

Item 8: Development

8.1 ME0008/2023 - Modification to DA0333/2022 - Torrens Title Subdivision of Land (1 into 41 Lots) at 1-5 Railway Street, Gulgong

REPORT BY THE PLANNING COORDINATOR AND MANAGER, PLANNING
TO 19 OCTOBER 2022 ORDINARY MEETING
GOV400098, DA0333/2022

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator and Manager, Planning on ME0008/2023 - Modification to DA0333/2022 - Torrens Title Subdivision of Land (1 into 41 Lots) at 1-5 Railway Street, Gulgong; and
- B. approve ME0008/2023 - Modification to DA0333/2022 - Torrens Title Subdivision of Land (1 into 41 Lots) at 1-5 Railway Street, Gulgong be approved subject to the following amended conditions and Statement of Reasons:

CONDITIONS

APPROVED PLANS

1. The development is to be carried out generally in accordance with the following stamped plans, except where amended as required by following conditions. Approved documentation may include any Planning or Engineering reports submitted with and in support of the Application as detailed below.

Drawing No.	Sheet	Plan Title	Rev.	Date	Prepared by
322037_02 Sheet TP01	1 of 1	Proposed Subdivision Plan – Overall Plan	F G	03.03.2022 11.08.2022	Premise

Any minor modification to the approved plans other than as required by following conditions will require the lodgement and consideration by Council of amended plans. Amended plans will need to be accompanied with supporting documentation and calculations where necessary. Major modifications will require the lodgement of a new development application.

AMENDED BY ME0008/2023

GENERAL

2. This consent is for the subdivision of land only. No physical works are approved under this consent. A Subdivision Works Certificate is required to be obtained for all physical works associated with this consent.
3. No structures or earthworks are permitted to encroach within any easements for the purposes of utility infrastructure as specified in Council's Development Control Plan.
4. All road crossings for services and utilities are to cross perpendicular to the road alignment and must be installed prior to the commencement of construction of base course and kerb and channel.
5. The finished surface of all nature strips and verges must be graded to fall toward the kerb and channel and formed with a minimum 100 mm thick layer of clean topsoil free of stones and other impurities. Nature strips and verges are to be seeded or hydro-mulched with an approved grass prior to the issue of a Certificate of Practical Completion.
6. Any fill placed in residential lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
7. The only waste derived fill material that may be received at the development site must be:
 - a) Virgin excavated natural material, within the meaning of the *Protection of the Environment Operations Act 1997*; and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.
8. 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.
9. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the Developer. The Developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
10. All costs associated with preparation of Survey Plan and associated easement documentation are to be borne by the developer.
11. Any damage to Councils infrastructure that occurs as a result of the proposed development must be prepared immediately to Councils satisfaction and at no cost to Council.

ROADS AND FOOTPATHS

12. The Developer is required to provide for the construction of new road and road upgrades that includes, but may not be limited to:
 - Construction of kerb and channel for the full road abutments of all Lots created by this Subdivision;

- The construction of pavement widening, extension of kerb and channel and bitumen sealing of those parts of Railway Street that abut the development; and
- The construction of concrete footpaths 1.35 metres wide for the full abuttal of Railway Street and new internal road.

The new internal road must provide for a trafficable court bowl no less than 10 metres radius. Road pavements must be designed and constructed in accordance with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document and relevant parts of AUS-SPEC specifications.

13. All earthworks for the roads associated with the development must have compaction testing compliance with EMS Q4 and AUS-SPEC CQS-A.

