

Item 8: Development

8.1 DA0178/2022 - Subdivision of Land (1 into 11 Lots) and Dual Occupancy Development (12 Dwellings) with new extension of Inverness Avenue - 21 Robertson Street, Mudgee

REPORT BY THE PLANNING COORDINATOR
 TO 17 AUGUST 2022 ORDINARY MEETING
 GOV400098, DA0178/2022

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on DA0178/2022 - Subdivision of Land and Dual Occupancy Development with new extension of Inverness Avenue - 21 Robertson Street, Mudgee, legally identified as Lot 27 DP 1165146 and Lot 2 DP 153695;
- B. approve DA0178/2022 - Subdivision of Land and Dual Occupancy Development with new extension of Inverness Avenue - 21 Robertson Street, Mudgee, legally identified as Lot 27 DP 1165146 and Lot 2 DP 153695 subject to the following conditions and Statement of Reasons:

CONDITIONS

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*.

<i>Title/Name</i>	<i>Drawing No/ Document Ref</i>	<i>Revision/ Issue</i>	<i>Dated</i>	<i>Prepared by</i>
Proposed Subdivision Layout	Dwg 21-97_11	14	28.02.2022	Imrie, Astley & Associates
Master Site Plan	01.0	C	18.07.2022	Duplex Building Design
Lot 1 and 1A - Site Plan	001.1	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – DWL A Ground Floor Plan	001.3	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – DWL B Ground Floor Plan	001.4	P6	18.07.2022	Duplex Building Design

Lot 1 and 1A – Elevations	001.5	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – Elevations	001.6	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – Building Section	001.7	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – Site Management Legend	001.8	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – Shadow Diagram	001.9	P6	18.07.2022	Duplex Building Design
Lot 1 and 1A – Landscaping Area	001.11	P6	18.07.2022	Duplex Building Design
Lot 2 and 2A – Site Plan	00.1	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Ground Floor Plan	00.3	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Elevation	00.4	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Elevation	00.5	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Section + Details	00.6	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Site Management Plan	00.7	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Shadow Diagram	00.8	F	18.07.2022	Duplex Building Design
Lot 2 and 2A – Gross Building Area Plan & Landscape Compliance	00.9	F	18.07.2022	Duplex Building Design
Lot 3 and 3A – Site Plan	001	F	18.07.2022	
Lot 3 and 3A – Ground Floor Plan	00.3	F	18.07.2022	Duplex Building Design
Lot 3 and 3A – First Floor Plan	00.4	B	18.07.2022	Duplex Building Design
Lot 3 and 3A – Elevation	00.5	E	18.07.2022	Duplex Building Design
Lot 3 and 3A – Elevation	00.6	E	18.07.2022	Duplex Building Design
Lot 3 and 3A – Section + Details	00.7	F	18.07.2022	Duplex Building Design
Lot 3 and 3A – Site Management Plan & Shadow Diagrams	00.8	F	18.07.2022	Duplex Building Design

Lot 4 and 4A – Site Plan	0001.1	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – Ground Floor Plan	0001.3	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – First Floor Plan	0001.4	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – Elevation	0001.5	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – Elevation	0001.6	P5	18.07.2022	Duplex Building Design
Lot 4 and 4A – Section + Details	0001.7	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – Site Management Plan & Shadow Diagrams	0001.8	P6	18.07.2022	Duplex Building Design
Lot 4 and 4A – Gross Floor Area /F.S.R	0001.9	P6	18.07.2022	Duplex Building Design
Lot 10 and 10A – Site Plan	001.0	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Ground Floor Plan	001.3	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – First Floor Plan	001.4	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Elevation	001.5	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Elevation	001.6	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Section + Details	001.7	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Site Management Plan & Shadow Diagrams	001.8	P7	18.07.2022	Duplex Building Design
Lot 10 and 10A – Gross Floor Area /F.S.R	001.9	P2	18.07.2022	Duplex Building Design
Lot 11 and 11A – Site Plan	00.1	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – Ground Floor Plan	00.3	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – First Floor Plan	00.4	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – Elevation	00.5	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – Elevation	00.6	D	18.07.2022	Duplex Building Design

Lot 11 and 11A – Section + Details	00.7	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – Site Management Plan & Shadow Diagrams	00.8	D	18.07.2022	Duplex Building Design
Lot 11 and 11A – Gross Floor Area /F.S.R	00.9	D	18.07.2022	Duplex Building Design
Noise Impact Assessment – Proposed Residential Subdivision inverness Avenue Mudgee	212177R	-	April 2022	Spectrum Acoustics
BASIX Certificate – Lot 1 & 1A	1261069M	-	22 November 2021	Paul & C associates
BASIX Certificate – Lot 2 & 2A	1261125M	-	22 November 2021	Paul & C associates
BASIX Certificate – Lot 3 & 3A	1261088M	-	22 November 2021	Paul & C associates
BASIX Certificate – Lot 4 & 4A	1261130M	-	22 November 2021	Paul & C associates
BASIX Certificate – Lot 10 & 10A	1261451M	-	22 November 2021	Paul & C associates
BASIX Certificate – Lot 11 & 11A	1261133M	-	22 November 2021	Paul & C associates
Traffic Assessment Report	TX15318.02-01RPT.JD	REV 1	21 November 2021	Triaxial Consulting
Existing Plan	TX15318.02-C2.00	E	14.07.2022	Triaxial Consulting
Subdivision Plan 1	TX15318.02-C3.00	E	14.07.2022	Triaxial Consulting
Inverness Ave Extension Plan and Longitudinal Section	TX15318.02-C4.00	E	14.07.2022	Triaxial Consulting
Inverness Ave Extension Cross Sections	TX15318.02-C5.00	E	14.07.2022	Triaxial Consulting
Drainage Plan	TX15318.02-C6.00	E	14.07.2022	Triaxial Consulting
Sewer Plan Sheet 1	TX15318.02-C7.00	E	14.07.2022	Triaxial Consulting
Sewer Plan Sheet 2	TX15318.02-C7.01	E	14.07.2022	Triaxial Consulting
Water Plan	TX15318.02-C8.00	E	14.07.2022	Triaxial Consulting

2. This development consent includes approval for the following:
 - a. Stage 1 - Subdivision of land (1 Lot into 11 Lots);
 - b. Stage 2 – Construction of a dual occupancy (detached) on proposed Lots 1, 2, 3, 4, construction of a dual occupancy (attached) on proposed Lots 10 and 11, and removal of 5 x trees;
 - c. Stage 3 - Subdivision of each Dual Occupancy.

Note - Lots 5, 6, 7, 8 and 9 are vacant lots under this consent.

3. This approval does not include the installation of the proposed Entry Signs to be located in the road reserve.

GENERAL

The following conditions are to be complied with and implemented for all relevant stages of the development.

4. The height and construction of dividing fences may require agreement between the owners of the subject land and the respective owners of adjacent properties. Legal advice should be sought in the case of any doubt.
5. 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.
6. All earthworks, including cut and fill and the construction of retaining walls must be carried out in accordance with the requirements of Council's Development Control Plan. The extent of fill is not permitted to exceed 600 mm, cut is limited to 1,000 mm and retaining walls must be set back a minimum of 300mm from any boundary.
7. Any fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.
8. 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.
9. 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.

10. This consent does not permit commencement of any site works. Works are not to commence until such time as a Subdivision Works or Construction Certificate has been obtained and the appointment of a Principal Certifier.

11. 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.
12. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
13. 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.
14. Lighting is to be designed to not impact on adjoining development and to be in accordance with the Australian and New Zealand Lighting Standards, this includes Australian and New Zealand Lighting Standard 1158.1 – Pedestrian.
15. Where required, all private sanitary drainage and water supply works which require Council's permit and private stormwater drainage works must be carried out in strict accordance with AS/NZS 3500, Plumbing and Drainage Act 2002 and Plumbing and Drainage Regulations to the complete satisfaction of the Plumbing and Drainage Inspector.
16. 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.

**PRIOR TO ISSUE OF A SUBDIVISION WORKS CERTIFICATE
(STAGE 1 – SUBDIVISION 1 INTO 11 LOTS)**

The following conditions are to be satisfied, prior to the issue of a Subdivision Works Certificate for all Civil Construction Works required by the development.

17. Prior to issue of the Subdivision Works Certificate, the plan provided by Triaxial Consulting TX15318.02-C6.00 REV E dated 14.07.2022 is to be updated to ensure the acoustic barrier is maintained at a height of 5.6 metres for the full length of the acoustic easement as referenced within Figure 2 - BK632, sheet 2 of 3. The full length of the mound / acoustic barrier fronting the subject development is to be landscaped with a mix of low maintenance native grasses, shrubs and trees with spacing's of not less than 5 metres.
18. Prior to issue of the Subdivision Works Certificate, the plan provided by Triaxial Consulting TX15318.02-C6.00 REV E dated 14.07.2022 is to be updated to include new pedestrian lighting of the relocated golf cart track in accordance with AS1158.1 – Pedestrian. The placement of lighting must not cause nuisance on any residential lands.
19. 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, Guidelines and Standards referenced here within. A Subdivision Works Certificate is required for, but not limited to the following Civil Works:
 - Stormwater Drainage, including Inter-allotment Drainage, Detention Basins and

bio-retention Devices as applicable;

- Road Construction including footpaths;
- Water and Sewerage extensions;
- Earth works for the Subdivision;
- Landscaping of road verges and Public Reserves

Note: No work is permitted to commence prior to the issue of an approved Subdivision Works Certificate.

20. Where filling is required all finished surface levels and contours to Australian Height Datum (AHD) shall be shown on the plans submitted for the Subdivision Works Certificate. Where it is proposed to import fill, the material shall be free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer.
21. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with certified copies of the Electrical and Telecommunications Design for the subdivision including a layout design complying with the allocations determined by the Streets Opening Conference Guideline 2009 Section 6.2.
22. A Traffic Guidance Scheme (TGS) completed by a certified person for implementation during the works is to be submitted to Mid-Western Regional Council for assessment by Council prior to the granting of the Subdivision Works Certificate.

STORMWATER DRAINAGE

23. Stormwater Drainage design is to be prepared in accordance with the Institution of Engineer's publication Australian Rainfall and Runoff and submitted to Council for approval prior to the release of the Subdivision Works Certificate. The drainage design is to be supported by full and detailed calculations that demonstrate that the stormwater runoff from the site is not increased beyond the existing undeveloped state for all storm events up to and including a 100 year ARI. All stormwater detention details including analysis shall be included with the design documentation.
24. Drainage design for the sizing of the detention basin and cul-de-sac pipe must include an analysis of the upstream contributing area and overland flow paths considering all impacted drainage flows, adjacent and/or downstream properties, structures, infrastructure and downstream receiving systems, prior to issue of the Subdivision Works Certificate.
25. Approved Kerb adaptors are to be provided for each Lot to enable stormwater runoff from future dwelling development to discharge to kerb. Connections / pipe are to be installed to extend no less than 600 mm into each Lot prior to the construction of footpath.
26. Inter-allotment drainage incorporating both pits, pipes and swale is to be installed across the rear of proposed Lots generally as shown on the Drawing Drainage Plan TX15318.02-C6.00 Issue E.
27. A bund is to be constructed within the Mudgee Golf Club land at the rear of proposed Lots 1 – 5 inclusive to protect those Lots from any surface runoff.

- 28. The cul-de-sac pipe is to be provided with a double kerb inlet to ensure inlet capacity is achieved for large storm events.
- 29. Outfall from the detention basin is to be piped to existing infrastructure located in Golf Club land north-east of the proposed basin.

ROAD WORKS

- 30. The Developer is to construct the extension of Inverness Avenue. Works for the proposed subdivision must be designed and infrastructure constructed such that all works comply with the following requirements.

ITEMS	REQUIREMENTS
Inverness Avenue extension	Road reserve to be 16 metres wide. Pavement to be widened to match existing Inverness Avenue pavement width, 9.6 metres wide Back of Kerb to Back of Kerb. The central nature strip / island at the subdivision entry is to be deleted.
Nature strip / verge	Graded to fall from property boundary to kerb
Footpath	Pedestrian paths to be concrete no less than 1.35 metres wide with approved bollards to prevent golf buggy / vehicle access. Golf buggy paths generally 2 metres wide but with localised widening as necessary to allow golf buggies to safely pass
Kerb and Gutter	Match existing Inverness Avenue roll-over kerb profile
Seal	Two coat flush seal 14/7mm (double/double)
Sub-Soil Drainage	Where required

- 31. All utility crossings are to be perpendicular to the road centreline and pre-formed prior to the addition of the base course.
- 32. All earthworks for the roads associated with the development must have compaction testing compliance with EMS Q4 and AUS-SPEC CQS-A.

WATER AND SEWER

- 33. The Developer is to provide a water and sewer connection for each proposed Lot in this subdivision. For sewer, this will require construction of new sewer mains to discharge to existing mains in Sydney Road. Detailed design for sewer and water mains extensions are to be included in plans submitted for a Subdivision Works Certificate.

Note: Council does not permit any other bodies to insert new junctions into 'live' sewer/water mains. Council would normally undertake initial connection to 'live' mains subject to a Private Works Agreement with costs associated with this work borne by the Developer. Please contact Council's Operations Water and Wastewater Department by calling 1300 765 002 or 02 6378 2850 or by emailing council@midwestern.nsw.gov.au to obtain a quote for the connection of water and sewer (Private Works Order).

34. The Applicant must provide to Council detailed design and documentation demonstrating that the proposed sewer achieves minimum grade requirements and has no detrimental effect on flow rates and the ongoing operation of Council's existing infrastructure.

PRIOR TO THE COMMENCEMENT OF WORKS – CIVIL / SUBDIVISION WORKS

The following conditions are to be satisfied, prior to commencement of all Civil Construction Works required by the development.

35. Prior to the commencement of any works the Developer must apply for and obtain approval for the issue of a Subdivision Works Certificate. Application for a Subdivision Works Certificate must be accompanied by full and detailed drawings and supported by calculations.
36. Any damage to Council infrastructure caused as a result of any part or stage of this development must be repaired or re-instated to Council satisfaction with all costs borne by the developer.
37. 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.
38. 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.

