

Item 9: Finance

9.1 Application to Close a Council Road in Gulgong

REPORT BY THE PROPERTY OFFICER
TO 03 NOVEMBER 2021 ORDINARY MEETING
GOV400088, DA0159/2021, 10249

RECOMMENDATION

That Council:

1. receive the report by the Property Officer on the Application to Close a Council Road in Gulgong;
2. consent to a proposed road closure of a maintained Council Public Road. The road proposed to be closed is indicated on Attachment 1 appended to this Report;
3. give notice, pursuant to s38B Roads Act 1993, of the proposal to close the Council Public Road as outlined in Attachment 1 appended to this Report;
4. receive a further report after the notice period has ended to:
 - 4.1 consider any submissions received; and
 - 4.2 determine whether the Council Public Road as outlined in Attachment 1 appended to this Report, is to be closed, pursuant to s38D Roads Act 1993;
5. authorise the General Manager to sign all documentation, where necessary, in relation to the proposed closure and subsequent transfer of the Council Public Road to Council;
6. authorise the Mayor to sign any documentation, where additionally required to do so, in relation to the proposed closure and subsequent transfer of the Council Public Road to Council; and
7. authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to the proposed closure and subsequent transfer of the Council Public Road to Council.

Executive summary

This Report seeks to secure a resolution to the proposal by Council's Community Directorate for Council to consider the closure of a Council public road (the Road) located adjacent to the Red Hill Cottage (the Cottage) at 49 White Street Gulgong on Lot 1 Section 80 DP758482.

This Report also seeks to secure a resolution for progression of the proposed closure of the Road pursuant to Part 4 Division 3 Roads Act 1993 (the Act).

The proposed Road closure area is appended as Attachment 1 to this Report.

Disclosure of Interest

Nil.

Detailed report

Council's Community Services Department has applied for the closure of the Road as an outcome of the review and partial assessment of DA0159/2021 (the DA) for the upgrade of the Red Hill Gulgong site, which includes the Cottage.

As part of the original Cottage encroaches onto the Road, the DA approval process cannot proceed until the encroachment is addressed.

The DA and Planning Department's advice are appended as Attachments 2 and 3, respectively, to this Report.

It is proposed that closing the Road and consolidating the resultant land parcel with the Cottage site will resolve the anomaly and will allow Council to develop the site as planned.

The Road is within the precincts of Red Hill Reserve. There is formal formed access to all the properties within the area. Closure of the Road will not affect access to any other property.

Road status investigations indicate that the Road proposed to be closed is a Council public road pursuant to s7(4) of the Act. The Road has evidence of construction/value added works. Accordingly, the land upon closure of the road will vest in Council pursuant to s38E (2)(a) of the Act.

The Road status investigation is appended as Attachment 4 to this Report.

Commencement of the Road Closure Process

The proposed Road closure will be progressed in accordance with the Act.

It is recommended that Council propose the closure of the Road which includes public notification of the proposal and referral to various government and other authorities.

A further report will be presented to Council after the notice period has expired to consider any submissions received and to determine that Council intends (subject to the decisions made regarding any submissions) to close the Road.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Not applicable.

Legislation

Roads Act 1993.

Financial implications

The road closure process will be funded from Community's existing current budget.

Associated Risks

If the Road is not closed, the DA to upgrade the Red Hill site, will need to be revised.

LILIAN MUKWEWA MUTYIRI
PROPERTY OFFICER

LEONIE JOHNSON
CHIEF FINANCIAL OFFICER

13 September 2021

- Attachments:*
1. Map showing road proposed to be closed.
 2. DA0159/2021 for the development of premises on site.
 3. Council Planning Department advice.
 4. Gazettal of Gulgong roads dedicated to Council - roads dedicated to Council indicated by a red colour.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER





MID-WESTERN REGIONAL COUNCIL
PO Box 156, MUDGEES NSW 2850
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T 1300 765 002 or 02 6378 2850 | F 02 6378 2815
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Application Lodgement **INTERNAL USE ONLY**