STORMWATER

14. The Developer must provide for the design and construction of all stormwater drainage infrastructure to service the development. The extent of stormwater drainage works will include, but is not limited to:
- construction of inter-allotment drainage along the southern boundary to intercept and control surface runoff from upstream catchments; and
 - construction of a stormwater drainage system generally in accordance with the Plan Set provided with the application.
15. Prior to the issue of a Subdivision Works Certificate the Applicant must provide a fully detailed Stormwater Drainage Report and Design for approval by Council that provides for control and treatment of stormwater runoff generated by future residential development of the land. The report must demonstrate that proposed detention arrangements do not increase the rate of discharge of stormwater runoff from the site beyond the existing undeveloped state for a storm event up to and including a 1:100 year ARI event. Methods of stormwater detention must be included in the design to ensure that the rate of stormwater runoff flows from the development do not exceed the volume and rates generated by a 1:5 year ARI storm event from the undeveloped site.
16. Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties other than at approved locations and methods of disposal. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over any adjoining property must not occur without the consent of the owner of any affected property.
17. Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with relevant parts of AUS-SPEC specifications. Easements shall be created over inter-allotment drainage in favour of upstream allotments.

WATER AND SEWER SERVICES

18. The applicant is to provide separate water reticulation services to each allotment within the subdivision.
19. The developer is to extend and meet the full cost of water reticulation 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 (WSAA).

20. The extent of water main extension to provide adequate and satisfactory supply will require a new main constructed from the 100 mm diameter main in Railway Street, along the new internal road and extending through the proposed drainage reserve to connect with other 100 mm diameter main in Homer Street.
21. The developer is to provide a water service and meter for each lot in the subdivision. Where the provision of a service connection for a proposed new lot is undertaken during the installation of new water mains by the Developer, and prior to any 'live' connection, the Developer can achieve this by making a payment to Council by payment for one meter per lot or dwelling as specified in Council's Schedule of Fees and Charges, noting that this amount is indexed to increase each financial year.

Note: Council does not permit other bodies to insert new connections into 'live' water mains. The cost referenced above is for the supply of meter only and is subject to CPI increases.

22. In the case of any lots that will not be serviced by a water main constructed by the developer, a full water service will be required. The developer will be required to pay for full Water Service Connection for a 20 mm water supply, for an amount of \$2,150.00 per lot as specified in Council's Schedule of fees and Charges, noting that this amount is indexed to increase each financial year.
23. The developer is to extend and meet the full cost of sewer reticulation to service the development plus the cost of connecting to existing services.
24. 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.
25. In the case of any lots that will be serviced by a sewer main constructed by the developer the sewer junctions required to service the proposed lots must be installed by the developer.

TELECOMMUNICATIONS AND ELECTRICITY SUPPLY

26. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authorities' standards. Each allotment is to be provided with a service point / connection to an underground electricity supply. Prior to the issue of the Subdivision Works Certificate, Council is to be provided with the certified copies of the Electrical and Telecommunications distribution network design for the subdivision.

CULTURAL HERITAGE

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

Note: A suitably qualified person is required to be present during earthworks to identify whether any artefacts were uncovered.

PRIOR TO ISSUE OF A SUBDIVISION WORKS CERTIFICATE

28. A Subdivision Works Certificate is required for but not limited to the following civil works;

- **Water and sewer main extensions,**
- **Roads, including concrete kerb, pavement and bitumen seal,**
- **Stormwater drainage such as inter-allotment drainage, detention basins, culverts, pits and table drains,**
- **Footpath (concrete paths, 1.35 metres wide and with crossfall and kerb ramps where necessary in accordance with AS 1428 and DDA requirements),**
- **Landscaping of public reserves and nature strips / verges.**

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

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

29. Prior to the issue of a Subdivision Works Certificate a detailed engineering design, specifications, supporting documentation / reports and calculations, and schedules are to be submitted to and approved by Council. The engineering design is to comply with the technical and performance requirements of Council's Development Control Plan and the Standards referenced within Appendix B and D of that document. Detailed documentation including, but not limited to the following matters, must be submitted with the detailed design.

These documents include:

- **Runoff calculations**

30. Prior to issue of a Subdivision Works Certificate, a detailed design is to be submitted and approved by Council which provides information on all proposed playground, landscaping and irrigation works within each Reserve nominated in the development. Where the detention basin is to be located adjacent to playground equipment, suitable fencing / child protection measures are to be included in the design for approval by Council.

31. Prior to issue of a Subdivision Works Certificate, an updated street tree planting plan and schedule is to be provided and approved by Council which is to include at least 2 street tree per lot (excluding the battle axe lot) and is to specify trees of not less than 1.2 metres in height are to be installed. Protection measures and irrigation lines are also to be detailed accordingly. The planting schedule is to ensure allowance is made for future driveways in accordance with Council's Access to Properties Policy.