39. The Contractor is required to contact Dial Before You Dig to obtain details of the location of the various services in the vicinity of the subdivision to minimise the chance of disturbing utility services as well as the location of services which require to be relocated. DBYD can be contacted online www.1100.com.au or by phone on 1100.
40. Prior to the commencement of works, and in conjunction with the assessment and issue of a Subdivision Works certificate, an Erosion and Sediment Control Plan (ESCP) / Soil and Water Management Plan (SWMP) for the development is to be prepared and implemented in accordance with Landcom Guidelines and requirements as outlined in the latest edition of "Soils and Construction- Managing Urban Stormwater. Points to be considered include but not limited to:
- Saving available topsoil for reuse in the revegetation phase of the development;
 - Using erosion control measures to prevent on-site damage prior to any construction activity on site;

- Rehabilitating disturbed areas promptly; and
- Maintenance of erosion and sediment control structures.

Note: Details required to prepare both ESCP and SWMP's are provided in the above Landcom Document referred to as the Blue Book. Treatment methods to combat salinity are to be provided.

DURING WORKS - CIVIL

The following conditions are to be complied with, during all Civil Construction Works required by the development.

41. 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.

42. All necessary inspections and testing shall be undertaken during construction works in accordance with the requirement of the Principal Certifier and/ or Council.
43. 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, Energy and Science (OESS) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the (OESS).
44. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the Protection of the Environment Operations Act 1997.
45. The Applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Registry Services and Council.
46. To reduce the likelihood of air emissions, dust and noise impacts, the Applicant shall ensure that all the plant and equipment used at the site is:
- a. maintained in a proper and efficient condition; and
 - b. operated in a proper and efficient manner.
47. The Applicant must minimise the dust generated by the development at all times.
48. All earthworks must ensure that the site is graded so as to be free draining.
49. No construction must take place until and unless appropriate erosion control, dust control and silt collection measures are in place to the satisfaction of Council and to relevant engineering standards. Such erosion control, dust control and silt collection measures must remain onsite and maintained to the satisfaction of Council for the duration of the construction period.

PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE (STAGE 1 – SUBDIVISION 1 INTO 11 LOTS)

The following conditions are to be satisfied, prior to the issue of a Subdivision Certificate for Stage 1 of the Development – 1 into 11 Lots.

50. Prior to issue of the Subdivision Certificate for Stage 1, compliance with the conditions of consent and the registration of the linen plan associated with DA0102/2021 shall be completed to the satisfaction of Council.

51. Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Registry Services.

Note: The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges.

52. A linen plan and associated documentation are to be submitted to Council via the NSW Planning Portal for approval and endorsement by the General Manager (or an appointed delegate).

53. Prior to issue of the Subdivision Certificate, Council is to be supplied with:

- a. A Notice of Arrangements from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and**
- b. 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.**

54. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authority's standards.

55. Easements including associated Section 88B instruments, are to be created in favour of:

- any upstream lots to drain water (width variable);**
- any proposed lots to be serviced by water reticulation or sewer components (width of 3m).**

56. Easement and Section 88B documentation for stormwater drainage through proposed Lot 7 must include requirements for the ongoing maintenance of a shallow swale to define and overland flow path across the land, prior to issue of the Subdivision Certificate.

57. Easement and Section 88B documentation for the right of way for access for the relocated golf cart track and pedestrian pathway is to be provided, prior to issue of the Subdivision Certificate.

58. Prior to issue of a Subdivision Certificate, an investigation shall be undertaken that identifies the extent of salinity with reference to each individual lot within the subdivision. Should elevated salt levels be identified, the investigation should also make recommendations in terms of and include a salinity management plan for the entire site which contains adequate measures for combating potential salinity and increases the occurrence of native vegetation.

If a salinity management plan is required, it must be submitted to and approved by Mid-Western Regional Council prior to release of the subdivision certificate. A restriction as to user shall be created pursuant to section 88 of the Conveyancing Act nominating Mid-Western Regional Council as the varying authority over all lots, enforcing the implementation of the management plan. The Section 88 instrument shall be created at full cost to the developer.

59. Prior to the issue of a Subdivision Certificate, an agreement under Section 88B is to be entered into requiring that the re-located detention basin and Vegetation Zone is maintained by the Mudgee Golf Club to the satisfaction of Council at all times.
60. Prior to issue of a Subdivision Certificate, the acoustic mound with fencing being not less than 5.6m high for the full length of the acoustic easement as shown within Figure 2 - BK632, sheet 2 of 3, along with all landscaping is to be completed in accordance with the updated plan prepared by Triaxial Consulting included within the application for the Subdivision Works Certificate at the full cost of the developer and to the satisfaction of Council at all times.
61. Prior to the issue of a Subdivision Certificate, a Plan of Management is to be prepared with agreement of Mudgee Golf Club, detailing the following commitments:
- a. Frequency of management of the landscaping on the acoustic mound to be not less than quarterly. Where plantings have died, replacement of the plants are to be undertaken within 14 days with a like for like species;
 - b. Frequency of the management of the detention basin and adjoining Vegetation Zone to be not less than monthly;
 - c. Mowing and rubbish removal within all areas of the Right of Way for Access / golf cart track is to be undertaken not less than monthly;
 - d. Replacement of lighting within the golf cart track to be repaired not less than monthly;
 - e. A complaints handling procedure and reporting register is to be established that ensures all repairs and maintenance required within the rights of carriageway / golf cart track, detention basin and acoustic easement within the Golf Club land that are reported by residents or Council are appropriately resolved within 30 days. The register is to be made available to Council at any time upon request.

The Plan of Management is to be signed by Mudgee Golf Club with full details included for registration on title of the land under Section 88 of the Conveyancing Act and is to accompany the application for the Subdivision Certificate.

62. Prior to the issue of a Subdivision Certificate, the access handle of lot 5 (battle axe handle) shall be no less than 4 meters wide.
63. Prior to the issue of Subdivision Certificate the Developer is to construct new mains providing an extension of the existing mains in Inverness Avenue and separate water and sewer reticulation services to each allotment within the subdivision to the satisfaction of Council.
64. Prior to issue of Subdivision Certificate the Developer is to provide a water service and meter for each Lot. This can be achieved by making payment in accordance with Council's adopted fees and charges to cover the cost of installing both the service and a 20mm meter on the water main. (SUBJECT TO CPI INCREASE)
65. Prior to issue of Subdivision Certificate the Developer is to provide a sewer connection for each proposed Lot in this subdivision.

Note: Council does not permit any other bodies to insert new junctions into 'live' sewer/water mains. Council would normally undertake initial connection to 'live' mains subject to a Private Works Agreement with costs associated with this work borne by the Developer. Please contact Council's Operations Water and Wastewater Department by calling 1300 765 002 or 02 6378 2850 or by emailing

council@midwestern.nsw.gov.au to obtain a quote for the connection of water and sewer (Private Works Order).

66. All costs associated with preparation of Survey Plan and associated easement documentation are to be borne by the developer.
67. Prior to the issue of a Subdivision Certificate all required infrastructure works are to be constructed at the full cost of the Developer, in a manner consistent with relevant parts of the AUS-SPEC Specification and Council's standard drawings.
68. Prior to the issue of a Subdivision Certificate for any stage, each lot must have separate access that must comply with Council requirements and must obtain approval under the provisions of Section 138 of the Roads Act 1993 prior to carrying out any activities in the road reserve.
69. At the completion of construction and prior to the issue of a Subdivision Certificate, Council requires lodgement of a Quality Register in electronic format on a CD or Flash Drive with all of the QA documentation in accordance with Aus Spec and the requirements outlined below:

A) COVERSHEET

- Project Address
- Client/Developer
- DA Number
- Lot Numbers
- Subdivision Stage Number(If Applicable)

B) INDEX

- Section Numbers

C) CONTRACTOR DETAILS

- Contractor Representative
- Contractor Contact Details

D) SCOPE OF WORKS

- Enter description outlining scope of works completed

Records to be included:

- Material Certification and Material Test Reports(Sub base, Base course, Water, Sewer, Stormwater, Bitumen etc for supplied materials)
- Concrete mix Details (Concrete Register/ Concrete Test Results required)
- Bitumen Sealing Reports/Records
- Earthworks/Civil Test Reports e.g. compaction tests - (Coordinates and RL required for each test required to be shown on a dwg)
- Dimensional and Tolerance Records(Survey Conformance Reports)
- Inspection Documentation(Development Engineer Inspections, ITPs, Lot Identification)
- Non-conformance reports(Major non-conformances not detailed on council inspections)
- Work As Executed Drawings and completed Asset Data spreadsheet (Council to provide at the request of the applicant) (Provide document register of all .dwgs and Engineering Stamp required in AutoCad, DWG, Map Info, Excel and PDF format)
- Copy of final inspection report from Council's Development Engineer

70. 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 the Subdivision Certificate for Stage 1. Contributions are subject to the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions		
11 Lots (minus 1 credit for vacant lot)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>10 Lots</i>
Transport Facilities	\$ 4,511.00	\$ 45,110.00
Recreation and Open Space	\$ 2,266.00	\$ 22,660.00
Community Facilities	\$ 660.00	\$ 6,600.00
Stormwater Management	\$ 476.00	\$ 4,760.00
Plan Administration	\$ 1,034.00	\$ 10,340.00
TOTALS	\$ 8,947.00	\$ 89,470.00

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.

71. Following completion of all engineering works with a final satisfactory inspection report, and prior to issue of a Subdivision Certificate for stage 1, a defects bond of 5% of the value of such works (not carried out by Council) or a minimum of \$2,000, whichever is the greater, shall be lodged with Council. The bond may be provided by way of a monetary deposit with the Council or via a Bank Guarantee which will be held for a period of 24 months. The 24-month maintenance bond period commences from the date of Plan Registration.
72. The amount at which uncompleted works is to be held as bond is to be confirmed with Council at a rate of 135% of the total cost of uncompleted works and is to be paid to Council prior to issue of the Subdivision Certificate.
73. A minimum of two (2) street trees per lot (excluding Lot 5) are to be installed with supporting barrier devices to prevent damage prior to issue of the Subdivision Certificate. A monetary payment / bond may be accepted by Council for this work in accordance with Council's Policy.
74. 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.

**PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE
 (STAGE 2 – DUAL OCCUPANCIES)**

The following conditions are to be satisfied, prior to the issue of a Construction Certificate for a Dual Occupancy.

- 75. 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.
- 76. 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.

- 77. 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 Construction 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		
12 x Dwellings (1 credit per lot applied from Stage 1 Subdivision)		
<i>Mudgee Catchment</i>	<i>Per Lot</i>	<i>6 x Dwellings</i>
Transport Facilities	\$ 4,511.00	\$ 27,066.00
Recreation and Open Space	\$ 2,266.00	\$ 13,596.00
Community Facilities	\$ 660.00	\$ 3,960.00
Stormwater Management	\$ 476.00	\$ 2,856.00
Plan Administration	\$ 1,034.00	\$ 6,204.00
TOTALS	\$ 8,947.00	\$ 53,682.00

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.

- 78. Any unpaid Contributions or charges nominated in the development consent will be indexed to CPI at the beginning of each new financial year.
- 79. Prior to the issue of a Construction Certificate, the developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.

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

PRIOR TO THE COMMENCEMENT OF WORKS - BUILDING

The following conditions are to be satisfied, prior to the commencement of construction works for each Dual Occupancy.

80. 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.

81. 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.

82. 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.

83. Prior to the commencement of any works within the road reserve the Developer must obtain approval under the provisions of Section 138 of the Roads Act 1993. Site plans showing all proposed works within the road reserve must be provided with this application.

84. Prior to the commencement of any works on public land 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.

85. 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.

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

87. 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

The following conditions are to be satisfied, during the construction works of each Dual Occupancy.

88. 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.

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

90. The requirements of the following BASIX Certificate numbers:

- a. Lot 1 & 1A – 1261069M issued on 22 November 2021;
- b. Lot 2 & 2A – 1261125M issued on 22 November 2021;
- c. Lot 3 & 3A – 1261088M issued on 22 November 2021;
- d. Lot 4 & 4A – 1261130M issued on 22 November 2021;
- e. Lot 10 & 10A – 1261451M issued on 22 November 2021; and
- f. Lot 11 & 11A – 1261133M issued on 22 November 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.

91. Each building shall be set-out by a registered land surveyor in the locations approved by Council. A copy of the Identification Survey Report prepared by a registered land surveyor shall be submitted to the Certifier prior to the pouring of any in-situ concrete i.e. at slab steel inspection stage.

92. The footpath and driveway levels are not to be altered outside the property boundary without Council's permission.

93. Switchboards for gas, electricity, etc., must not be attached to the front or street facing elevations of the building.

94. No trees on public property (footpaths, roads, reserves etc.) shall be removed or damaged during construction works including the erection of any fences or hoardings.

95. 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.
96. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
97. All stormwater is to discharge to the street gutter with the use of non-flexible kerb adaptors. Alternatively, stormwater is to be connected to the approved inter-allotment drainage system.
98. Building envelopes are not to extend greater than 90m from the nearest hydrant.
99. The strength of the concrete used for the reinforced concrete floor slab must be a minimum 25Mpa.
100. Metal roof/wall cladding shall be provided in a non-reflective colour scheme such as "Colorbond" steel sheeting.
101. 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.
102. If the work involved in the erection/demolition of the building;
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b. building involves the enclosure of a public place

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
103. 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.
104. Vehicles must be clean and free of debris prior to leaving the site during construction. Deposited material may be ordered to be removed at the Applicant/operator's expense.
105. The Applicant must:
 - a. minimise the waste generated by the development;
 - b. classify all waste generated on site in accordance with the EPA's Waste Classification Guidelines 2014 (or its latest version);
 - c. store and handle all waste on site in accordance with its classification;
 - d. not receive or dispose of any waste on site; and
 - e. remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal, capable of receiving such waste.

106. The developer is to meet the full cost of water reticulations to service the development plus the cost of connecting to existing services. All water supply work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Water Supply Code of Australia.
107. The developer is to meet the full cost of sewer reticulations to service the development plus the cost of connecting to existing services. All sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Sewerage Code of Australia.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

The following conditions are to be satisfied, prior to the issue of an Occupation Certificate for each Dual Occupancy.

108. 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.
109. Prior to the issue of an Occupation Certificate all driveway / access / car parking area for each dwelling is to be completed. New sealed access from is to be constructed 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.
110. Prior to the issue of an Occupation Certificate the applicant is to provide separate water and sewer services to each dwelling.
111. 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.
112. Prior to use of the development and/or issue of an Occupation Certificate, a satisfactory final inspection report from the Council must be received by the Certifier, verifying that all works have been completed in accordance with the relevant Section 68 (Local Government Act 1993) approval/s.
113. Prior to issue of an Occupation Certificate, all fencing, plantings and hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed. Landscaping must comprise low maintenance, drought and frost resistant species.
114. Outdoor drying facilities and letterboxes are to be provided for each dwelling prior to occupation.
115. The developer shall contact Council's Property and Rating Department to ensure that the Street Addressing for each dwelling is correctly allocated in accordance with AS4819, prior to issue of the Occupation Certificate.
116. Prior to the issue of an Occupation Certificate the Developer must, where applicable, pay all relevant Development Contributions that may be levied in accordance with Council's Developer Contributions Plan/s.