RECEIPT NO DATE 20/11/20 CASHIER AM PROPERTY NO 10249

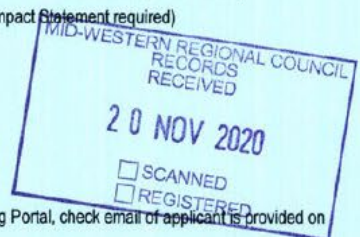
DESCRIPTION	AMOUNT	APPLICATIONS
DA fee	\$ <u>925.00</u>	DA Number <u>DA 0159/2021</u>
Modification (S4.55) DA fee		Modification (S4.55) DA Number <input type="text"/>
S.4.55(1) Minor error	\$ <input type="text"/>	CDC Number <input type="text"/>
S4.55(1)A Min. Environ. Impact	\$ <input type="text"/>	
S4.55(2) Other	\$ <input type="text"/>	
DA Levy	\$ <u>155.00</u>	
DA advert/neighbour fee	\$ <u>432.00</u>	
Integrated Admin fee	\$ <input type="text"/>	
Construction Certificate fee	\$ <input type="text"/>	CCC Number <input type="text"/>
LSL over \$25,000	\$ <input type="text"/>	Modified CDC/CCC Number <input type="text"/>
Modified CC or CDC fee	\$ <input type="text"/>	S138 Number <input type="text"/>
Inspection fee	\$ <input type="text"/>	
S68 Plumbing	\$ <input type="text"/>	S68 Number: (Plumbing) <input type="text"/>
Transportable	\$ <input type="text"/>	S68 Number: (Transportable) <input type="text"/>
Food	\$ <input type="text"/>	S68 Number: (Food) <input type="text"/>
S68 Inspection fee	\$ <input type="text"/>	SC Number <input type="text"/>
Subdivision Certificate	\$ <input type="text"/>	CCP Number <input type="text"/>
Private Certified CDCP/CCP/OCP	\$ <input type="text"/>	CDCP Number <input type="text"/>
Occupation Certificate fee	\$ <input type="text"/>	OCP Number <input type="text"/>
S138 fee	\$ <input type="text"/>	OC Number <input type="text"/>
Total fees paid	\$ <u>1512.00</u>	

Job #
A.50975

ENGINEERING TOWN PLANNING HEALTH & BUILDING

- 3 x copies of SEE, plans and associated documents (Are any other application forms & details required e.g. S138 / S68)
- Is a certificate of insurance or owner builder permit required? (Certificate of insurance required for residential work over \$20,000 if not owner builder. Owner builder permit required if owner builder and residential work valued at \$10,000 or more)
- Is property heritage listed? (Check Sch. 5 MWR LEP 2012 & if yes, Heritage Impact Statement required)
- Is property within heritage conservation area?
- Is the subject land bushfire prone? (If yes, Bushfire Assessment required)
- Aboriginal Assessment/Cultural Heritage Study
- Neighbour Notification required? (Refer page 9 of CPP)
- Advertising required? (Refer page 6 of CPP)
- Is it integrated development? (If yes, P&D admin to log DA onto NSW Planning Portal, check email of applicant is provided on application form & tick relevant clause/s on back page)
- Does it require referral / concurrence to Other Agencies? (If yes, P&D admin to log DA onto NSW Planning Portal, check email of applicant is provided on application form & tick relevant clause/s on back page)
- Check ownership and signatures (If in company name or a representative of owner, letter required on company letterhead with ABN)

	YES	NO
Is a certificate of insurance or owner builder permit required?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Is property heritage listed?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Is property within heritage conservation area?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Is the subject land bushfire prone?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Aboriginal Assessment/Cultural Heritage Study	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Neighbour Notification required?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Advertising required?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Is it integrated development?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Does it require referral / concurrence to Other Agencies?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Check ownership and signatures	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