32. 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. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

33. Prior to the issue of a Subdivision Works Certificate a Traffic Guidance Scheme (TGS) completed by a "Certified Person" for implementation during works is to be submitted

to Mid-Western Regional Council. All requirements of the TGS must be put in place and implemented prior to any work commencing.

34. 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.
35. An Erosion and Sediment Control Plan (ESCP)/ Soil and Water Management Plan (SWMP) for the development is to be prepared and submitted with the Subdivision Works Certificate. All measures shall be 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 are not limited to:

- a) Saving available topsoil for reuse in the revegetation phase of the development;
- b) Using erosion control measures to prevent on-site damage prior to any construction activity on site;
- c) Rehabilitating disturbed areas promptly;
- d) 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.

PRIOR TO COMMENCEMENT OF WORKS

36. Prior to commencement of any works, a Subdivision Works Certificate shall be obtained.
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;
 - 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. Prior to the commencement of any works a copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (Twenty million dollars) is to be

provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the Contractor.

40. Runoff and erosion controls shall be installed prior to clearing and incorporate:-

- a) diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
- b) sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water; and
- c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.

DURING WORKS

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

- Monday to Saturday - 7.00am to 5.00pm

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

42. The subdivision works are to be inspected by the Council (or an Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:

- Installation of sediment and erosion control measures.
- Water and sewer line installation prior to backfilling.
- Vacuum / pressure testing of all water and sewer mains.
- Stormwater drainage pipe installation prior to backfilling.
- CCTV inspection of all sewer mains and stormwater drainage.
- Proof roll inspection of sub-grade prior to placement and compaction of sub-base.
- Proof roll inspection of sub-base prior to installation of concrete kerb.
- Proof roll inspection of compacted sub-base prior to placement of base course.
- Proof roll inspection of compacted base prior to sealing.
- CCTV inspection of all sewer mains and stormwater drainage once final earthworks have been completed to finished surface levels.
- Practical Completion.
- At completion of the Defects Liability Period a further CCTV inspection of all sewer mains and stormwater drainage is to be undertaken prior to the issue of a certificate of Final Completion and the release of Defects Liability bond monies.

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

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

44. 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 Titles Office and Council.

45. All works are to be constructed at the full cost of the developer, in a manner consistent with relevant parts of AUS-SPEC specifications and Council's standard drawings.
46. 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.
47. The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
48. Where necessary the adjustment of existing services, infrastructure or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.
49. Following the completion of subdivision works, one set of Works As Executed Drawings in PDF format, AutoCAD compatible files in DWG format, MapInfo files (MGA GDA94 Zone 55/56) and completed Asset Data Template spreadsheets in MS Excel format, are to be submitted to Council. All Works As Executed plans shall bear the consulting engineer's or consulting surveyor's certification stating that all information shown in the plans are accurate.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

50. Prior to issue of a Subdivision Certificate, the creation of Lot 5 approved under DA0154/2022 shall be registered with NSW Land Registry Services.
51. **Prior to issue of a Subdivision Certificate for stages 1 and 2, all works associated the proposed Reserves are to be completed to the satisfaction of Council with a satisfactory completion report issued.**

Note: This must include playground equipment within the Reserve associated with stage 2 which must comply with all relevant Australian Standards, and approved safety or protection measures installed to prevent direct access to the detention basin from the playground.

AMENDED BY ME0008/2023

52. Prior to issue of a Subdivision Certificate, two (2) Street Trees per lot released are to be installed.
53. Under the *Environmental Planning & Assessment Act 1979*, a Subdivision Certificate is required before the linen plan of subdivision can be registered with NSW Land Registry Services.

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

54. The linen plan and associated documents are to be submitted to Council for approval via the NSW Planning Portal with the application for a Subdivision Certificate.

Note: Council's fee to issue a Subdivision Certificate is set out in Council's fees and charges.