OPERATIONAL/ ONGOING CONDITIONS

The following conditions must be complied with for the life of the development.

117. There being no interference with the amenity of the neighbourhood by reason of the emission of any “offensive noise”, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
118. All vehicles are required to enter and leave the site in a forward direction at all times.
119. Waste collection receptacles shall not obstruct driveways at any time.
120. 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.
121. 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”.
122. Any individual air conditioning unit and heat pump for hot water storage units on the site must be installed and operated at all times so as not to cause “Offensive Noise” as defined by the Protection of the Environment Operations Act 1997.
123. The development is to be maintained in a clean and tidy manner, at all times.
124. Fencing shall be provided for the dwellings in accordance with the following requirements:
 - a. A 1.8 metre high screen fence is to be provided to all side and rear boundaries, behind the front building line/
 - b. A 1.8 metre high screen fence is to be provided between the private open space areas of the dwellings.
 - c. All required fencing shall be provided prior to occupation of the dwelling unit.
 - d. All fencing shall be provided at the full cost of the developer.
 - e. All required fencing shall be maintained at all times.
 - f. Fencing provided along property boundaries must not disrupt overland flow of stormwater.
 - g. For corner allotments – no fences, structures or landscaping exceeding 1 metre in height are to be located within the triangle formed by a sight line 6 metres x 6 metres from the intersection of the two road boundary lines.
 - h. No Colorbond is to be used in fencing located forward of the building line.
125. Landscaping shall be provided to the development in accordance with the following requirements:
 - a. All open spaces on the site are to be landscaped.
 - b. Landscaping enhances the development for acoustic and visual privacy, as well as shade.
 - c. Landscaping blends the development into the established streetscape and neighbourhood.
 - d. Landscaping is water efficient.
 - e. Landscaping minimises over-shadowing within the development and neighbouring properties.
 - f. Landscaping utilises, where practicable, endemic species which are appropriate for the site.

- g. Landscaping allows for continued casual surveillance of the internal driveway, car parking areas and street, where practicable, from within the living areas of the dwellings.
- h. Landscaping shall not provide opportunities for concealment of people.
- i. Landscaping is to be provided to the development prior to the occupation of the dwellings.
- j. Landscaping shall be maintained at all times. Should any planting die or be removed for any reason, it shall be replaced by a like replacement planting.

126. Golf carts must only access the right of access / golf cart track via the approved easements.

127. All complaints regarding maintenance of the right of access, stormwater basin and landscape zones are to be directed to the Mudgee Golf Club in accordance with the Plan of Management.

PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE (SUBDIVISION OF DUAL OCCUPANCIES)

The following conditions must be satisfied prior to the issue of the Subdivision Certificate for each Dual Occupancy.

128. Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Registry Services.

Note: The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges

129. A linen plan and associated documentation are to be submitted to Council via the NSW Planning Portal for approval and endorsement by the General Manager (or an appointed delegate).

130. Prior to the issue of a Subdivision Certificate for the subdivision of each dual occupancy, the plan of subdivision must ensure that the following is achieved:

- a. For each dual occupancy (detached), the lot size shall be not less than 400m² for each dwelling; and
- b. For each dual occupancy (attached), the lot size shall be not less than 300m² for each dwelling.

131. Prior to issue of the Subdivision Certificate for each dual occupancy, a satisfactory final inspection report shall be provided for each building.

132. Prior to issue of the Subdivision Certificate, Council is to be supplied with:

- a. A Notice of Arrangements from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and
- b. 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.

133. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authority's standards.

134. Easements including associated Section 88B instruments, are to be created in favour of:

- any upstream lots to drain water (width variable);
- any proposed lots to be serviced by water reticulation or sewer components (width of 3m).

135. Prior to issue of Subdivision Certificate the Developer is to provide separate water service and meter for each Lot. This can be achieved by making payment in accordance with Council's adopted fees and charges to cover the cost of installing both the service and a 20mm meter on the water main. (SUBJECT TO CPI INCREASE)

136. Prior to issue of Subdivision Certificate the Developer is to provide a separate sewer connection for each proposed Lot in this subdivision.

Note: Council does not permit any other bodies to insert new junctions into 'live' sewer/water mains. Council would normally undertake initial connection to 'live' mains subject to a Private Works Agreement with costs associated with this work borne by the Developer. Please contact Council's Operations Water and Wastewater Department by calling 1300 765 002 or 02 6378 2850 or by emailing council@midwestern.nsw.gov.au to obtain a quote for the connection of water and sewer (Private Works Order).

137. All costs associated with preparation of Survey Plan and associated easement documentation are to be borne by the developer.

138. All existing and new easements shall be shown on the linen plan and supporting documentation otherwise required by this consent. This must include the Plan of Management requirements for the rights of access and stormwater basin authorised by this consent.

COUNCIL ADVISORY NOTES

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

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

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

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

Section 64 Contributions		
	<i>ET's with Credits applied</i>	<i>Charge</i>
Water Headworks	12.6ET	\$110,325.60
Sewer Headworks	15.5ET	\$61,953.50
TOTAL HEADWORKS		\$172,279.10

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 generally complies with the requirements and objectives of the applicable environmental planning instruments and the 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 land is zoned R1 General Residential and has specifically been identified in key strategic planning documents including the Comprehensive Land Use Strategy 2010 for future urban purposes.
4. The matters raised within submissions have been addressed in the following manner:
 - Conditions have been imposed to address the following key concerns;
 - Construction management – traffic management, noise, sediment and erosion control and dust;
 - Upgraded acoustic mound, fencing and landscaping amendments for the full length of the acoustic easement abutting the Depot Road industrial land;
 - Improved maintenance requirements of the relocated golf cart access track, stormwater basin, landscaping and acoustic barrier to be registered on title of the land along with the creation of a Management Plan including a complaints register; and
 - Stormwater drainage management.

Executive summary

OWNER/S:	Mudgee Golf Club Limited
APPLICANT/DEVELOPER:	Inverness Property Group Pty Ltd C/- Ms Emma Yule
PROPERTY DESCRIPTION:	21 Robertson Street, Mudgee Lot 27 DP 1165146 and Lot 2 DP 153695
PROPOSED DEVELOPMENT:	Stage 1 - Subdivision of Land (1 Lot into 11 Lots); Stage 2 - Dual Occupancy (detached) on Proposed Lots 1, 2, 3, 4 (8 dwellings); Dual Occupancy (attached) on Proposed Lots 10 and 11 (4 dwellings); Lots 5, 6, 7, 8 and 9 – to remain vacant land; Stage 3 - Subdivision of each Dual Occupancy;
ESTIMATED COST OF DEVELOPMENT:	\$4,215,050.00
REASON FOR REPORTING TO COUNCIL:	14 Submissions Received and Development exceeds \$2 Million
PUBLIC SUBMISSIONS:	14 Submissions

Council is in receipt of Development Application DA0178/2022 that seeks approval for the Torrens Title Subdivision of proposed Lot 2 (created by DA0102/2021) into 11 Lots along with the construction of 6 dual occupancies (each to be further subdivided to form 12 single dwellings) and the extension of Inverness Avenue, at 21 Robertson Street,

The application was received by Council on 11 November 2021 however a further information letter was issued on the 16 December 2021 raising a number of critical issues with the proposed development.

The subject land is located to the north of the Inverness Avenue residential area, to the west of the Depot Road industrial precinct and forms part of the Mudgee golf course. The land is currently legally identified as Lot 2 DP 153695 and Lot 27 DP 1165146.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 18 March 2022. During the notification period, 14 submissions were received raising a number of concerns with the development which is further addressed in this report.

The proposed development has been assessed in accordance with Council's DCP and the LEP. The proposed development is considered generally consistent with Council's planning controls however, a number of minor variations to the Mid-Western Regional Development Control Plan 2013 have been proposed which is further addressed within this report.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that more than seven (7) objections have been made against the development and the value of the application exceeds \$2 million.

The application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

BACKGROUND

21 Robertson Street Mudgee is commonly known as the location of the Mudgee Golf Course and is currently zoned partly Residential and Private Recreation. The zoning of this immediate area for residential, private recreation and industrial purposes was identified following the preparation of the *Rural Residential, Industrial and Residential Strategy 2003* with a report to Council endorsed in March 2005 and 'concept plans' for a proposed residential subdivision within the Golf Course land submitted to Council in October 2005.

In formulating the amendments to the zoning for this area, and in a report to Council on the Mid-Western Interim Local Environmental Plan on the 22 March 2006, consideration of a submission made by Barnson on behalf of Mudgee Golf Club and DTM Enterprises Pty Ltd included the following:

1. *Industrial development directly adjacent to the established golf course is incompatible and is not consistent with Council resolution of October 2005;*
2. *It is likely that additional industrial land will be required to service future demand and therefore the reliance on industrial land from this locality is short sighted especially given that state position of the golf club that they will not pursue development in accordance with the proposed industrial zone and noting recent announcements concerning significant economic development projects such as Wilpinjong Coal Mine, Moolarben Coal Mine and Mudgee Abattoir re-opening; and*
3. *The subject land remains a rare and unique opportunity for prestige residential /resort development in Mudgee; and*
4. *Mudgee Golf Club Inc. and DTM Enterprises propose an integrated approach with common objectives to prestige residential investigation and remain convinced a sound planning solution can be developed to address land use conflict impacts between any future residential and existing industrial land.*

Following this, Council approved a residential subdivision for 25 lots (stages 1A and 1B) over Lot 182 DP 756894, Lot 2 DP 153695 and Lot 49 DP 445944, being Mudgee Golf Club land on the 15 November 2006 (DA0132/2007 and modified by MI0033/2007 in June 2007 and MI0009/2009 on 23 September 2008). The original approval was issued under the Mudgee Local Environmental Plan 1998, with the subdivision of land permissible with the consent of Council.

The 2006 approval, along with the subsequent modifications, did not endorse future stages 2 or 3 of the proposed subdivision plan which required a separate consent to be obtained which was conditioned by Council at this time. Further, it was required that an acoustic report be prepared prior to an operational development consent being issued in order to mitigate acoustic impacts to future residents from the existing industrial zoned land. An acoustic report with recommendations of noise attenuation measures (fencing of 1.8m with mounding barrier of a nominal 2.2m on the northern / eastern side of the development) was provided accordingly at this time. The approved Stage 1 layout is provided within Figure 1 below.

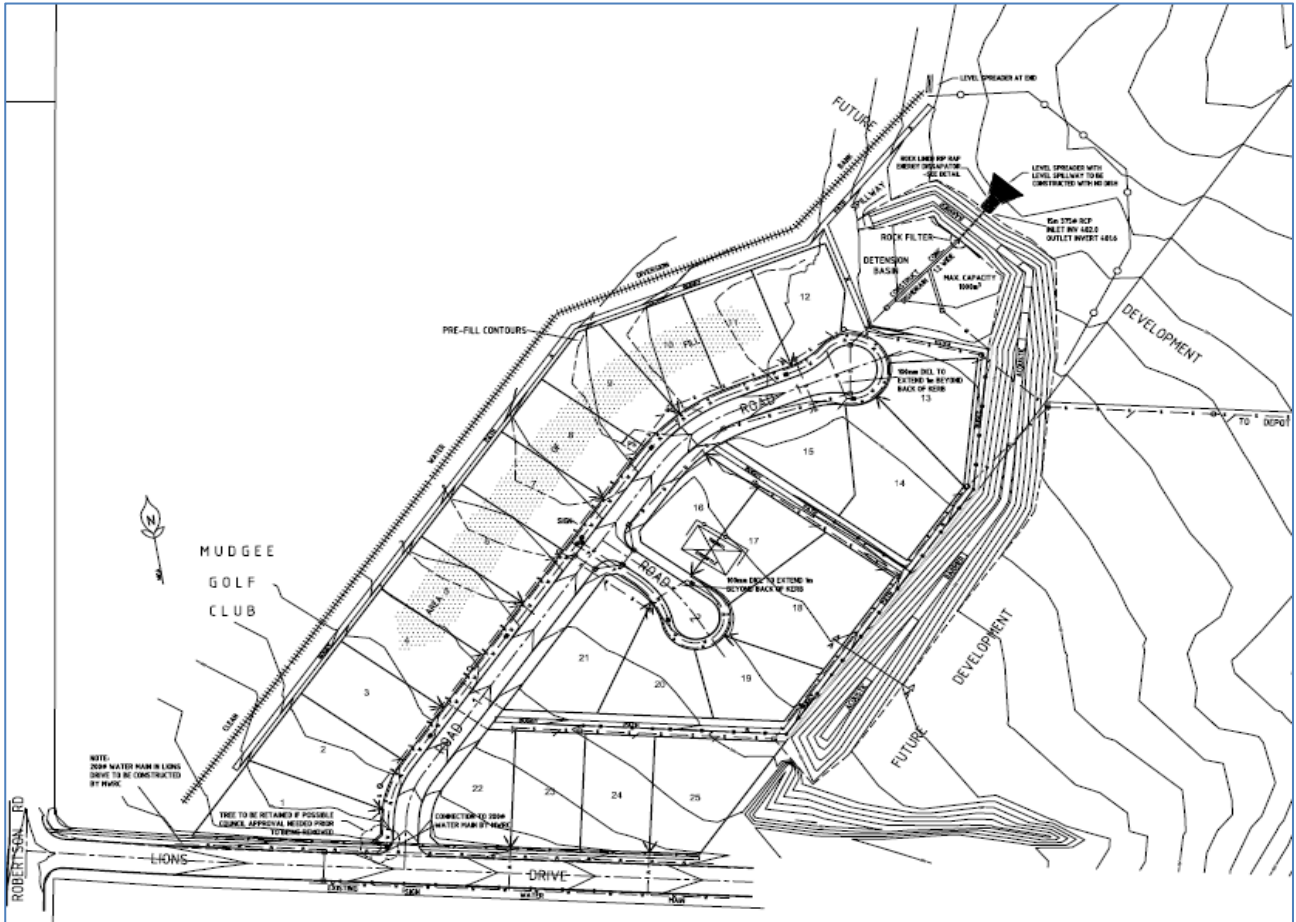


Figure 1: DA0132/2007 - Approved Stage 1 Subdivision Layout

Concurrent to the above 2006 development consent being obtained, a further report to Council on the 2 May 2007, requested Council endorse a minor amendment to the Draft Mid-Western Interim Local Environmental Plan to reflect the zone boundaries of the development to align with the subdivision approved. This was endorsed by Council and the zoning map updated to reflect this zoning change. The final gazetted mapping is included in Figure 2 below (gazetted on 15 February 2008) and includes Stage 1, and also proposed future stages 2 and 3 of the 'concept plan' for subdivision provided to Council as part of the Draft LEP preparation process.