Zoning RE1 Checked by Officer (insert name): Cameron

RECEIVING OFFICER'S COMMENTS:

APPLICATION LODGEMENT | MID-WESTERN REGIONAL COUNCIL

Community Consultation (Community Participation Plan 2019)

ADVERTISING REQUIRED*

The following kinds of development will be advertised:

- Demolition of a building identified as a heritage item in Schedule 5 of the Mid-Western Regional LEP 2012
- Major Council projects (not including utility service infrastructure) with a value exceeding \$1,000,000 or likely to be of significant community interest
- Non-residential uses in or adjacent to the R1 General Residential, R2 Low Density Residential zones
- Subdivision creating 20 or more allotments
- Sex services premises
- Within the R1 General Residential, R2 Low Density Residential, or RU5 Village land use zones, development applications for the purposes of:
Multi dwelling housing; residential flat buildings; senior housing; hostels; group homes; tourist and visitor accommodation (excluding B&Bs); boarding houses; caravan parks; exhibition villages; child care centres
- Any development identified by Senior Council Staff that should be advertised in the public interest

*Advertising includes notice in local newspaper and written notice to all adjoining landowners for a minimum of 14 days from the date the notice is published (if the public exhibition period closes on a public holiday, Council will extend it to the next working day)

NO PUBLIC EXHIBITION REQUIRED

The kinds of developments that will NOT require public exhibition are listed below. **All other types of development require public exhibition.**

- Single storey dwelling, single storey additions to a house, minor dwelling additions (carports, pergola and verandahs) and private swimming pools
- Detached garage or shed associated with a dwelling to be used in conjunction with the dwelling (i.e. not for commercial/industrial use)
- Subdivision creating less than 5 lots
- Commercial or industrial development within a business or industrial zone that does not adjoin a dwelling
- Attached dual occupancy within the R5 Large Lot Residential zone

Despite the above exclusions, at lodgement Council may determine that notification should occur and the appropriate fee will be applied if considered necessary, given the character of the existing development, slope of the site and local amenity.



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Development Application (DA) form

Part A

Made under the Environment Planning and Assessment Act 1979, Section 4.12

ABOUT THIS FORM

You can use this form to request approval to undertake development in the Mid-Western Regional Local Government Area where Council is the consent authority (including removal of trees listed on the Council's heritage tree list). This form should not be used for applications for Section 4.55 (formerly Section 96) Modifications.

1. PROPERTY DESCRIPTION/LAND TO BE DEVELOPED

It is important that the property is accurately identified by its legal description. This information is shown on your Rates notices, property deeds etc.

Unit/Street number 49	Street name WHITE STREET		
Suburb/Locality GULGONG		Postcode 2852	
Lot number 1	Section no. 80	Deposited plan no. 758482	Parish

2. APPLICANT DETAILS

If the applicant is not the owner of the land, then the owner's written consent to lodge the application is required. All correspondence, both written and verbal and notice of determination will be sent to the applicant. It is important to notify Council of any change of address and/or telephone number if this occurs during the process of the application.

Title Mr	Given Name/s Brad	Family name Cam
Postal address (all correspondence will be sent to this address) PO Box 156 Mudgee NSW 2850		Email address council@midwestern.nsw.gov.au
Home number	Business number 63782850	Mobile number
Signature of applicant/s		

3. CONSENT OF OWNER(S)

As owner/s of the land to which this application relates, I/we consent to this application. I/we also give consent for authorised Council Officers or agents to enter (without prior notice) the land to carry out inspections (original signatures required). (See Note 1).

Name/s Brad Mid-Western Regional Council	
Signature/s	
Date 19/11/20	

If you are signing on the owner's behalf as the owner's legal representative, please state the nature of your legal authority and attach documentary evidence (eg power of attorney, executor, trustee, company director)

Specify legal representation	ABN
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Development Application (DA) form

Part B

All information provided in Part B of this form may be placed on Council's website & available publically.