55. 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. A final satisfactory inspection report is to be provided with the application for a Subdivision Certificate.
56. Prior to the issue of a Subdivision Certificate and following completion of all engineering works, a Defects Liability bond in a form acceptable to Council to the value of 5% of the value of all works must be lodged with Council to be held for a period of twenty-four (24) months to ensure any defects that become apparent during that time are remedied by the developer.
57. Three metre wide easements, including associated Section 88B instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.
58. To ensure that increased runoff from the future development of dwellings does not adversely affect the flood risk to downstream properties suitably worded Section 88B documentation placing a restrictive covenant on each allotment requiring detention devices to be included for all building works. Detention devices must provide a minimum 2,000 litres detention storage to be discharged to empty after each rain event through an orifice no greater than 19 mm diameter. Detention devices are to be maintained by the owner to the satisfaction of Council at all times.
59. 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 or sewer reticulation components (width of 3m)
60. Prior to issue of the Subdivision Certificate, the developer shall contact Council's Property and Rating Department to ensure that the Street Addressing for each lot is correctly allocated in accordance with AS4819 and the correct addressing is included with the submitted Subdivision Certificate Application documentation.
61. Prior to the issue of a Subdivision Certificate all services must be located as necessary to lie entirely within the proposed new Lot boundaries. Alternatively, appropriate easements may be created.
62. All existing easements and newly created easements are to be shown on the Plan of Subdivision submitted prior to the issue of a Subdivision Certificate.
63. 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 Titles Office and Council.
64. 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 AusSpec and the requirements outlined below:
 - A) COVERSHEET
 - (i) Project Address

- (ii) Client/Developer
- (iii) DA Number
- (iv) Lot Numbers
- (v) Subdivision Stage Number (If Applicable)

B) INDEX

- i) Section Numbers

C) CONTRACTOR DETAILS

- i) Contractor Representative
- ii) Contractor Contact Details

D) SCOPE OF WORKS

- i) Enter description outlining scope of works completed

Records to be included, as applicable:

- Material Certification and Material Test Reports (Sub base, Base course, Water, Sewer, Stormwater, Bitumen etc. for supplied materials)
- Concrete mix Details (Concrete Register/ Concrete Test Results required)
 - Bitumen Sealing Reports/Records
 - Earthworks/Civil Test Reports e.g. compaction tests - (Coordinates and RL required for each test required to be shown on a .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 .dwg's and Engineering Stamp required in AutoCad, DWG, Map Info, Excel and PDF format)
 - Copy of final inspection report from Council's Development Engineer

65. In accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Council's Mid-Western Regional Contributions Plan 2019, a contribution shall be paid to Council in accordance with this condition as detailed in the table below. The contribution shall be paid to Council prior to the issue of a Subdivision Certificate for each residential lot to be released within each stage. Contributions are subject to increase in accordance the consumer price index and are payable at the rate applicable at the time of payment.

Section 7.11 Contributions			
'Outside Catchment	Mudgee'	Per 2 or more bed dwelling / separate house / lot	38 Residential Lots (2 Reserves and credit for existing lot)
Public Amenity or Service			
Transport facilities		\$ 2,399.00 \$2,471.00	\$ 91,162.00 \$93,898.00
Recreation and Open Space		\$ 997.00 \$1,027.00	\$ 37,886.00 \$39,026.00
Community Facilities		\$ 630.00 \$649.00	\$ 23,940.00 \$24,662.00
Stormwater Management		\$ -	\$ -
Plan Administration		\$ 1,003.00 \$1,034.00	\$ 38,114.00 \$39,292.00

Total Payable	\$ 5,029.00 \$5,181.00/ Lot	\$ 191,102.00 \$196,878.00
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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.

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.

AMENDED BY ME0008/2023

66. The developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council, prior to issue of a Subdivision Certificate ~~for each relevant stage.~~

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

AMENDED BY ME0008/2023

67. 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.
68. If the Subdivision Certificate is not issued in the financial year that the Development Consent was issued, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
69. Prior to the issue of a Subdivision Certificate:
- all contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or
 - an agreement be made between the developer and Council;
 - as to the security to be given to Council that the works will be completed or the contribution paid, and
 - as to when the work will be completed or the contribution paid.
70. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
- A certificate of acceptance from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and
 - 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.
71. Underground electricity, street lighting and telecommunications are to be supplied to the Subdivision in accordance with the relevant authority's standards.