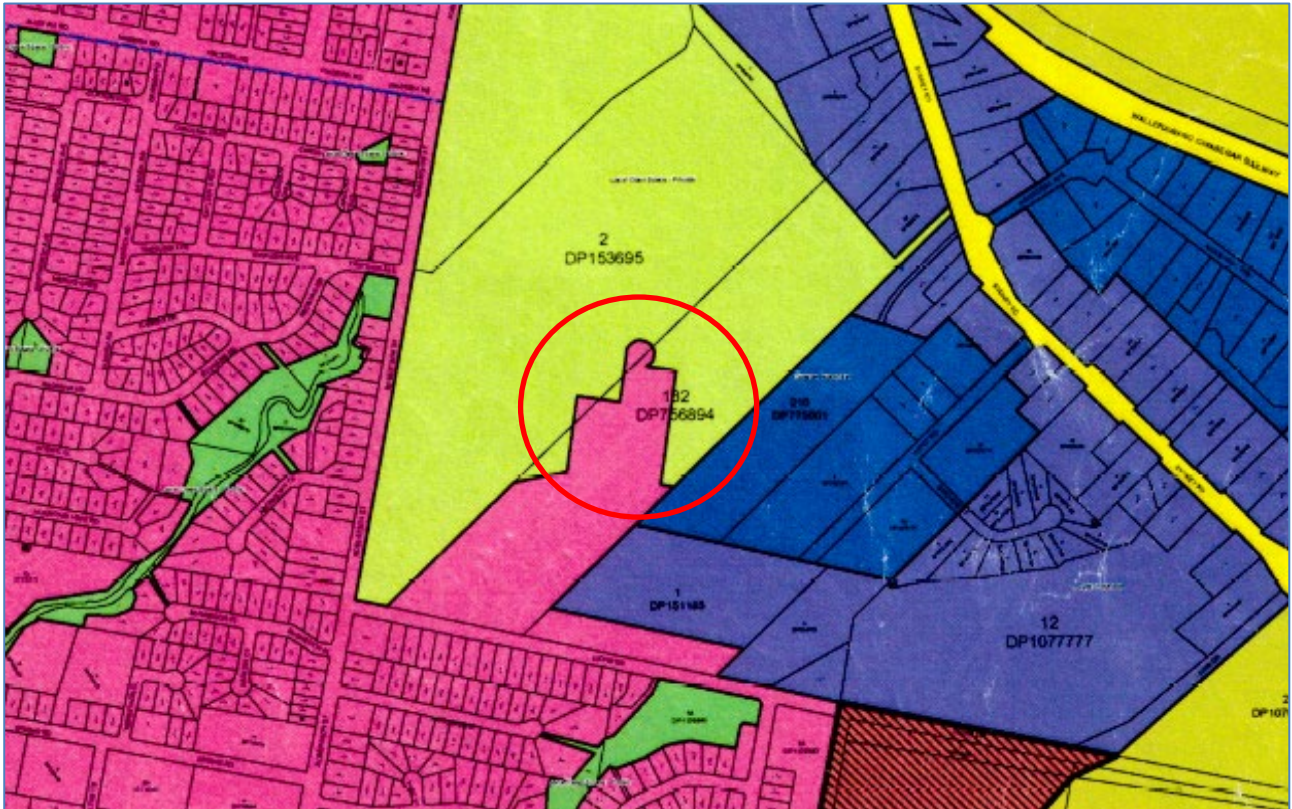


Figure 2: Mid-Western Regional Interim Local Environmental Plan 2008 Zoning Map

Further to the above, the zoning of the area of the proposed development was also reflected in the Comprehensive Land Use Strategy 2010 – see Figure 3 below.

Since this time, the Stage 1 area of the Inverness and Lions Drive residential subdivisions have been fully developed, however the final area of vacant residential zoned land has been retained by the Golf Club and forms part of the subject development application.

It is important to also note that the area of land affected by the proposed development is also subject to a boundary adjustment (DA0102/2021) which was approved by Council on the 26 March 2021 however, the plan has not yet been registered. The primary purpose of the subdivision was to create a development lot (ready for sale) within the residential zoned land. The development lot is smaller than the available residential zone land, i.e. smaller than future Stages 2 and 3 proposed. This is demonstrated in Figure 4 below, which shows the proposed lots approved by the boundary adjustment that is affected by this proposed development (proposed Lot 2 – red bold), it also shows the residential zoned land available to be development - shaded pink.

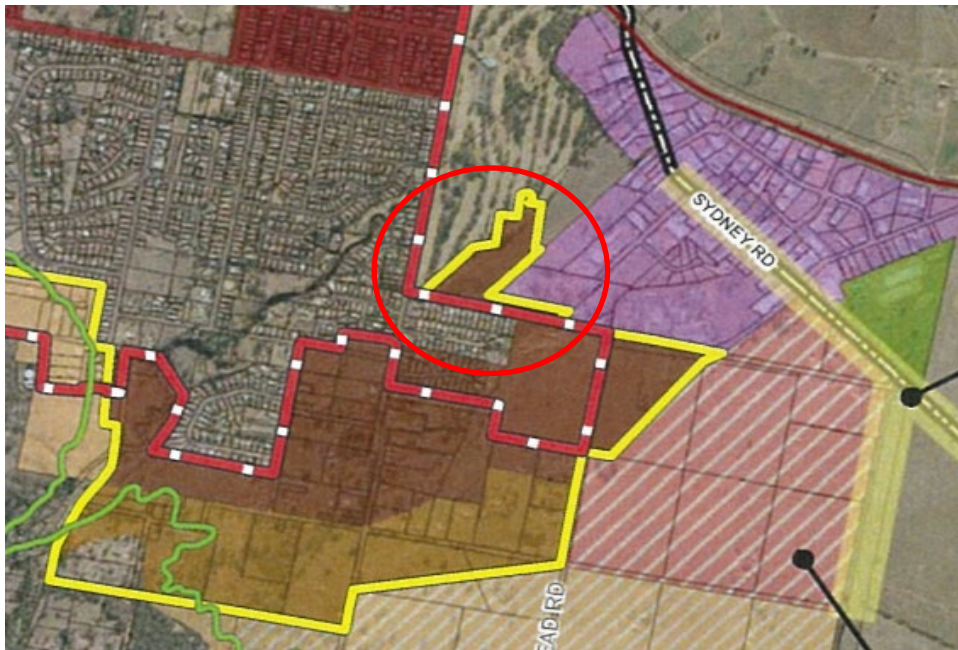


Figure 3: Mudgee Comprehensive Land Use Strategy Map (current)

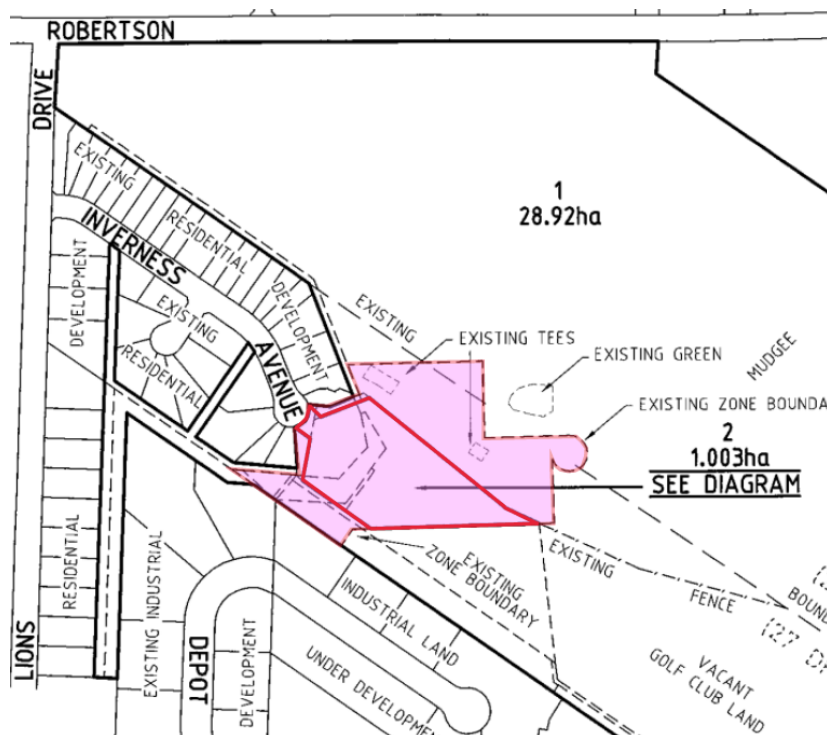


Figure 4: Approved Boundary Adjustment Lot Layout (DA0102/2021) – Bold Red Line Subject Site / Pink Shading – Residential Zoned Land

PROPOSED DEVELOPMENT

Council is in receipt of Development Application DA0178/2022 that seeks approval for the Torrens Title Subdivision of proposed Lot 2 (created by DA0102/2021) into 11 Lots along with the construction of 6 dual occupancies (each to be further subdivided to form single dwellings) and the

extension of Inverness Avenue, at 21 Robertson Street, Mudgee currently legally identified as Lot 2 DP 153695 and Lot 27 DP 1165146.

The application was received by Council on 11 November 2021 however a further information letter was issued on the 16 December 2021 raising a number of critical issues with the proposed development.

A number of modifications have been made to the proposed development since lodgement, with the final set of updated plans provided for assessment on the 19 July 2022. The changes to the plans finally made on the 19 July 2022 were not significant to the overall development outcome previously notified and therefore the plans did not require re-notification to neighbouring land owners as the changes were primarily to address non-compliances with the Development Control Plan 2013 and legal aspects of the public road interface with the existing golf cart access arrangements.

The proposed development involves the following key aspects which is shown in Figure 5 below, with a full copy of the plans and supporting information included in Attachment 1:

- Stage 1 - Subdivision of land (1 Lot into 11 Lots);
- Stage 2 – Construction of a dual occupancy (detached) on proposed Lots 1, 2, 3, 4 (8 x dwellings); construction of a dual occupancy (attached) on proposed Lots 10 and 11 (4 x dwellings) and removal of 5 x trees; *Note - Lots 5, 6, 7, 8 and 9 – to remain vacant land however future subdivision / dual occupancies may be possible with separate consent;*
- Stage 3 - Subdivision of each Dual Occupancy.

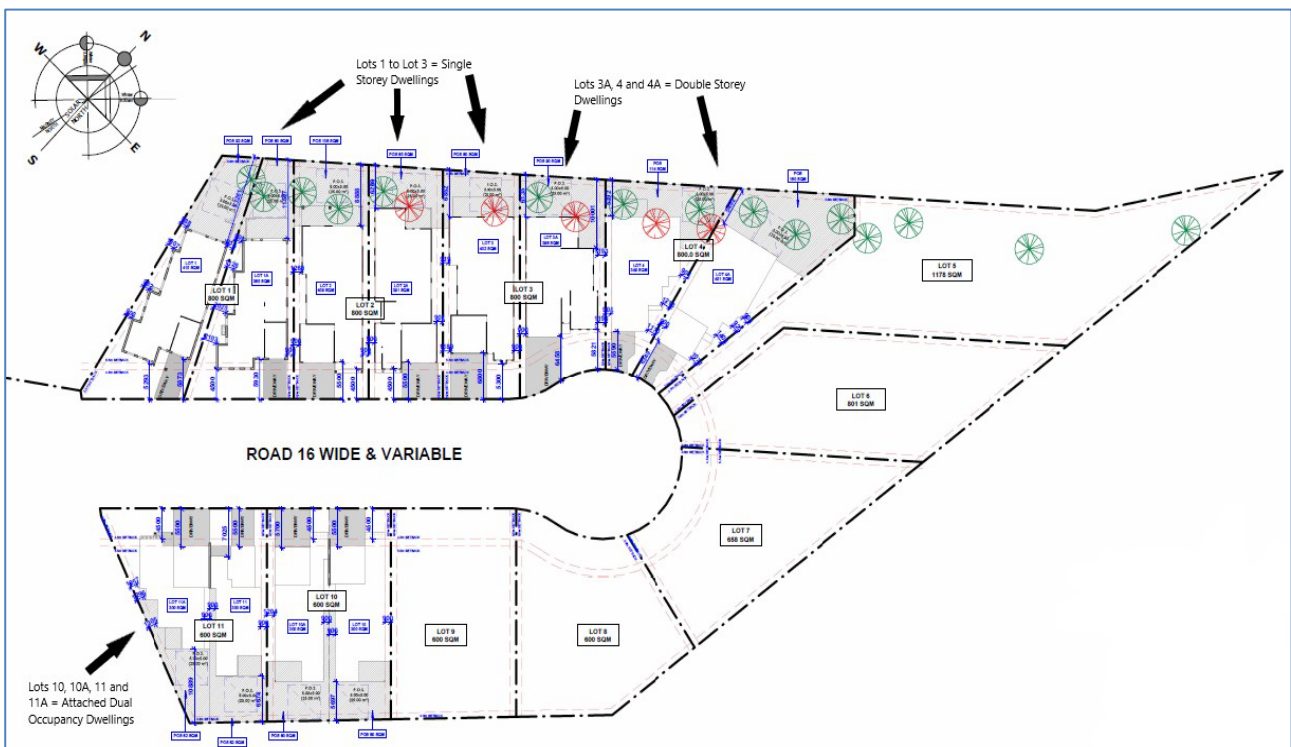


Figure 5: Site Master Plan

Site Description

The subject land is located to the north of the Inverness Avenue residential area, to the west of the Depot Road industrial precinct and forms part of the Mudgee golf course. The land is currently legally identified as Lot 2 DP 153695 and Lot 27 DP 1165146.

The land currently contains stormwater management infrastructure and acoustic mounding that was required as part of the stage 1 approved subdivision, the golf course land and contains a total area

of approximately 29.92 hectares. Once the boundary adjustment approved under DA0102/2021 is completed and registered however, proposed Lot 2 will contain a total area of approximately 1.03 hectares and proposed Lot 1 will be approximately 28.92 hectares.