1. PROPERTY DESCRIPTION/LAND TO BE DEVELOPED

It is important that the property is accurately identified by its legal description. This information is shown on your Rates notices, property deeds etc.

Unit/Street number 49	Street name WHITE STREET		
Suburb/Locality GULGONG		Postcode 2852	
Lot number 1	Section no. 80	Deposited plan no. 758482	Parish

2. APPLICANT DETAILS

Applicant's name will be publically available on Council's website.

Title	Given Name/s	Family name

4. DESCRIPTION OF PROPOSED DEVELOPMENT

Please briefly describe everything you are seeking approval for from Council. If you are constructing a building, what is the proposed use? (e.g. Change of Use – retail shop to restaurant, dwelling, shed, subdivision work etc).

READAPTION OF EXISTING DIS-USED RESIDENCE AS
A VISITORS CENTRE WITH DEFINED USES OF
EDUCATION & CAFE.

5. COST OF THE PROPOSED DEVELOPMENT

The cost of the proposal should include all of the costs of developing the site (e.g. building, construction, landscaping, car parking, drainage, fencing etc) but should not include the cost of the land.

\$250,000

6. DISCLOSURE REQUIRED FOR REPORTABLE POLITICAL DONATIONS OR GIFTS

A reportable gift or political donation is defined under the Election Funding and Disclosures Act 1981. If you have made a political donation to a political party, elected member, group or candidate or provided a gift to a local councillor or council employee where the value exceeded \$1,000 or the combined value in any financial year exceeded \$1,000 in the past two (2) years, a disclosure statement must be provided with the lodgement of a development application.

A disclosure statement can be obtained from Council's website (www.midwestern.nsw.gov.au) or Administration building.

Is a disclosure statement attached to this application?

YES	NO

DEVELOPMENT APPLICATION (DA) FORM | MID-WESTERN REGIONAL COUNCIL

7. TYPE OF DEVELOPMENT

You may require a tick in more than one box. Please tick which type of development you are applying for.

- Local Development** is all types of development that requires consent, other than those listed below
- Integrated Development** requires development consent from Council and other State Government authority(ies)
- Designated Development** requires the preparation of an Environmental Impact Statement (EIS) under the provisions of the EP&A Act. Council or the Minister may be the consent authority (EIS required)
- Subdivision** requires consent from Council
- Demolition** is the removal of any structure

8. INTEGRATED DEVELOPMENT

This question is only applicable if integrated development was nominated above in Question 7.

Integrated development is where an approval is required from another Government department or agency. Please specify what Act approval is being sought under (tick appropriate boxes). Note a fee is applicable.

- Coal Mine Subsidence Compensation Act 2017 (s22)
- Fisheries Management Act 1994 (s144, s201, s205, s219)
- Heritage Act 1977 (s58)
- Mining Act 1992 (s63, s64)
- National Parks and Wildlife Act 1974 (s90)
- Protection of the Environment Operations Act 1997 (ss43(a), 47 and 55; ss43(b), 48 and 55; ss43(d), 55 and 122)
- Roads Act 1993 (s138)
- Rural Fires Act 1997 (s100B)
- Water Management Act 2000 (s89, s90, s91)

9. CONCEPT DEVELOPMENT

Are you applying for a Concept Development Application? (previously Staged Development)
(Division 4.4 Environmental Planning & Assessment Act 1979)

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>

10. OTHER APPROVALS SOUGHT

Certain types of development may include activities that also require other approvals from Council in addition to Development Consent. These additional approvals are required by the Local Government Act, 1993, and by the Roads Act, 1993.

Approval under Section 68 Local Government Act 1993

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>

- Structures or places of public entertainment: includes installing a temporary structure on the land
- Water supply sewerage and stormwater drainage work: includes carrying out water supply work
- Management of waste: includes placing a waste storage container in a public space
- Public roads: includes swinging or hoisting goods across or over any part of a public road by means of a crane, hoist etc

Note: Requires separate application to be completed.

