cr O'Neill	✓	
Cr Shelley	✓	
Cr Thompson		✓

Item 15: Urgent Confidential Business Without Notice

Nil

Item 16: Open Council

290/21

MOTION: Holden / Paine

That Council move to Open Council.

The motion was carried with the Councillors voting unanimously.

The General Manager announced the decisions taken in Confidential Session.

Item 17: Closure

There being no further business the meeting concluded at 6.34pm.