Proposed Lot 2, the subject area of the development, is otherwise clear of any significant infrastructure or natural watercourses as shown by Figure 6 below. A row of existing vegetation is located on the north western area of the site with the majority of trees to be retained. The plans indicate at least 5 trees will require removal to accommodate the proposed dual occupancy developments over Lots 1 to 4 (indicated in red within Figure 5 above).



Figure 6: Site Location Plan

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regs).

Integrated Development

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

ASSESSMENT

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

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

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

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The proposed development will not require removal of large areas of native vegetation or koala habitat identified under this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

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

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

The proposed development does not involve Advertising or Signage nor is impacted by any other requirements of this Policy. The site plan indicates future estate signage however, no elevation details have been provided for assessment and therefore this has not been considered as part of this application. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

The proposed development is not State or Regionally Significant Development nor is impacted by any other requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (PRIMARY PRODUCTION) 2021 The proposed development is not impacted by any requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 Pursuant to section 4.6 of the Policy, a site inspection and a search of Council's records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

STATE ENVIRONMENTAL PLANNING POLICY (RESOURCES AND ENERGY) 2021 The proposed development is not impacted by any requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 Pursuant to section 2.48, the development will not have impact on underground electricity power lines, distribution pole or tower as noted within the SEPP. There are no electrical easements that constrain the subject site and therefore no further consideration of this SEPP is considered necessary.

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

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

Clause 1.2 Aims of Plan

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

Clause 1.4 Definitions

The proposal is defined as the ‘subdivision of land’ pursuant to section 6.2 of the *Environmental Planning and Assessment Act* and the construction of multiple dual occupancies upon 6 of the new lots proposed in accordance with the MWRLEP 2012 which will comprise of:

- **dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling; and
- **dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is currently zoned RE2 Private Recreation and R1 General Residential and is therefore subject to the Plan. Once the boundary adjustment is completed however, proposed Lot 2 will contain only the R1 General Residential Zone. Refer to Figure 7 below:



Figure 7: Zoning Map – Mid-Western Regional Local Environmental Plan 2012

Clause 2.3 Zone objectives and Land Use table

The land is zoned RE2 Private Recreation and R1 General Residential pursuant to MWRLEP 2012. The proposal, being the subdivision of land and construction of dual occupancies (attached or detached) in the R1 General Residential Zone is permissible with consent and complies with the relevant objectives.

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

R1 General Residential

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

Comment The proposal will contribute to the housing needs of the community with the provision of new housing opportunities that aligns with all previous strategic plans that were endorsed by Council for this location.

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

Comment The proposal will contribute to the variety of housing types and densities within the R1 Zone and also enables vacant land to be made available for future dwellings to be designed and approved accordingly.

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

Comment The proposal is not expected to hinder other possible permissible land uses within the immediate area.

Clause 2.6 Subdivision – consent requirements

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

Clause 4.1 Minimum subdivision lot size

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

The proposed lots created as part of stage 1 will have lot areas as per the following table:

Lot Number	Proposed Lot Size	Development Proposed
1	800m ²	Dual Occupancy (detached)
2	800m ²	Dual Occupancy (detached)
3	800m ²	Dual Occupancy (detached)
4	800m ²	Dual Occupancy (detached)
5	1178m ²	Vacant
6	801.1m ²	Vacant
7	658.4m ²	Vacant
8	600m ²	Vacant
9	600m ²	Vacant
10	600m ²	Dual Occupancy (attached)
11	600m ²	Dual Occupancy (attached)

The minimum lot size pursuant to the LEP 2012 mapping is 600m². Accordingly, the proposal complies with the development standard.

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

This clause applies as the land is zoned R1 and the development proposes dual occupancies upon Lots 1 to 4 and Lots 10 and 11 as part of Stage 2. In accordance with 4.1A (3)(a) and (b), four (4) **dual occupancies (detached)** are proposed on the lots equal to or greater than 800m² and two (2) **dual occupancies (attached)** are proposed on a site equal to or greater than 600m². Accordingly, the proposal complies with this development standard.

Whilst the application has been amended since lodgement to remove all development upon Lots 5 – 9 as part of this proposal, the lot sizes proposed as part of the stage 1 subdivision would enable future compliance with clause 4.1A for dual occupancies. This would however be subject to appropriate designs to achieve compliance with the DCP 2013.

Further, the acoustic impact assessment prepared by Spectrum Acoustics has assessed future noise impacts for proposed Lots 7, 8 and 9 (located closest to the eastern boundary and the interface with the industrial land) on the basis of future single storey dwellings being located on the vacant lots, with Lots 10 and 11 proposing double storey attached dual occupancies as part of this application. An assessment of this matter is further provided within this report.

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

This clause applies as the land is zoned R1 and dual occupancy development is proposed.

As part of the application (stage 3), the developer also seeks to further subdivide each dual occupancy. Pursuant to Clause 4.1B(2)(b)(i) and (ii), dual occupancies may be subdivided in accordance with the following:

- For the erection of a **dual occupancy (detached)** and subdivision that will result in a lot size of not less than 400m² for each dwelling; and
- For the erection of a **dual occupancy (attached)** and subdivision that will result in a lot size of not less than 300m² for each dwelling.

Accordingly, the proposal is able to comply with these development standards.

A condition has been imposed to ensure that the development retains compliance with this standard prior to issue of the Subdivision Certificate.

Clause 4.3 Height of buildings

The subject site is mapped for a maximum height limit of 8.5 metres above existing ground level. The development is proposed with a maximum building height of the two storey dwelling (proposed Lot 10 and 10A) of 8.15 metres and therefore complies with the development standard.

Clause 4.6 Exceptions to development standards

No variations to a development standard prescribed by the Mid-Western Regional Local Environmental Plan 2012 is proposed by this application.

Clause 5.4 Controls relating to miscellaneous permissible uses

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

Clause 5.10 Heritage Conservation

No items of aboriginal significance, heritage item or the heritage conservation area are recorded on the site or in the vicinity. Notwithstanding this, a condition is recommended to ensure that work is ceased should an item be discovered during construction.

Clause 5.21 Flood planning

The subject site is not identified as being within the flood planning area in accordance with the Mudgee Flood Study 2021. No further consideration is therefore necessary.

Clause 6.1 Salinity

The subject site is mapped to be located within a saline environment. As part of the previous consent issued for the subdivision of Inverness Avenue (Stage 1) in 2006, condition 50 was imposed:

An investigation shall be undertaken that identifies the extent of salinity with reference to each individual lot within the subdivision. Should elevated salt levels be identified, the investigation should also make recommendations in terms of and include a salinity management plan for the entire site which contains adequate measures for combating potential salinity and increases the occurrence of native vegetation.

If a management plan is required, it must be submitted to and approved by Mid-Western Regional Council prior to release of the subdivision certificate. A restriction as to user shall be created pursuant to Section 88 of the Conveyancing Act nominating Mid-Western Regional Council as the varying authority over all lots, enforcing the implementation of the management plan. The Section 88 instrument shall be created at full cost to the developer.

It is therefore recommended that a similar condition be imposed on this development to protect the future buildings.

Clause 6.3 Earthworks

The proposal involves extensive earthworks including construction of a new road, acoustic mounding and ancillary supporting infrastructure including a new stormwater detention basin.

With imposition and future compliance with appropriate conditions of consent including but not limited to:

- sediment and erosion control;
- dust suppression;
- compaction testing;
- disturbance of unknown relics;
- limiting construction hours; and
- limiting cut and introduction of clean fill only.

It is considered that the proposed earthworks will not have a detrimental impact on the site or to surrounding lands, subject to imposition of appropriate conditions.

Clause 6.4 Groundwater vulnerability

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

Clause 6.5 Terrestrial biodiversity

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

Clause 6.7 Active street frontages

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

Clause 6.8 Airspace operations – Mudgee Airport

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

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development. Extension to both water and sewer will be required to service the proposed development along with electricity and NBN services.

A new detention basin is proposed on the north eastern corner of the land which will be contained within future proposed Lot 1. The Golf Club will therefore be responsible for all future care and maintenance of a new enlarged stormwater basin to support the existing and proposed residential development of Inverness Avenue. Conditions of consent have been imposed accordingly.

Clause 6.10 Visually sensitive land near Mudgee

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

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

(ii) Draft environmental planning instruments (EPI)

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

(iii) Any development control plans

MID-WESTERN REGIONAL DCP 2013

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

Part 3.1 Residential Development

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Minimum lot size	
Minimum lot size	Complies – each lot is not less than 600m ² .
Attached Dual Occupancy – Minimum 600m ²	Complies
Detached Dual Occupancy – Minimum 800m ²	Complies

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Building Setback from the street	
Zones R1, R2 and R3 where Lot size is less than 900m ² : 4.5m and 5.5m to the garage	Does not achieve full compliance for Lot 2 and Lot 10. Refer to variation assessment comments below where a maximum of 22% variation is proposed.

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Zones R1, R2 and R3 where lot size is greater than 901m ² and less than 1999m ² : 6.5 and 7.5 to the garage	Not Applicable
Zone R2 where 200m ² to 1ha: 10m	Not Applicable
Zone R5 less than or equal to 5ha: 30m	Not Applicable
Zones RU1, RU4 and R5 greater than 5ha: 60m	Not Applicable
RU5: DCP	Not Applicable
Building Side/Rear setback	
Zones R1, R2 and R3 where Lot size is less than 900m ² : 900m	Complies – all side and rear setbacks provide a minimum of 900mm to side / rear boundaries.
Zones R1, R2 and R3 where Lot size is greater than the 901m ² and less than 1,999m ² : 900mm	Not Applicable
Zone R2 where 2000m ² to 1ha: 2.5m	Not Applicable
Zone R5 less than or equal to 5ha: 20m	Not Applicable
Zones RU1, RU4 and R5 greater than 5ha: 20m	Not Applicable
RU5: BCA	Not Applicable
Building Secondary Frontage for corner lots setback	
Zones R1, R2 and R3 where Lot size is less than 900m ² : 0m for garages in laneways 2m to side boundary	Not Applicable
Zones R1, R2 and R3 where Lot size is greater than 901m ² and less than 1,999m ² : 2m	Not Applicable
Zone R2 where 2000m ² to 1ha: 7.5m	Not Applicable
Zone R5 less than or equal to 5ha: 15m	Not Applicable
Zones RU1, RU4 and R5 greater than 5ha: 15m	Not Applicable
RU5: 3m	Not Applicable
Building height / design	
Proposed buildings are single story	<p>Does not comply with deem to satisfy provisions - The development includes 3 x detached double storey dwellings (Lot 3A, Lot 4 and Lot 4A) along with 4 x attached double storey dwellings (Lots 10, 10A, 11 and 11A).</p> <p>An assessment with justification from the applicant has been provided in accordance with Part 3.1 of the DCP rather than under the Deemed to Satisfy provisions of Part 2. Comments are provided at the end of this section.</p>

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
The design is not a mirror or duplication for the two dwellings when fronting streets.	Complies – the applicant has provided variations to each dual occupancy design by incorporating different windows and fascia's, differing window placement, articulation to the buildings, privacy screening and landscape placement. This also includes the attached dual occupancy development over Lots 10 and 11 which is considered to positively complement the streetscape despite sharing a common wall and boundary.
75% of internal living areas shall receive at least three hours effective sunlight between the hours of 9.00am and 3.00pm on 21 June (Winter solstice)	Does not comply for 2 of the 12 dwellings proposed due to the double storey design under the deemed to satisfy provisions of Part 2.2. Refer to variation assessment comments below.
Both dwellings have direct street frontage, i.e. battle-axe arrangements are not permissible.	Complies – Lot 5 is proposed as a battle-axe lot due to the constrained shape of the existing land (Lot 2 following the boundary adjustment) and the need to provide a cul-de-sac head however, no development is proposed at this time over this lot.
Minimum separation of 3 metres between buildings	This requirement is not relevant to the proposed dual occupancies as they are also proposed to be subdivided as part of stage 3 and the minimum setback from side boundaries is 900mm once subdivided.
The garage door or carport does not exceed 45% of the front elevation	Does not achieve full compliance with the deemed to satisfy provisions however, considered to comply with the discretionary provisions under Part 3.1 as the variations to garage and entry doors allows for a varied streetscape to be provided. A maximum variation of 24% is required to the deemed to satisfy provision as noted in the assessment of the variations below.
All facades with street frontage contain windows	Complies – varied windows provided throughout each dual occupancy.

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Street frontage elevations contain minimum 5% openings	Complies – there are no windowless / door less front elevations. All dwellings present positively to the street.
Building is not a transportable or relocated dwelling	Complies – no transportable or relocated dwellings proposed.
Slope and cut and fill	
The slope of the site does not exceed 15%	Complies
Cut is limited to 1m	Complies – RL's provided on all plans.
Fill is limited to 600mm and is made up of clean fill and is accompanied by a geo-technical assessment demonstrating compaction complies with Australian Standards.	Complies - RL's provided on all plans.
Any cut and fill has been provided with retaining wall including drainage and is set back a minimum 300mm from the allotment boundary.	Complies
Fill does not direct stormwater onto adjoining properties and drainage pits for overland flow paths have been provided.	Complies – overland flow path required through Lots 7 and 8 to drain to new detention basin.
Cut / fill is clear of any water or sewer easements.	Complies – condition to be imposed.
Open space	
Private open space is located on the Northern or Eastern side of dwellings.	Complies – each dwelling contains private open space areas either to the north / north-western side of the dwellings or to the east / south eastern side of the dwellings.
Private open space has direct access from main living areas.	Complies – all dwellings have direct access from main living areas into the private open space areas.
Each dwelling provides a Principal Private Open Space with a minimum of 80m ² and a minimum dimension of 5 metres.	Complies – each dwelling as a minimum of 80m ² and minimum dimensions of 5m x 5m.
If alfresco is to be counted as Principal Private Open Space, it must be:	Not applicable – each dwelling also includes patios and alfresco areas however full compliance is achieved with the principal private open space areas.
i) located at or near ground level	
ii) have direct northerly aspect	
iii) create no more than 25% of principal open space	Not Applicable
Where Principal Private Open Space is located within front set back:	
i) located behind suitably landscaped area	
ii) minimum width of 1.5 metres to the front boundary	

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
75% of Principal Private Open Space shall receive a minimum of 3 hours sunlight between 9.00am and 3.00pm on 21 June	Compliance is achieved with a minimum of 3 hours sunlight available to the principal private open space area of each dwelling on June 21.
Site coverage	
Maximum site coverage of 50%	Does not comply for dwelling 2A with a minor variation of 0.14% proposed. Refer to assessment comments and justification by applicant below.
Parking	
Each dwelling has two car parks with a minimum of one being a garage for each.	Complies – each dwelling will either contain a double garage or single garage with stacked parking available.
Parking and manoeuvring areas are hard stand	Complies – concrete driveways proposed.
Driveways are located a minimum of 6m from any intersection	Complies – no intersections nearby
Utilities	
Buildings are located clear of utility infrastructure	Sewer, water and stormwater will require augmentation however, this will be undertaken as part of the stage 1 subdivision of the site.
Building is not located within an easement for the purpose of utility infrastructure	Capable of compliance once the stage 1 subdivision is undertaken. Condition to be imposed.
Structures are located a minimum of 1500mm from the centre of water and sewer main	Capable of compliance once the stage 1 subdivision is undertaken. Condition to be imposed.
Details of water supply and sewer reticulation have been provided:	Complies.
If available within 500m applicant has proposed connection to reticulated network	To be connected to the reticulated network.
Where no water supply is available, applicant has provided a minimum 60,000 litres which includes a minimum of 20,000 litres reserved for firefighting purposes	Not Applicable
Where no reticulated sewer is present, the applicant has proposed onsite disposal in accordance with Section 68 of the Local Government Act 1919	Not Applicable
If reticulated services have not been proposed the site is a minimum of 5ha in size	Not Applicable
All storm water flows to a gravity system	Capable of compliance once the stage 1 subdivision is undertaken.