Note: These approvals are not required at this stage and can be made at a later date. A separate application needs to be lodged and a fee is applicable.

Approval under Section 138 Roads Act 1993

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>

Does this application propose any form of alteration to Council's road reserve, i.e. driveway, footpath reconstruction, drainage connection or the like?

Note: Full details of the layout of proposed driveway crossing, drainage connections and the like are required to be with the development application.

DEVELOPMENT APPLICATION (DA) FORM | MID-WESTERN REGIONAL COUNCIL

11. HERITAGE AND CONSERVATION

Is the building or site an Item of Environmental Heritage or within a Heritage Conservation Area or within the vicinity of an Item of Environmental Heritage?

YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
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If you answered 'no', please go to Question 12.

If your answer is 'yes' to either of the below questions, a heritage impact statement will be required with lodgement of the development application. If the proposed works are minor, the details can be provided in the submitted Statement of Environmental Effects.

Are you demolishing all or any part of the building?

YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
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Are you altering or adding to any part of the building?

SOH Attached.

YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
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12. PLANNING FOR BUSHFIRE PROTECTION

If you answer 'yes' to the following question, a bushfire assessment is required to be prepared and attached. The following documents are to be obtained from Council or www.bushfire.nsw.gov.au:

- Building in Bushfire Prone Areas – Guidelines for single dwelling development applications
- Building in Bushfire Prone Areas – Guidelines for subdivision applications

Is the subject site located in a bushfire hazard area?

YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
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13. CONSTRUCTION CERTIFICATE

Is an application for a Construction Certificate being made at the same time as the application for Development Consent?

YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
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14. BUILDING SUSTAINABILITY INDEX (BASIX)

WHAT IS BASIX?

BASIX is a web-based planning tool designed to assess the potential performance of residential buildings against a range of sustainability indices. By applying practical measures to the design of a new home, BASIX ensures there is the potential to save energy and water – saving you money on your bills and protecting the environment.

A BASIX Certificate identifies the sustainability features required to be incorporated in the building design. These features may include sustainable design elements such as recycled water, rainwater tanks, AAA-rated showerheads and taps, native landscaping, heat pump or solar water heaters, gas space heaters, roof eaves/awnings and wall/ceiling insulation.

WHEN DO I NEED A BASIX CERTIFICATE?

You need a BASIX Certificate in the Mid-Western Regional Local Government Area when BASIX applies to the type of development for which you require approval. Commencement dates and details of types of development are at www.basix.nsw.gov.au.

The applicant is required to submit the BASIX Certificate with the Development Application or Complying Development Certificate application. The plans and specifications must also identify the BASIX commitments which will be checked by a professional building certifier during construction. Where submitted plans or specifications are inconsistent with the relevant BASIX Certificate, Council should require applicants to submit consistent applications before progressing the assessment process, either by amending plans/specifications or by submitting a new BASIX Certificate with commitments that match the rest of the application.

HOW DO I GENERATE A BASIX CERTIFICATE?

Applicants can generate the BASIX Certificate only on the NSW Department of Planning and Environment's BASIX website: www.basix.nsw.gov.au. For more information, phone DPE's BASIX Help Line on 1300 650 908.

Is a BASIX Certificate required?

NA.

Is a BASIX Certificate attached?

YES <input type="checkbox"/>	NO <input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

Note: Council CANNOT accept a Development Application for residential purposes without a BASIX Certificate that has been issued no earlier than 3 months before the date on which this application is being made.

DEVELOPMENT APPLICATION (DA) FORM | MID-WESTERN REGIONAL COUNCIL

15. SITE PLAN AND PLAN/DRAWINGS OF PROPOSED DEVELOPMENT

The site plan is to indicate the following: location, boundary dimensions, site area and north point of the site; existing vegetation and trees on the land; location and uses of existing buildings on the site and adjoining sites, where applicable; existing levels of the land in relation to buildings and roads.