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 Subdivision Certificate.

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

Please be advised that as a precondition to the granting of a Compliance Certificate, a monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable).

Stage 1

Section 64 Contributions	7 Lots @ 1ET and 7 Lots @ 0.75ET less 1 credit for existing large lot
Water Headworks	\$ 94,127.00
Sewer Headworks	\$ 44,766.40
Total Headworks	\$ 138,893.40

Stage 2

Section 64 Contributions	Road and Drainage Lot only
Water Headworks	Nil
Sewer Headworks	Nil
Total Headworks	Nil

Stage 3

Section 64 Contributions	12 Lots @ 1 ET less 1 credit for existing large lot
Water Headworks	\$ 91,938.00
Sewer Headworks	\$ 43,767.15
Total Headworks	\$ 135,705.15

Stage 4

Section 64 Contributions	2 Lots @ 0.75ET and 11 Lots @ 1 ET less 1 credit for existing large lot
Water Headworks	\$ 96,316.00
Sewer Headworks	\$ 45,765.65
Total Headworks	\$ 142,081.65

Section 64 Contributions	30 Lots @ 1ET and 9 Lots @ 0.75ET less 1 credit for existing large lot (1ET Water / 1.05ET Sewer)
Water Headworks	\$ 318,060.75
Sewer Headworks	\$ 147,048.30
Total Headworks	\$ 465,109.05

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

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. 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.

Division 8.2 of the Environmental Planning and Assessment Act 1979 (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.

If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).

4. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

ESSENTIAL ENERGY ADVISORY NOTES

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
As part of the subdivision, easement/s are to be created for any existing electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.
3. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.
4. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
5. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
6. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to

electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development generally complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. No submissions were received during the public exhibition period.
4. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.55 of the Environmental Planning & Assessment Act 1979.

Executive summary

OWNER/S	GULGONG HOLDINGS
APPLICANT	MR ROY AMERY
PROPERTY DESCRIPTION	LOT 2 DP 613429 1-5 RAILWAY STREET GULGONG
PROPOSED DEVELOPMENT	SUBDIVISION - 1 INTO 41 LOTS
ESTIMATED COST OF DEVELOPMENT	\$2,001,505.00
REASON FOR REPORTING TO COUNCIL	MODIFICATION TO APPLICATION (GREATER THAN 20 LOTS) PREVIOUSLY REPORTED TO COUNCIL

Council granted consent to Development Application DA0333/2022 for the subdivision of 1 lot into 41 lots (including 2 reserves) over 4 stages at the 15 June 2022 Council meeting on land known as 1 – 5 Railway Street, Gulgong. This development is part of the second stage of the subdivision of the land with 4 lots fronting Railway Street approved under DA0154/2022 still to be released.

Council is in receipt of a Section 4.55 (1A) Application ME0008/2023 to modify Development Application DA0333/2022. The modification proposes to remove the staging of the development, delivering all lots and supporting infrastructure at the same time under DA0333/2022.

The application was not required to be notified or advertised in accordance with the Mid-Western Regional Community Participation Plan 2019 as the modification is minor and only alters the staging arrangements. No submissions were received during the assessment period.

The proposed development has been assessed in accordance with Council's DCP and the LEP. The proposed development remains generally consistent with Council's planning controls, as previously approved by Council on the 15 June 2022.

The modification application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that the original development application was determined by a full meeting of Council as the total lots exceeded 20.