DEVELOPMENT CONTROL REQUIREMENT	COMMENT / COMPLIES
Buildings are not located in the path of overland flow	Capable of compliance once the stage 1 subdivision is undertaken.
Fencing	
1.8 metre high fencing is provided between Principal Private open spaces	Complies – conditions to be imposed.
Front fences are open panel, do not exceed 1.2 metres in height and are not of Colorbond material construction	Complies – no front fencing proposed.
Side fences located in front of the building line are open panel or a combination of open panel and masonry columns to match the front fence and do not exceed 1.2 metres in height	Conditions to be imposed.
Side and rear fences do not exceed 1.8 metres in height once behind the building	Complies – condition to be imposed.
For corner allotments no fence, structure or landscaping in greater than 1 metre in height is located within the triangle formed by a sight line 12 metres x 6 metres from the intersection of the two street boundaries	Not Applicable
Dividing fences do not affect the flow of surface water with the possibility of causing flooding.	Condition to be imposed for the proposed overland flow path for lots 7 and 8.

Variations sought under Part 2.2 and Part 3.1 of the DCP 2013

Building Setback from the street	Comment
Zones R1, R2 and R3 where Lot size is less than 900m ² : 4.5m and 5.5m to the garage	<p>Does not comply with Part 2.2 or Part 3.1 for Lots 2 and 10 with the porch for the dwellings proposed to encroach within the front building setback of 4.5m as noted below:</p> <p>Lot 1 – Dwelling A = 4.7m to building 6.2m to garage. Dwelling B = 4.5m to building 5.5m to garage.</p> <p>Lot 2 – Dwelling A and B = 3.79m (to porch) 5.78m to garage. Variation of 15.7% proposed due to porch articulation only which is considered acceptable.</p> <p>Lot 3 – Dwelling A = 5.5m to building 6.6m to garage. Dwelling B = 5.8m to building 6.45m to garage.</p> <p>Lot 4 – 5.9m to each garage of dwelling A and Dwelling B (entry to each dwelling set behind the garage setback due to cul-de-sac head).</p> <p>Lot 10 – Dwelling A = 3.5m (to porch) 5.5m to garage. Dwelling B = 3.5m (to porch) 5.7m to garage. Variation of 22% proposed due to porch articulation only which is considered acceptable.</p> <p>Lot 11 – Dwelling A = 3.5m (to porch) 5.5m to garage. Dwelling B = 7.02m to building 5.5m to garage.</p> <p>The porch is consider to add articulation to the front setback and streetscape and does not dominate the front building elevation. Given the variation is minor for Lot 2 and Lot 10 and will improve the design outcome for the development, the variation is supported in the circumstances of the case.</p>

Building height / design **Comment**

Proposed buildings are single story

Does not comply. The development includes 3 x detached double storey dwellings (Lot 3A, Lot 4 and Lot 4A) along with 4 x attached double storey dwellings (Lots 10, 10A, 11 and 11A).

An assessment in accordance with Part 3.1 of the DCP has been undertaken with the following requirements of the DCP noted for a merits based assessment:

- a) *elevated housing developments must minimise the impact on areas of predominately single storey housing.*
- b) *Building height must ensure that the adjacent properties are not overlooked or overshadowed.*

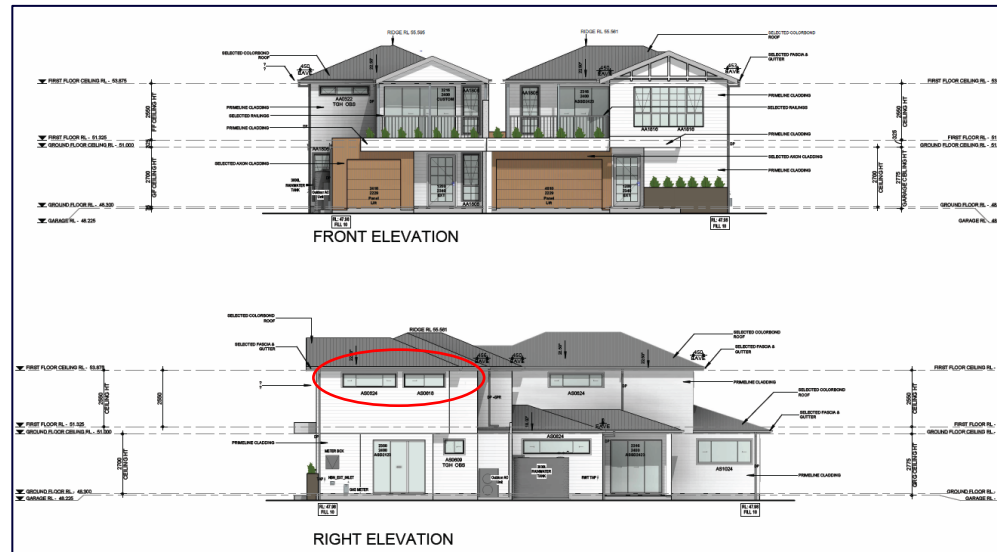
For the double storey attached buildings proposed on Lots 10 and 11, the applicant states the following:

The two-storey design will serve to visually screen the residential development from the industrial buildings in Depot Rd. The elevations are broken up by roof lines and elevations do not suggest window placement will be an issue for overlooking or privacy into first floor bedrooms.

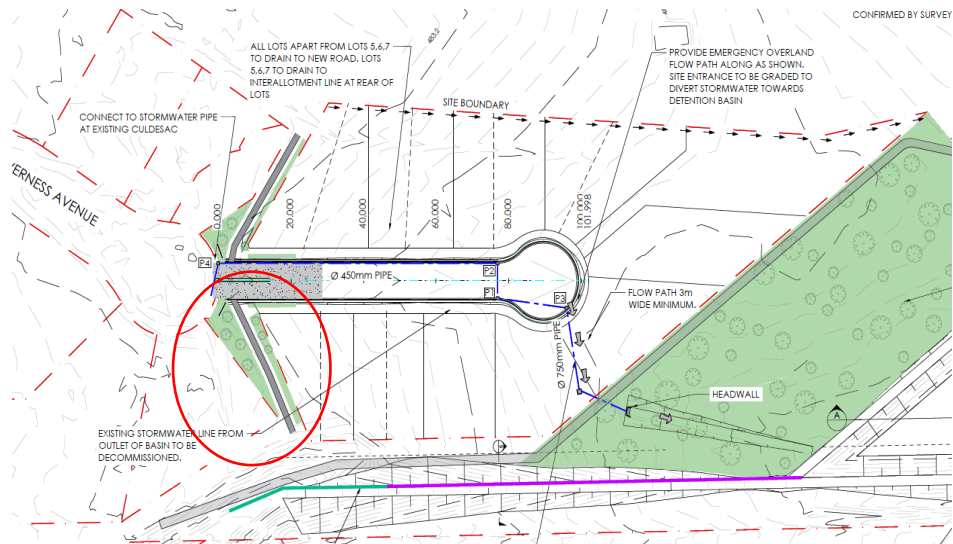
Shadow diagrams are copied below from the architectural plans to show a side by side of the two 2 storey dual occupancies. The shadow from Lot 10 into Lot 11A affects the left elevation (garage and rainwater tank side of the dwelling to minimise impact to living space) – acceptable design.



In terms of impacts to existing single storey dwellings in this area as a result of the upper storey part of the proposed dwellings (e.g. 12A Inverness Avenue), as noted by the above shadow diagram, the existing private open space area for 12A Inverness will still retain a minimum of 3 hours of solar access on June 21 and no direct overlooking from the upper storey part of 11A will be possible into 12A Inverness Avenue as the upper windows proposed for 11A will be placed high as noted in the elevations below to maintain privacy.



It is also important to note that a grass nature strip will also be included between proposed Lot 11A and 12A Inverness Avenue providing a greater buffer for the upper storey front area of the proposed dwelling.



For the 3 other double storey dwellings (Lots 3A, 4 and 4A) only part of the dwelling is located on the upper storey (toward the rear of the dwelling). As a result, no impacts to overshadowing or privacy due to direct overlooking are identified given advantage of a northerly aspect and no side elevation windows provided on the upper storey of the dwellings.

On the basis of the above assessment and combination of single and double storey dual occupancies proposed, the merits of the proposed development are supported in accordance with Part 3.1 of the DCP 2013.

75% of internal living areas shall receive at least three hours effective sunlight between the hours of 9.00am and 3.00pm on 21 June (Winter solstice)

Does not comply for 2 of the 12 dwellings proposed. Proposed Lot/dwelling 10A and 11A does not comply with the deemed to satisfy provisions under Part 2.2 for 75% of internal living areas receiving less than 3 hours of solar access between 9am and 3pm on June 21. The double storey attached dual occupancies proposed over Lot 10 and 11 are orientated to the south east and therefore the internal living areas which are also located to the south east are restricted due to the attached dwelling (to the north eastern side) also being double storey and therefore shadows the rear internal living areas of the attached adjoining buildings. Despite this, general compliance with

the discretionary provisions of Part 3.1 are achieved as the applicant has staggered the front section of the upper storey from the ground floor in order to maximise solar access to internal living areas without impeding on neighbouring dwellings and is therefore considered acceptable in the circumstances.

The garage door or carport does not exceed 45% of the front elevation

Does not achieve full compliance with the deemed to satisfy provisions of Part 2.2 however, considered to comply with the discretionary provisions of Part 3.1.

A maximum variation of 24% is required to the deemed to satisfy provision as noted below.

Lot 2 and 2A = 48.5% and 49.7%

Lot 3 = 47%

Lot 4 and 4A = 54.3% and 50.3% (note garages at the front of street elevation due to cul-de-sac head)

Lot 10 and 10A = 55.8% (attached dual occupancy)

Although does not achieve full compliance with the deemed to satisfy provisions, it is considered to comply with the discretionary provisions under Part 3.1 as the variations to garage and entry doors allows for a varied streetscape to be provided.

Site coverage

Comment

Maximum site coverage of 50%

Does not comply for dwelling 2A with a minor variation of 0.14% proposed. The variation is considered to be minor for 1 dwelling out of 12 proposed and the applicant has provided the following justification:

A variation is proposed for Lot 2A. Minor variation whereby the site coverage is exceeded by 0.14%. The plans can be amended as this area is minor and when the land is surveyed the variation may be rectified.

The minor site coverage exceedance does not material alter the performance of the design and Private Open Space area is following the DCP controls.

This is considered acceptable in the circumstances.

Part 4.4 Signs

Not applicable – the estate ‘entrance signs’ are proposed within the road reserve and have not formed part of this assessment.

Part 4.7 Tree Preservation Order

The proposed removal of 5 trees within the site to accommodate the development is not prescribed under section 4.7 of the DCP 2013.

Part 5.1 Car Parking

Each proposed dual occupancy includes a garage (either single or double) and also an area in front of each dwelling to accommodate a ‘stacked’ parking arrangement. Compliance is therefore achieved with the DCP.

Part 5.2 Flooding

Not applicable.

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater and a new Stormwater Detention Basin is proposed to be constructed to support this development along with accommodating the existing development within Inverness Avenue.

Part 5.4 Environmental Controls

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

Part 7.1 Urban Subdivision

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
Applies to	
Land zoned residential; village zones; rural residential lots up to 2 hectares	Land is zoned Residential
Lot size	
Minimum lot size as determined by MWRC LEP 2012	Complies – In accordance with 4.1 and 4.1A of the LEP 2012.
All lots have street frontage	Complies - All lots have frontage to the proposed new road being an extension of Inverness Avenue.
Lots increase in size relative to slope as follows: – 0-10 degrees: 600m ² – 10-15 degrees: 700m ² – 15-20 degrees: 800m ² – >20: subdivision prohibited	Complies - Approximately 0-10 degrees across the proposed Lot 2.
All lots have 16m width at building line in residential and village zones	Complies - Lots are of ample size and dimension and enable a 16m width at the relevant building line. The lots which front the cul-de-sac head (Lot 4, 5, 6, 7) have been widened / enlarged to enable a greater front setback, with Lot 5 proposing an access handle to a large 1,178m ² lot due to the elongated nature of the land in the northern corner of the site.
Battle-axe handles in R1, R3 and RU5 Village have width of 4m	Complies. Lot 5 handle width is 4m. Condition to be imposed to reflect this width requirement.
Battle-axe handles in R2 and R5 residential zones have width of 6m	Not applicable
Lot Design	
For infill subdivision lot orientation maximises solar access and takes account of existing pattern of development	Complies - Achieves adequate solar access and follows the

DEVELOPMENT CONTROL REQUIREMENT	COMPLIES?
	existing / established subdivision pattern of Inverness Avenue.
For new release subdivision lot orientation maximises solar access by maximising north-south lots	Not Applicable
For new release subdivision east-west orientated lots have increased width and midpoint	Not Applicable
Lots generally rectangular in shape	Generally complies. The development includes a majority of rectangular lots, excluding those lots with frontage to a cul-de-sac head. The lots are all of sufficient size to accommodate a substantial building envelope on the vacant lots 5 – 9 proposed and the development outcome of lots 1 – 4 and 10 and 11 are included as part of this application for assessment.
Lots on southern side of road provide greater frontage width for better solar orientation of future dwelling	Generally achieved.
Corner lots have sufficient area to allow dual occupancy and independent utility connection points	Complies.
Street Layout and Design	
Traffic Impact Statement submitted for 5+ lots	Assessment provided by applicant. Discussed elsewhere in report
Traffic Impact Statement submitted for all subdivisions where new road required	Assessment provided by applicant. Discussed elsewhere in report
Subdivision integrates with existing residential area	Complies – extension of Inverness Avenue is proposed with a minimum width of 16m.
New roads must provide “through road” connections to surrounding roads and road heads where they exist in the locality	Not applicable – the subject site as a result of the approved boundary adjustment approved under DA0102/2021 does not enable connection to surrounding roads.
Where cul-de-sac treatment unavoidable, pedestrian linkages between streets provided	The proposed development includes the continuation of golf course connections for pedestrians / golf carts which formed part of the original subdivision of Inverness Avenue.
Multiple cul-de-sacs and “no through roads” discouraged	Complies – only one cul-de-sac proposed.
Maximum number of lots in cul-de-sac is 12 lots or otherwise a cul-de-sac is restricted to less than 150 metres.	Complies - The maximum number of lots proposed is 11 as part of

DEVELOPMENT CONTROL REQUIREMENT

COMPLIES?