Plans or drawings of the proposed development must include the following: location of proposed new buildings or works in relation to the site's boundaries; floor plans of proposed buildings; proposed finished levels; proposed parking and access (dimensioned where appropriate), proposed landscaping (indicating plant types and their height at maturity) and proposed method of drainage.

Three (3) copies of all plans/drawings (plus 1 A4 set) are submitted.

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

16. STATEMENT OF ENVIRONMENTAL EFFECTS (SEE)

A Statement of Environmental Effects (SEE) or an Environmental Impact Statement (EIS) must accompany your application. The SEE is a short report which includes written information about the proposed development that cannot be readily shown on your plans.

The SEE should describe in detail the proposed development. The SEE should outline the likely impacts and issues of the proposed development and how you will minimise these impacts.

Where relevant, a SEE must include, however is not limited to the following details:

- How the development achieves the requirements of the Mid-Western Regional Local Environmental Plan 2012, Development Control Plans and State Environmental Planning Policies
- Previous use of the site. Some previous land uses may have led to site contamination
- Flooding, drainage, landslip, soil erosion, mine subsidence, bushfires and any other risk
- Impacts on existing and future amenity of the locality
- Availability of utility services, power, telephone and water/sewer
- Impacts on historical, aboriginal heritage and archaeological aspects
- Impacts on flora and fauna
- Access for the disabled
- Social and economic effects

For shops, offices, commercial or industrial or change of use development: hours of operation; erection of any signage; plant and machinery to be installed; the type, size and quantity of goods to be made; provision of car parking and stored or transportation of goods and loading and unloading facilities

Is a Statement of Environment Effects included as part of this application?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>



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KR:DA0159/2021:P10249

09 December 2020

Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850

Dear Sir/Madam

**DEVELOPMENT APPLICATION DA0159/2021 – Information and Education Facility
(Visitor Centre)
Lot 1 Sec 80 DP 758482 – Red Hill Cottage 49 White Street GULGONG NSW 2852**

Reference is made to the abovementioned proposal received by Council. In accordance with the provisions of clause 54 of the Environmental Planning and Assessment Regulation 2000, you are requested to provide Council with further information as specified below, to enable further assessment of your application. Please provide at your earliest convenience:

- An amended floor plan shall be submitted providing details of any existing and all proposed fire safety measures to be installed in the building;
- Confirm that the design is capable of complying with the Disability (Access to Premises – Buildings) Standard and Australian Standard AS1428.1-2009. In this regard, access must be provided from accessible car parking to the principal pedestrian entrance, and to and within all areas where new building work is proposed (new part/s);
- The site plan shall be amended to include the following:
 - All setback distances from the property boundary to the building and amenities;
 - Car parking area to be utilised by the proposed development ensuring compliance is able to be achieved with AS2890.1-2004 in relation to size, signage, line marking and number of spaces in accordance with Council's DCP 2013. Please note the parking area which exists on the site appears to be located over 2 separate lots (Lots 7012 DP1053085 and Lot 458 DP755434) which are identified to be Crown Land. Furthermore, there appears to be no pedestrian connection over the allotments to the subject site provided currently (or compliance is achieved with the Disability (Access to Premises Standard).
 - Confirmation that the subject building is constructed over the boundary of Lot 1 Sec 80 DP758482 / partly located in the Road Reserve. Please outline the proposed mechanism to rectify this encroachment as part of the application.

It is requested that the above information be provided to Council within 21 days from the date of this letter. Should additional time be required to prepare the above, please contact Council in advance to request additional time.

Please note that in accordance with Clause 109 and 112 of the Environmental Planning and Assessment Regulations 2000, calculation of the number of days included in the

assessment period for the application will be suspended until Council receives this additional information.

Should you have any enquiries in relation to the progress of your application, please contact Kayla Robson of Council's Planning and Development Department on (02) 6378 2850 and quote the abovementioned development application number.

Yours faithfully



**KAYLA ROBSON
SENIOR TOWN PLANNER**