The modification application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

PRECEDING APPROVED DEVELOPMENT

Council granted consent to Development Application DA0333/2022 for the subdivision of 1 lot into 41 lots (including 2 reserves) at the 15 June 2022 Council meeting. The original DA approval allowed for the subdivision to be released in 4 stages over Lot 2 DP 613429 known as 1 – 5 Railway Street, Gulgong as follows:

- Stage 1 (14 Residential Lots, new road 1, footpath on the eastern side and connecting footpath onto Belmore Street to the south, and a drainage reserve lot fronting Railway Street) – Lots range from 600m² to 855m².
- Stage 2 contained the new road 2, footpath on the southern side, and a detention basin with park at the end of the cul-de-sac and overflow directed towards Railway Street. This detention basin / park will have a 3m wide emergency access route out onto Homer Street and footpath on the northern side of the lot.
- Stage 3 (12 Residential Lots) – Lots ranging from 700m² to 1039.5m².
- Stage 4 (13 Residential Lots) – Lots ranging from 621.9m² to 1,040.4m² and a new footpath connecting to Belmore Street to the south.

PROPOSED MODIFICATION

Council is in receipt of a Section 4.55 (1A) Application ME0008/2023 to modify Development Application DA0333/2022.

The modification proposes to remove the staging of the development by modifying the approved subdivision plan, effectively delivering all proposed lots and associated infrastructure at the same time. There are no other changes to the number of lots, size of lots or arrangements to the plan of subdivision approved by Council on the 15 June 2022.

Figures 1 – 3 below, provides the site location, previously approved subdivision layout including staging and the revised subdivision plan, removing the staging.