	<p>the initial subdivision, further the proposed road extension will be less than 150metres.</p> <p>It should be noted that the existing Inverness Avenue subdivision approved in 2006 exceeds both the maximum number of lots and the maximum length under the current DCP; this requirement was not however in place at the time as the DCP was first endorsed in 2013.</p> <p>It should also be noted, Council through the re-zoning of the golf club land for residential purposes, with no connecting/through road, has inadvertently supported the long access road, number of dwellings, accessed via a cul-de-sac. There is no other access available.</p>
Subdivision >80 lots should not require backtracking	Not Applicable
Road Standards for New Development	
Urban Road Standards required	Complies – condition to be imposed regarding construction.
1 x 1.2m footpath, barrier kerbing	Complies – condition to be imposed regarding construction.
Commercial and Industrial Subdivision roads: 22m road reserve, 13m carriageway, 2 x 4.5m nature strip, 1 x 1.2m footpath, barrier / rollover kerbing	Not Applicable
Cycle ways and footpaths	
Cycle ways and pedestrian networks included in new subdivisions	Concrete footpath provided in layout where appropriate and conditions imposed accordingly.
If subdivision site identified in Council cycle way plan or pedestrian strategy, subdivision needs to respond to strategy	The proposed site is not included within the PAMP.
New subdivisions provide direct, convenient and safe access to major facilities	Complies - existing access to Mudgee retained.
Cul-de-sacs may be required to include 10m wide shared overland flow/pathway	Overland pathway included. The proposed development includes a new stormwater detention basin (proposed to be a minimum of 1800m ³) at the eastern boundary of proposed Lot 2 and within proposed Lot 1, being the golf club land. Easements for drainage will also be required / implemented for a minimum 3m wide flow path

DEVELOPMENT CONTROL REQUIREMENT

COMPLIES?

	<p>between lots 8 and 9. Further the development will include an extension / relocation of the existing golf cart access from the front of the subject site to the eastern side of proposed Lot 2 (over Lot 1) with appropriate easements to be maintained as part of the registration process. As a result, connections will be maintained for the existing residents of Inverness Avenue and maintenance of this area will continue to be required by the Golf Club via the 88B instrument.</p>
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<p>Developer to provide contribution to Council for installation of cycle ways and footpaths prior to release of subdivision certificate</p>	<p>Not Applicable - Developer to construct.</p>
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Open Space

<p>Greenfield sites >20 lots ensure that lots are <400m from local park, playground or passive open space</p>	<p>Not applicable – the proposed stage 1 subdivision development is for 11 Lots.</p> <p>The stage 3 subdivision of the dual occupancies construction as part of stage 2 results in 17 Lots in total (including the 5 vacant lots proposed).</p> <p>It is noted that a separate application may be lodged for the further subdivision of future dual occupancies over proposed Lots 5 to 9 which could result in a total of 22 lots or dwellings. This would however be subject to future design and a merits based assessment at the time.</p>
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<p>Where on-site detention basins double as open space, must include raised level area which incorporates playground or fitness equipment etc. and shading landscaping</p>	<p>A detention basin is proposed however, this is not proposed for a dual purpose of open space and stormwater detention.</p>
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Landscaping

<p>Landscape plan provided, detailing treatment of public domain</p>	<p>A basic landscape treatment plan has been provided for assessment which includes the detention basin area proposed. Further detailed plan to be provided with the CC paying particular attention to the landscaping of the upgraded acoustic mounding. Condition imposed accordingly.</p>
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DEVELOPMENT CONTROL REQUIREMENT

COMPLIES?

Land dedicated as public reserve top soiled, levelled, turfed prior to release of subdivision certificate and maintained by developer for period of two years

Not applicable – no dedication to Council other than the extension of the public road is proposed.

Street Trees

Two (2) street trees provided per lot

Condition to be imposed prior to issue of the Subdivision Certificate. Ample area is available within the street reserve without impacting on the proposed driveways to accommodate this requirement.

Developer provides levy to Council to provide these trees after 80% of works carried out

To be conditioned

Utility Services

Servicing plan submitted showing provision of underground electricity, sewer, water, drainage and telecommunications to the development

Complies – All lots to be connected to reticulated water, sewer, electricity and telecommunications prior to release of Subdivision Certificate.

Evidence of consultation with relevant authorities submitted with application

Not Applicable (small subdivision)

Drainage

As per Section 5.3 Stormwater and Drainage

Detailed stormwater plan to be lodged at CC stage. Concept plan adequate and deemed adequate by Development Engineering Department.

Section 7.11 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

Pursuant to Council's Contributions Plan 2019, the development is proposing subdivision and dual occupancy developments over proposed Lot 2 to be created by a boundary adjustment under DA0102/2021. The development is therefore subject to Section 7.11 Contributions under the Plan which has been calculated as follows:

Stage 1: 1 into 11 Lots (1 credit for existing lot)

	Per Lot	10 Lots (1 x Credit applied for existing Lot)
Transport Facilities	\$ 4,511.00	\$ 45,110.00
Recreation and Open Space	\$ 2,266.00	\$ 22,660.00
Community Facilities	\$ 660.00	\$ 6,600.00
Stormwater Management	\$ 476.00	\$ 4,760.00
Plan Administration	\$ 1,034.00	\$ 10,340.00

Total	\$ 8,947.00	\$ 89,470.00
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Stage 2: 6 x Dual Occupancies (New Lots 1, 2, 3, 4, 10, 11) Note: each dual occupancy to be further subdivided however no further charges can be applied.

	Per Dwelling or Lot	6 x Dual Occupancies (12 x dwellings total - 1 credit per Lot applied)
Transport Facilities	\$ 4,511.00	\$ 27,066.00
Recreation and Open Space	\$ 2,266.00	\$ 13,596.00
Community Facilities	\$ 660.00	\$ 3,960.00
Stormwater Management	\$ 476.00	\$ 2,856.00
Plan Administration	\$ 1,034.00	\$ 6,204.00
Total	\$ 8,947.00	\$ 53,682.00

An appropriate condition has been imposed requiring payment of the contribution at the relevant stage.

Section 64 - Water/Sewer Developer Services Charges

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

- *Water - Credit for existing lot - 1.5 ET*
- *Sewer - Credit for existing lot - 1.05 ET*

WATER Headworks for (Lot 1, 1A, 2, 2A, 3, 3A, 4, 4A (Detached dual occ) and Lot 10, Lot 10A, Lot 11 and Lot 11A (attached dual occ) =

12 x 0.8 ET = 9.6 ET Headworks for Lot 6 & 7 - 2 x 1 ET = 2 ET Headworks for Lot 8 & 9 - 2 x 0.75 ET = 1.5 ET Headworks for Lot 5 - 1 x 1 ET = 1 ET

Water total contributions = 12.6 ET = 12.6 x \$8756 = \$110,325.60

SEWER Headworks for (Lot1, 1A, 2, 2A, 3, 3A, 4, 4A (Detached dual occ) and Lot 10, Lot 10A, Lot 11 and Lot 11A (attached dual occ) =

12 x 1 ET = 12 ET Headworks for Lot 6 & 7 - 2 x 1 ET = 2 ET Headworks for Lot 8 & 9 - 2 x 0.75 ET = 1.5 ET Headworks for Lot 5 - 1 x 1.05 ET = 1.05 ET

Sewer total contributions = 15.5 ET = 15.5 x \$3997 = \$61,953.50

An appropriate condition has been imposed requiring payment of the contribution at the relevant stage.

Note: The above contributions have been calculated based on a single lot / dwelling on each proposed vacant lot.

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

No Planning Agreements are applicable.

Regulations –4.15(1)(a)(iv)

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

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

Likely impacts of the development – 4.15(1)(b)¹

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

A) CONTEXT AND SETTING

The proposal is considered appropriate with regards to the surrounding context and setting. The proposal is reflective of the previous strategic planning work approved by Council associated with the Draft Interim LEP in 2008 and the Comprehensive Land Use Strategy in 2010, which has been carried through to the current LEP 2012.

Whilst it is acknowledged that land use conflicts with the Depot Road industrial precinct have been an ongoing concern for existing residents who have purchased within Inverness Avenue, it is considered that there is opportunity to address a number of matters as part of this application by improving acoustic buffers and barriers, and also reducing visual impacts associated with the development of Depot Road.

The applicant has provided plans to support the extension of an acoustic bund with fencing and landscaping up to 5.6m high, extending to the rear of 12A Inverness Avenue as shown by Figures 8 and 9 below. This is an increase from the approved 2006 development of the stage 1 subdivision which required a 3m high acoustic mound to be established.

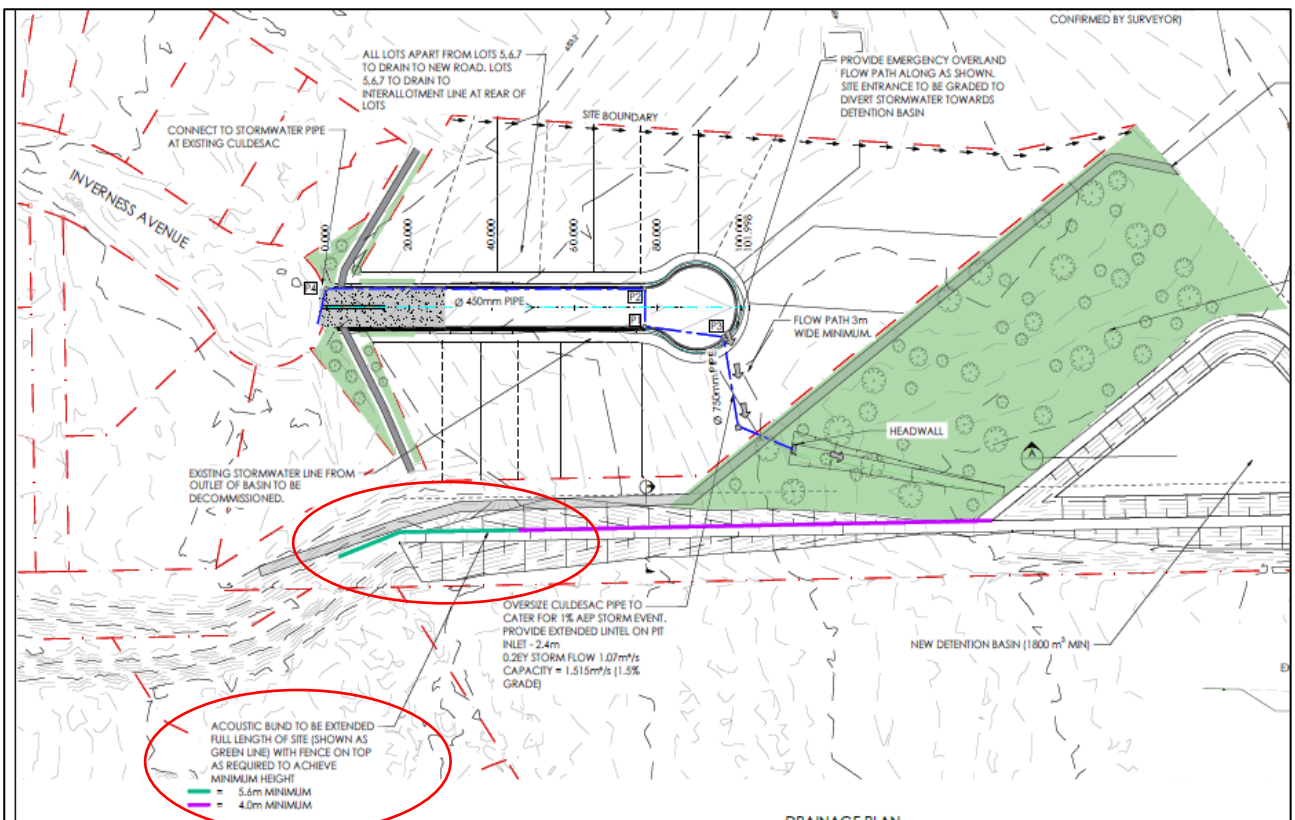


Figure 8: Civil Plans with Acoustic Measures Shown – July 2022

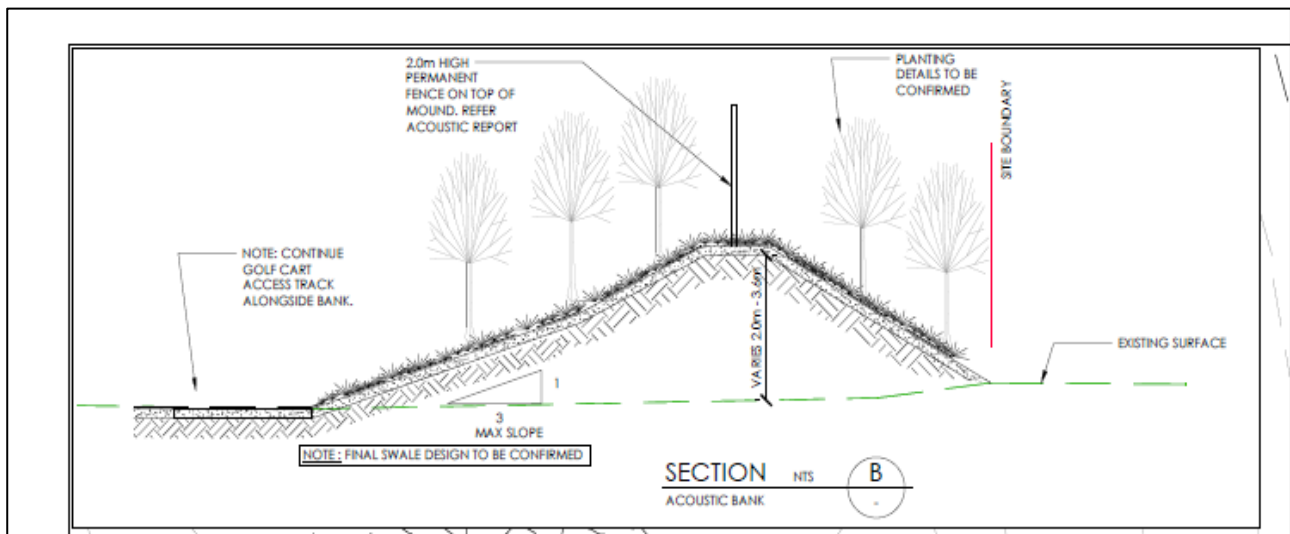


Figure 9: Civil Plan – Section of Acoustic Bunding – July 2022

(B) ACCESS, TRANSPORT AND TRAFFIC

The implications of additional traffic and suitable access to the site have been assessed by Council's Development Engineers with a supporting traffic assessment report provided with the application.