Figure 1: Site Location Plan

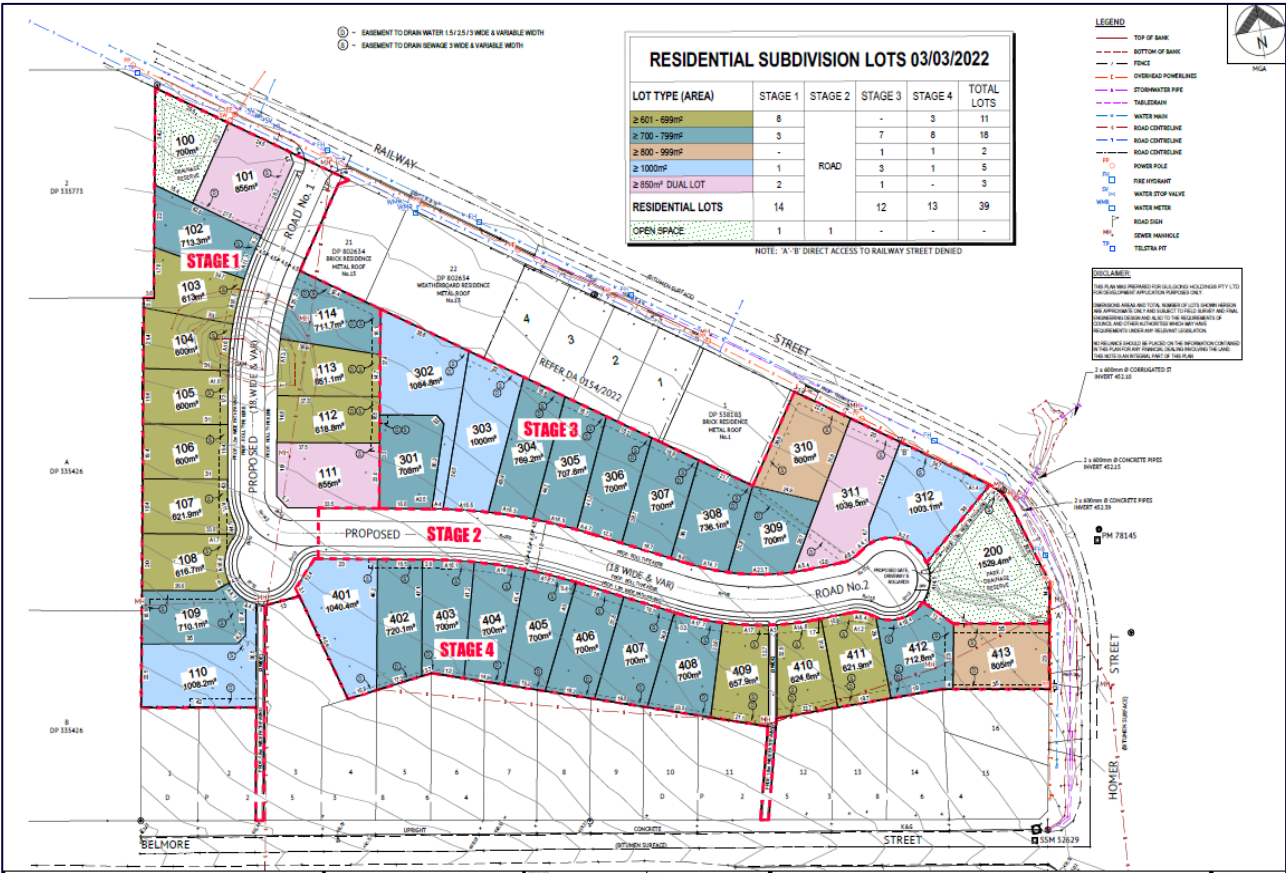


Figure 2: DA0333/2022 Approved Plan of Subdivision

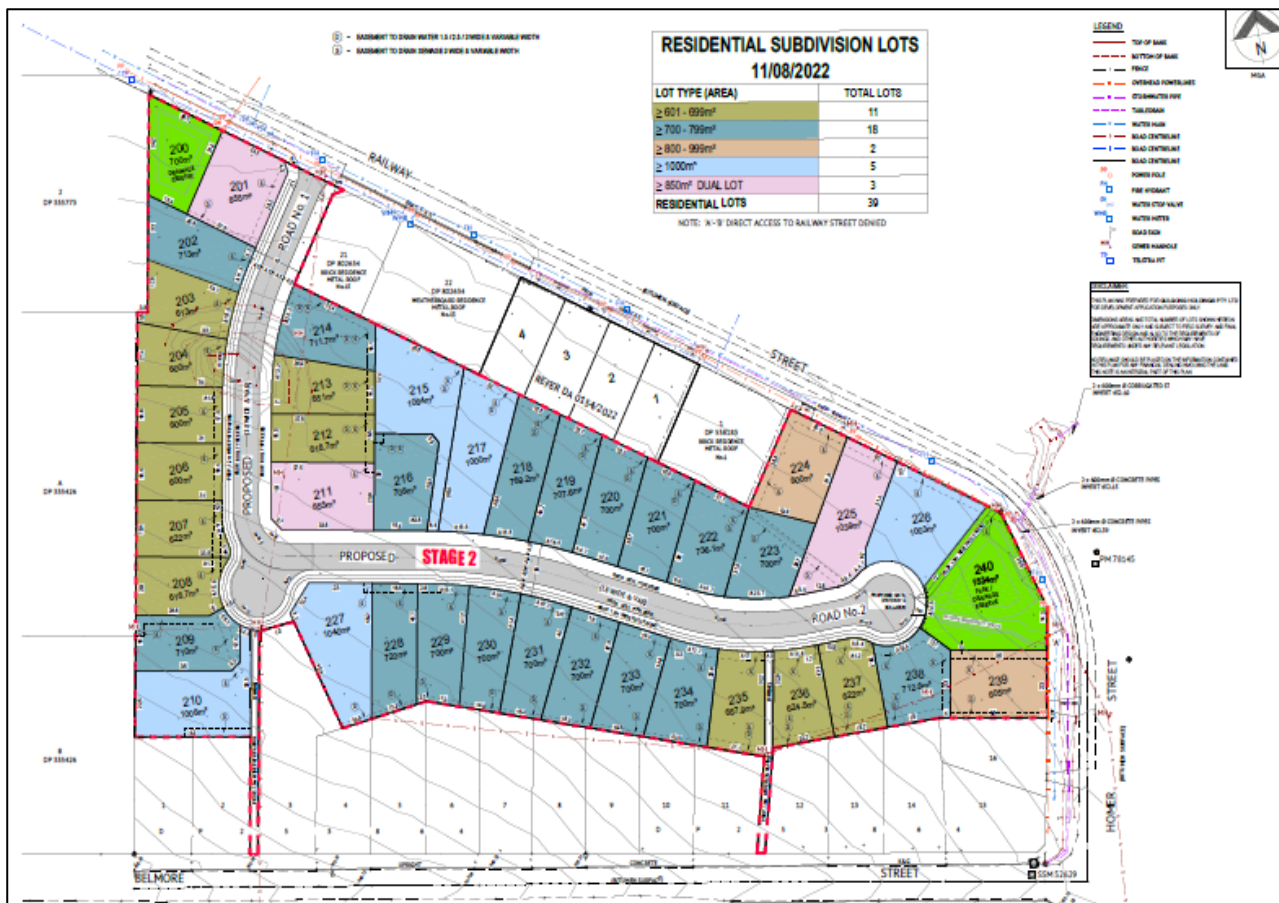


Figure 3: ME0008/2023 Subdivision Plan

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 2000 (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 4.55** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.55 (1A) Modifications involving minimal environmental impacts

(1A) **Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment The proposal to remove the proposed staging of the development is considered to be of minimal environmental impact and does not alter the previous assessment of the application by delivering the overall development at the same time.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all); and

Comment Council is satisfied that the proposed modification is substantially the same development as the original consent.

(c) it has notified the application in accordance with:

Comment The S4.55 Application was not required to be notified to adjoining neighbours as per Council's Community Participation Plan 2019 in that the removal of the staging does not increase any impacts on adjoining lands and no intensification of the total yield sought for the development is proposed.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment No submission was received.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment All matters under Section 4.15(1) of relevance to the modification are addressed below.

4.15(1)(a) Evaluation – Matters for consideration

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

The proposed modification does not alter the proposal's compliance with the relevant State Environmental Planning Policies, considered as part of the original Development Application. No new considerations were required to be addressed as a result of the proposed modification.

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

The original development was considered against the Mid-Western Regional Local Environmental Plan 2012. The proposed modification does not give rise to any issues that need to be reconsidered under the Plan.

(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

The original development was considered against the Mid-Western DCP 2013. The proposed modification does not give rise to any new issues that need to be reconsidered under the Plan.

Section 7.11 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

The original application was levied with Section 7.11 contributions and each stage was provided with a total contributions payable within the development consent. This has now been amended to reflect the delivery of the overall development at one time and under the one subdivision certificate. CPI has also been added to reflect the updated financial year (1 July 2022) in accordance with the Plan.

Section 64 - Water/Sewer Developer Services Charges

The original application was levied with Section 64 contributions. This has now been updated within the conditions of consent to reflect the delivery of the development as one release and under the one subdivision certificate along with an update to include CPI since the 1 July 2022.

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 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

The proposed changes associated with the development will cause no additional impacts on the natural and built environments, or the social and economic climate of the locality. The modification reflects the timing and delivery of the development only, with no intensification proposed.

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

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

Yes. The proposal remains consistent with the existing locality of the area and is a logical extension of the residential area.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

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

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

(A) PUBLIC SUBMISSIONS

The application was not required to be notified or advertised in accordance with the Mid-Western Regional Community Participation Plan 2019 as the modification only alters the staging arrangements. No submissions were received during the assessment period.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

No submissions were sought or received from public authorities.

The Public Interest – 4.15(1)(e)

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

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

CONSULTATIONS

(A) HEALTH AND BUILDING

No consultation necessary.

(B) TECHNICAL SERVICES

Council's Development Engineer has not raised any concerns with the proposed modification application.

(C) HERITAGE ADVISOR

No consultation necessary.

(D) ACCESS COMMITTEE

No consultation necessary.

Community Plan implications

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

Strategic implications

Council Strategies

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 2000
Mid-Western Regional Local Environmental Plan 2012

Financial implications

The Applicant will still 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. It should be noted that the previous Class 1 Proceedings lodged with the Land and Environment Court for DA0333/2022 were discontinued by the applicant.

KAYLA ROBSON
PLANNING COORDINATOR

ALINA AZAR
DIRECTOR DEVELOPMENT

22 September 2022

Attachments: 1. Amended Plan of Subdivision Removing Staging Detail.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