It is important to note that the traffic assessment was provided to Council based on the original development design submitted in November 2021 which included dual occupancy developments over proposed Lots 5 to 9 (totalling 22 dwellings). The assessment found that the addition of up to 22 dwellings in this location will see a minor increase in traffic on the surrounding road networks however, this minor increase does not trigger the need for upgrades to existing road infrastructure. This was reviewed by the Development Engineering Department and no objections were received. The engineers were not however supportive of any variation to a reduced road reserve width under the DCP 2013. The applicant subsequently opted to amend the width of the proposed new road to achieve full compliance with the DCP 2013 and a 16m road reserve width (9.6m pavement width) is now provided.

The proposal is therefore considered appropriate.

(C) PUBLIC DOMAIN

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces. The development seeks to continue to maintain the golf cart access arrangements that benefit the existing Inverness Avenue residents and pedestrian connections via the Golf Course land.

(D) UTILITIES

All relevant utilities are available or can be made readily available to the site as discussed throughout this report and in compliance with the Mid-Western Regional Local Environmental Plan 2012 requirements. Furthermore, no objections have been received from the Water and Sewer Department in relation to servicing of the subject site, being at the full cost of the developer.

(E) HERITAGE

Not Applicable

(F) OTHER LAND RESOURCES

No impact expected on the conservation or the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments as a result of the proposed development. The Mudgee Golf Club will still co-exist in this location and the boundary adjustment approved under DA0102/2021 will enable 1.003 hectares of residential zoned land to be developed for residential purposes.

(G) WATER

No significant impact expected and reticulated water able to accommodate the proposed development. Conditions are also imposed to manage dust during construction and the management of stormwater will be required in accordance with the drainage plan provided with the application.

(H) SOILS

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

(I) AIR AND MICROCLIMATE

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

(J) FLORA AND FAUNA

The vegetation proposed to be removed has been discussed throughout this report.

(K) WASTE

Waste service available and able to accommodate the proposed new subdivision and dwellings subject to compliance with the conditions of consent to enable a waste truck to access all lots. With the increase in road widths now proposed, compliance is capable of being achieved.

(L) ENERGY

BASIX Certificates have been provided for each dwelling proposed. Conditions imposed to ensure future compliance.

(M) NOISE AND VIBRATION

The subject site is located in close proximity to the established industrial precinct of Depot Road, to the south and east of the land. As noted earlier within this report, the applicant has committed to upgrade and extend the acoustic mounding with fencing and landscaping (commencing at 4m high to 5.6m high) which is consistent with the requirement of the Acoustic Impact Assessment report provided with the subject application.

The acoustic report has assessed both the proposed double storey developments on Lots 10 and 11, however has based the assessment of the proposed vacant Lots 7, 8 and 9 as future single storey dwellings only. Notwithstanding, the acoustic barrier upgrades are required for the full length of the adjoining golf course buffer land which already contains a smaller mound that was required by the earlier approved for the stage 1 subdivision of Inverness Avenue.

Furthermore, as the same consultant was used for acoustic reporting on the industrial land and workshops adjoining the subject site approved under DA0214/2014 (most recently modified in 2021), the report has also included an assessment on the layout of the approved industrial workshops and the requirement to have roller doors and openings closed during the evening periods of operations.

The acoustic assessment concludes that with the acoustic barrier in place (commencing at 5.6m within the golf course land and reducing to 4m as shown in Figure 8 above), noise from the nearby

Depot Road industrial precinct will not create adverse impacts at proposed receivers in the subdivision.

It is recommended however that a condition be imposed requiring the developer to increase the acoustic barrier to 5.6m for the full length to ensure any future dwellings (that may include a double storey) on Lots 7, 8 and 9 are also protected by the acoustic barrier.

(N) NATURAL HAZARDS

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues. No specific conditions are required in this regard.

(O) TECHNOLOGICAL HAZARDS

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk. No specific conditions are required in this regard.

(P) SAFETY, SECURITY AND CRIME PREVENTION

The proposed development is consistent with the established arrangements of Inverness Avenue and the connections provided to the Mudgee Golf Course. As a result, it is considered that there will be increased passive surveillance as a result of the proposed development moving forward.

(Q) SOCIAL IMPACT IN THE LOCALITY

The proposed development provides additional housing opportunities that align with previous strategic planning work to zone the land for residential purposes. As a result, there is a generally positive social impact generated by the development.

(R) ECONOMIC IMPACT IN THE LOCALITY

The proposed development will generate a generally positive economic impact and will include local employment opportunities generated by the construction of the development.

(S) SITE DESIGN AND INTERNAL DESIGN

The design of the development is considered to be a positive outcome considering the existing constraints and lot arrangements, whilst also considering the existing residents at the end of Inverness Avenue. This includes the upgrade of infrastructure such as stormwater drainage and acoustic mounding that has caused concern in the past for existing residents.

The design of each dwelling is unique to the new lots proposed, whilst remaining well-proportioned, maintain the amenity and privacy of the area and are not replicated or identical designs.

The maintenance of the golf course connections will continue to be the responsibility of the Mudgee Golf Club and additional conditions of consent are recommended to ensure that complaints regarding the untidiness of the area are directed to the Mudgee Golf Club and not to Council.

(T) CONSTRUCTION

Conditions are recommended to manage the construction process for both the civil and building construction processes. This includes hours of construction, dust management and sediment and erosion control measures.

(U) CUMULATIVE IMPACTS

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

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

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

It is considered that the site is suitable for the residential zoned land upon which it is sited, and is able to fit within the locality, subject to installation of an upgraded acoustic barrier in accordance with the acoustic report submitted being constructed within the 20m wide easement over proposed Lot 1 (golf course land). There are no hazardous land uses nearby that would preclude the development proceeding and there are adequate utilities and transport facilities in the area available for the development.

(B) ARE THE SITE ATTRIBUTES CONDUCTIVE TO DEVELOPMENT?

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

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

(A) PUBLIC SUBMISSIONS

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 18 March 2022. During the notification period, 14 submissions were received. The applicant lodged amended plans during the assessment process however, the changes were to reflect DCP compliance issues regarding the road reserve width and the golf cart access proposed over the new public road which were not considered significant enough with regards to implications on adjoining neighbours. Therefore, re-notification of the proposal was not considered necessary as the general subdivision and dwelling layout remains substantially the same.

A summary of the concerns raised is provided below, along with copies of the submissions made provided within Attachment 2. The applicant has also provided a response to the submissions which is included at Attachment 3.

Summary of concern raised	Comment
Golf Club have not completed previous obligations in the original development. E.g. retention dam, golf cart track never gravelled, lights not installed or maintained, acoustic hedge not maintained, entry signage and footpath	Whilst the concerns regarding previous compliance with conditions of consent are valid, the applicant of this development is not the golf club. Therefore the responsibility will fall to the applicant to complete the works and comply with the conditions of consent and following this, maintenance of the areas such as the acoustic mounding and stormwater basin will fall to the Mudgee Gold Club. Additional conditions are recommended to ensure complaints are quickly managed by the Mudgee Golf Club and a plan of management is to be prepared for these areas.
Increase in traffic and vehicle overcrowding / on-street parking within Inverness Avenue	The traffic assessment has considered the impacts of the potential for 22 dwellings utilising the local road network and existing intersections which found no significant impacts to require upgrades of existing infrastructure. Council's development engineers have also raised no objections in regards to traffic generation but have requested an increase to the road width of the development to ensure better servicing and full compliance with the DCP 2013.
Property devaluation	This is not a planning consideration. The site has been zoned for residential purposes since 2008 and the development is

	consistent with the strategic planning work endorsed by Council and previous concept plans prepared by the Mudgee Golf Club for the area.
Maximum number of 12 lots in cul-de-sac exceeded and concerns for emergency services access	The development does not exceed the maximum lots as part of the stage 1 subdivision (11 proposed) with attached dual occupancies permitted on lots of at least 600m ² which can lawfully be further subdivided under the LEP 2012. A merits based assessment has therefore been undertaken and this is considered acceptable with an increase in road width provided.
No green space / open space or located within 400m of park or open space	The 'green space' currently exists within the golf club land and this will not change as a result of the proposed development. It will be relocated to the eastern side of the development as shown on the civil drawings. Further, as the development does not propose greater than 20 lots, there is no requirement to provide a park or open space area within 400m of the site. Arguably however, the golf club will continue to provide 'open space' which will continue to support the existing and future residents of the area.
Loss of views to golf course due to 2 storey dwellings / loss of peace and quiet / no 2 storey designs permitted in Inverness Ave	The limitation of 2 storey design within the existing Inverness Avenue was a developer covenant applied on each lot under the previous subdivision in 2006. There are no specific controls that restricts double storey development in Mudgee and as a result, a merits based assessment has been applied in this regard. Loss of views in an urban setting cannot be considered from a planning perspective however.
Seek an alternative access/road to the site via golf course land - Inverness Avenue is not constructed to handle heavy vehicles required to support the construction of the development	The subject land, once the boundary adjustment previously approved is completed, will result in access only being available via Inverness Avenue. Inverness Avenue has supported the previous construction of homes in this location and therefore there are no concerns that the road cannot accommodate temporary construction traffic. Notwithstanding, the applicant will be required to ensure that any damage caused by the developer is remedied to the satisfaction of Council. A condition is imposed accordingly.
Public road proposed over existing cart access to golf course / loss of golf cart link to course	The golf cart access will be directed via the south eastern boundary and align with the upgraded acoustic barrier. Therefore no golf cart access will occur over a public road.
Right of carriageway proposed	There is no Right of Carriageway proposed by this development. There will continue to be rights of access for the golf cart track over the golf course land.
Overshadowing of dwellings with 2 storey design and loss of privacy	As noted within the assessment of the application above, 12A Inverness Avenue will continue to receive a minimum of 3 hours of solar access on the 21 June and no loss of privacy is proposed with all windows proposed on the upper storey to be high placed windows.
Open channel is not compliant	The new stormwater detention basin is considered to be compliant with Council's requirements.
Use of dwellings by investors	Council has no power to regulate ownership of properties.

Dangers to children playing in street, walking or riding to school	There is not considered to be any increased risk to children as a result of the proposed development.
Pressure on existing services - water and NBN.	There is not considered to be any impact on water provision or NBN as a result of the proposal.
Removal of reserve and open space at end of existing street	The reserve / open space area has been relocated to accommodate the proposal and will still be located over Golf Club land. This area is not 'public land'.
Development is too close to industrial land in Depot Road / Depot Road operates 24 hours a day	As noted throughout the assessment report, upgraded acoustic measures are required and this includes a condition to maintain the 5.6m high barrier for the full length of the acoustic easement.
Proposed Density - Lot sizes and design is not in line with original development or existing streetscape	The proposed lot sizes are compliant with the LEP 2012 and the overall design is considered acceptable.
No consideration to existing drainage issues in Inverness Avenue / Golf Club land	The developer must ensure that the proposed development does not increase pre-development flows and as a result a concept stormwater design has been submitted that also considers run off from the golf course. Conditions have been recommended accordingly.
Conflicts of interest	Any conflicts of interests must be managed in accordance with Councils code of conduct.
Consistency of development with established residential development for 'non permitted' development e.g. no Colorbond fencing, no garden sheds in rear yards etc.	<p>The existing "prohibited developments" are legally known as 'restriction to users' which is imposed on the existing residents of Inverness Ave and have been imposed by the original developers (i.e. Mudgee Golf Club). They are not requirements of Council.</p> <p>Under State Planning Policy requirements, there are exempt development provisions which can be utilised accordingly for minor forms of development (and not require Council approval). Should the developer in this circumstance wish to replicate the same prohibitions on this subdivision, this cannot be forced upon them by Council when the DCP requires certain fencing types to maintain privacy.</p>
Easement for stormwater must be extended and discharge piped underground to connect to the existing line	The engineers have considered this matter and conditions imposed accordingly.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

The application was referred to Essential Energy with those relevant comments included within the conditions of consent.

The Public Interest – 4.15(1)(e)

(A) FEDERAL, STATE AND LOCAL GOVERNMENT INTERESTS AND COMMUNITY INTERESTS

No submissions were sought or received from public authorities.

CONSULTATIONS

(A) Health and Building

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

(B) Technical Services

Council's Development Engineer has not raised any concerns with the proposal subject to conditions based on the amended plans provided to Council.

(C) Heritage Advisor

No consultation necessary.

(D) Environmental Health Officer

Council's Environmental Health Officer has not raised any concerns with the proposal subject to a condition regarding the acoustic mounding being staggered over a length of 4m. This has been altered by a condition requiring the full length of the acoustic barrier within the acoustic easement to be 5.6m high in order to accommodate future developments of a similar scale over the vacant lots proposed.

Community Plan implications

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

Strategic implications

Council Strategies

Not Applicable

Council Policies

Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Community Participation Plan 2019
Mid-Western Regional Developer Servicing Plan 2008

Legislation

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2021
Mid-Western Regional Local Environmental Plan 2012

Financial implications

The Applicant will be required to pay developer contributions in accordance with the Mid-Western Regional Contributions Plan 2019 and Developer Servicing Plans 2008.

Associated Risks

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

KAYLA ROBSON
PLANNING COORDINATOR

ALINA AZAR
DIRECTOR DEVELOPMENT

21 July 2022

- Attachments:*
1. Attachment 1 - DA Plans & Supporting Documents. (separately attached)
 2. Attachment 2 - Public Submissions (redacted). (separately attached)
 3. Attachment 3 - Applicant Response to Public Submissions. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER