

8.2 MA0009/2023 - Modification to MA0046/2020 - Proposed demolition and 51 lot residential subdivision, 43 Saleyards Lane, Mudgee

REPORT BY THE TOWN PLANNER
TO 20 SEPTEMBER 2023 ORDINARY MEETING
GOV400103, DA0248/2014

RECOMMENDATION

That Council:

- A. receive the report by the Town Planner on the MA0009/2023 - Modification to MA0046/2020 - Proposed demolition and 51 lot residential subdivision, 43 Saleyards Lane, Mudgee;
- B. that MA0009/2023 - Modification to MA0046/2020 - Proposed demolition and 51 lot residential subdivision, 43 Saleyards Lane, Mudgee be approved subject to the following conditions:

Conditions of Consent (AMENDMENTS IN RED)

APPROVED DEVELOPMENT

1. Development is to be carried out generally in accordance with the following;
 - Subdivision Plans stamped plans (Job No. 1202MU) Sheets 1/3;
 - Statement of Environmental Effects dated January 2014;
 - Addendum to Statement of Environmental Effects Dated 17thFebruary 2014;
 - Traffic Impact Statement by Jabek P/L (BK138) dated March 2014;
 - Amended draft survey subdivision plan 23-1214 – Stage 2 only
 - Amended plans received by Triaxial Dwg TX16071.00-C3.00 Issue 1 dated 03/04/23 as submitted to Council on 2 August 2023”.

except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

AMENDED BY MA0009/2023

- 1a. Proposed Lot 29 must be consolidated with Lot 30 DP1267151 on the final plan of subdivision for Stage 2.

ADDED BY MA0009/2023

DEMOLITION

2. The licensed demolition contractor and/or principal contractor must comply with the following specific requirements in respect of the proposed demolition works:-
 - a) Demolition work is not be undertaken until:

- Council has been provided with a copy of any required Hazardous Substances Management Plan;
 - The licensed demolition contractor and/or principal contractor has inspected the site and is satisfied that all measures are in place to comply with the provisions of such Plan;
- b) The removal, handling and disposal of any asbestos material (in excess of 10m²) is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW, and in accordance with the requirements of WorkCover NSW, the Work Health and Safety Act 2011 and Australian Standard 2601-2001
- c) All asbestos and other hazardous materials are to be appropriately contained and disposed of at a facility holding the appropriate license issued by the NSW Environmental Protection Agency
- d) Seven working days' notice in writing is to be given to Council prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. A masonry retaining wall is to be provided adjacent the northern boundary of the development site to retain the proposed fill. It is to be offset by 750mm from the rear boundary and this area landscaped with Photinias (or other approved species) that will achieve a minimum height of 2 metres and planted 1 metre apart. Details of the retaining wall structure and landscaping are to be provided with the application for Construction Certificate.
4. Prior to development the applicant shall advise Council's Development and Community Services Department, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council's property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
5. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
6. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be provided to Mid-Western Regional Council as an interested party.
7. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, and a detailed construction plan. These plans are to be approved by the Council prior to the issue of a Construction Certificate.
8. Prior to the commencement of subdivision works, the following actions are to be carried out;
 - A site supervisor is to be nominated by the applicant;
 - Council is to be provided with two (2) days' notice of works commencing.

Note: Failure to comply with these conditions will result in damage to Council's infrastructure being rectified by the applicant and at the applicant's cost.

9. **A detailed engineering design is to be submitted to and approved by Council prior to the issue of a *Construction Certificate*. The engineering design is to comply with Council's Development Control Plan and the Standards referenced within Appendix B and D.**
10. **The causeway at the eastern end of Saleyards Lane shall be upgraded with culverts with sufficient capacity to facilitate a 1 in 10 yr. ARI rainfall event without inundation of the roadway.**
11. **A Construction Certificate is required for, but not limited to, the following civil works;**
 - **Water and sewer main extensions**
 - **Stormwater drainage such as inter-allotment drainage, detention basins,**
 - **Road construction**
 - **Footpath and kerb & gutter**
 - **Landscaping of public reserves**
 - **Construction of culvert on Saleyards Lane.**

Note: No works can commence prior to the issue of the Construction Certificate.
12. **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**
 - **Establishment of line and level for kerb and gutter placement**
 - **Road Pavement construction**
 - **Road Pavement surfacing**
 - **Practical Completion**
13. **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.**
14. **All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.**
15. **All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.**
16. **Engineering plans of the water and sewer mains extension are to be submitted to and approved by Council or an accredited certifier prior to the issue of a Construction Certificate.**

Note 1: Council will quote on connecting any sewer or water main extension to the existing "live" main on receipt and approval of engineering plans.

Note 2: Council does not permit other bodies to insert new junctions or connections into 'live' mains.

17. The developer is to grant Council (or an *Accredited Certifier* on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
18. The subdivision works are to be inspected by the 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
 - Establishment of line and level for kerb and gutter placement
 - Road and driveway pavement construction (including excavation, formwork and reinforcement)
 - Road pavement surfacing
 - Practical completion
19. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.
20. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 100 year ARI. All storm water detention details including analysis shall be included with the drainage report.
21. The drainage report is to include water quality treatment devices meeting targets as stipulated in the DCP and full details of compliance are to be provided with the Construction Certificate.
22. All utilities and services including telecommunications, water and sewer reticulation, street lighting shall be installed prior to pavement construction.
23. Prior to commencement of works, the submission of three road names/road in order of preference, for the proposed two (2) new roads within the subdivision, are to be submitted to Council for approval.
24. Complete landscaping plans for all public reserve areas are to be submitted for approval prior to issue of a Construction Certificate. All landscaping to consist of appropriately advanced trees and shrubs. All landscaping is to be established prior to occupation of the development. Tree and shrub species should require minimal watering and salt resistant. Alternatively, smaller plant sizes will be considered if irrigation systems are implemented.

STORMWATER DRAINAGE

25. A minimum of two (2) roof-water outlets per allotment are to be provided in the kerb and gutter at the time of installation of kerb and gutter. Such outlets shall be located near the projected line of allotment side boundaries and shall be of no less a quality than kerb adaptors kept at Council's Administration Centre as a guide.

- 26. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
- 27. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.
- 28. Inter-allotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over inter-allotment drainage in favour of upstream allotments.
- 29. A minimum of two (2) roof-water outlets per allotment are to be provided in the kerb and gutter at the time of installation of kerb and gutter.

ROADS, KERBS AND VEHICULAR ACCESS

- 30. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council standards.
- 31. The developer is to upgrade the existing road for the full frontage of the proposed Subdivision and the new roads, such that it has the following characteristics:

Saleyards Lane and internal subdivision roads

Item	Requirement
Full Road Pavement Width	9 m (2 x 3.5m travel lanes with 1m sealed shoulders)
Nature Strip	2 x 4.5m
Concrete Footpaths	1.2m Wide
Seal	Two-coat flush seal -14/7 mm (Double/ Double) as required
Kerb & Gutter	Roll back concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.
Court Bowl	To be constructed with a minimum radius of 10 metres

AMENDED BY MA0009/2023

- 31a. Proposed Lots 19 & 20 and 23 & 24 are to be provided with a shared concrete driveway no less than 6 metres wide constructed centrally within the battle-axe handles and to extend the full length of the handle. Plan of Subdivision is to show reciprocal Rights of Way and services for each dwelling are to be provided in a landscaping strip on each side of the driveway.

ADDED BY MA0009/2023

- 31b. Lots 26 & 27 and Lot 28 are to be provided with a constructed access crossover and concrete driveway constructed at an approved gradient and extending into the Lot sufficient distance to match existing surface. Details are to be generally in accordance with Triaxial

Drawings TX16071.00-C9.00 for Lot 28 and Triaxial Drawings TX16071.00-C9.01 for Lots 26 and 27

ADDED BY MA0009/2023

32. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design.
33. All utility crossings are to be perpendicular to the road centreline and performed prior to the addition of the base course.
34. A Traffic Control Plan (TCP) completed by a “Certified Person” for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
35. Prior to commencement of works, the submission of three possible street/road names in order of preference, for the proposed new road within the subdivision, are to be submitted to Council for approval.
36. Street signs necessitated by the subdivision are to be installed in accordance with Aus-Spec #1 and Council standards. A Give Way sign is required to be installed on the internal subdivision road at the junction with Saleyards Lane.

EARTHWORKS

37. 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: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.
38. Runoff and erosion controls shall be installed prior to clearing and incorporate:-
 - diversion of uncontaminated upslope runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - 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;
39. Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.
40. The development site is to be managed for the entirety of work in the following manner:
 - Appropriate dust control measures;
 - Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - 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.
41. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.

WATER AND SEWER

42. The developer is to extend and meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
43. The applicant is to provide separate water and sewer reticulation services to each lot.
44. 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.
45. Water services are to be located on alternate property boundaries to Telstra/Electricity. The developer is to provide a water meter for each lot in the subdivision.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

46. Under the Environmental Planning & Assessment Act, 1979, a *Subdivision Certificate* is required before the linen plan of subdivision can be registered with the Land Titles Office.
Note: The fee to issue a *Subdivision Certificate* is set out in Council's Fees and Charges
47. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
48. If the *Subdivision Certificate* is not issued, for any reason whatsoever, by the end of the financial year immediately following the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
49. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision.
50. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision.
 - A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision.
 - 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.

- 51. Following completion of the subdivision works, one full set of work-as-executed plans, on transparent film suitable for reproduction, and an “Autocad compatible” work-as-executed Plan, (in dwg format including pen-map), is to be submitted to Council. All work-as-executed plans shall bear the Consulting Engineer’s or Consulting Surveyor’s certification stating that all information shown on the plans is accurate.
- 52. The developer must provide Council and land purchasers with a site classification for each 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 of AS2870 - 2011. Results are to be submitted to Council prior to issue of the Subdivision Certificate.
- 53. In accordance with the provisions of section 94 of the *Environmental Planning and Assessment Act 1979* and the Mid-Western Regional Council Section 94 Developer Contributions Plan, a contribution shall be paid to Council in accordance with this condition for the purpose of: **SUBJECT TO CPI INCREASE**

Transport Management	
Traffic Management	\$54,539
Open Space	
Local Open Space	\$85,618
District Open Space	\$116,249
Community Facilities	
Library Buildings	\$11,206
Library Resources	\$13,448
Administration	
Plan Administration	\$26,148
TOTAL	\$307,208

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

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

Water Headworks	\$ 347,083
Sewerage Headworks	\$ 165,631
Total Payable	\$ 512,714

- b) The adjustment of existing services or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.

- 55. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1650 per lot to cover the cost of installing both the service and a 20mm meter on the water main.
- 56. Where the water service has been provided by the developer. The developer is to provide a water meter for each lot in the subdivision. This can be achieved through providing a water service ending with a lockable ball valve to each lot and make a payment to Council of \$370.00 per lot to cover the cost of a 20mm meter and installation.

Note: Council does not permit other bodies to connect to ‘live’ water mains.

57. The developer is to provide a sewer junction for each lot in the subdivision. This can be achieved by making a payment to Council of \$1,450.00 per new junction to cover the cost of Council installing a junction in an existing main.
58. Where the developer is to construct the sewer main to service a lot, the developer is to provide a new junction for each allotment.
Note: Council does not permit other bodies to insert new junctions into “live” sewer mains.
59. All earthworks are to be monitored by a qualified cultural heritage officer and a minimum of one (1) weeks’ notice given to the engaged officer.
60. The developer must register a positive covenant on the title of the land under the provisions of the *Conveyancing Act 1919*, to require that a 1.8m high timber paling fence be constructed along the northern boundary of proposed Lots 39, 40 and Lots 43-51 (inclusive).

The covenant shall be binding upon the registered proprietors of the subject land and successors in title. The instrument shall nominate Council as the only authority empowered to release, vary or modify the terms of the positive covenant.

This covenant shall include, but not necessarily be limited to, the following:

- a) Prior to the issue of an Occupation Certificate for any residential development, a 1.8 metre high timber paling fence shall be provided along the full length of the northern boundary. The fence is to be constructed above the retaining wall.

Evidence that the required covenant on the title of the land has been created under the provisions of the *Conveyancing Act 1919*, must be provided to Council.

(Amended by MA0046/2020)

PUBLIC RESERVE

61. Two street trees per allotment are to be provided prior to issue of the Subdivision certificate. The species of tree is to be listed on the Construction certificate drawings and approved as part of the Construction Certificate.
62. The proposed public reserve is to be remediated and adapted to make it suitable for public reserve purposes with native grasses sown and soil erosion rehabilitated. The public reserve is to be remediated prior to issue of the Subdivision Certificate and held in private ownership for a period of two years from issue of the Subdivision Certificate to monitor the remediation works.
63. A plan of management for the public reserve is to be prepared and adopted by Council to address cultural heritage, Endangered Ecological Communities and slope prior to issue of the Subdivision Certificate.

STATEMENT OF REASONS

1. **The proposed modification complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.**

2. **The proposed modification is considered satisfactory in terms of the matters identified in Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.**
3. **The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.**

Executive summary

OWNER/S	Mid-Western Regional Council
APPLICANT:	Mid-Western Regional Council
PROPERTY DESCRIPTION	Old Saleyards Site 43 Saleyards Lane, Mudgee Lot 2 DP534336; Lot 2 DP1215414 and Lot 3 DP1099282 (Previously known as Lot 2 DP534336, Lot 399 DP1132580 and Lot 532 DP1132581)
PROPOSED DEVELOPMENT	Demolition and 51 lot residential subdivision
ESTIMATED COST OF DEVELOPMENT:	\$2,500,000.00
REASON FOR REPORTING TO COUNCIL:	Original Development Application Determined by Council.
PUBLIC SUBMISSIONS:	Nil

Council granted consent to Development Application DA0248/2014 for the demolition of existing structures (including the former SES building) and subdivision of land into 51 residential lots at 43 Saleyards Lane, Mudgee NSW 2850. The original application was notified and advertised in the local paper with no submissions received. The application was determined as a Deferred Commencement Consent at the 7 May 2014 Council Meeting.

The deferred commencement conditions related to the requirement for a Phase 2 Environmental Assessment to identify any further contamination risks and the completion of the part closure of Saleyards Road reserve. The deferred conditions were satisfied and consequently an operational consent was issued on 7 May 2019.

Council received and determined a Section 4.55 Application MA0046/2020 to modify DA0248/2014, in relation to the fencing on the norther boundary, at its ordinary meeting dated 12 August 2020. Only one submission was received from the owner of the property adjoining the northern boundary fence.

Council is now in receipt of a Section 4.55 Application to modify MA0046/2020. Modification application (MA0009/2023) proposes the following changes:

1. Reduction to the size of the detention basin.
2. Creation of proposed Lot 29, which originally formed part of the approved detention basin. The new lot is proposed at 465.3m² and will be consolidated with neighbouring Council owned land, the Lady Gowrie Childcare Centre Lot 30 DP1267151.
3. Reduction to the size of proposed Lots 9, 10 and 11, caused by the redesign of the detention basin.
4. Construction of new driveways through approved retaining wall and construct new retaining walls for proposed Lots 26 and 27.
5. Replacement of temporary turning head with permanent cul-de-sac at the end of Marskell Circuit.
6. Reduction to size of proposed Lots 16, 17, 18, 19, 20 and 21 due to construction of a permanent cul-de-sac.
7. Relocation of stormwater line and concrete headwall.

The subject application was not neighbour notified as the modification application is considered of minor environmental impact under section 4.55(1A) of the Environmental Planning and Assessment Act 1979. Public exhibition was not required, as Council is satisfied that the development will have the same or lesser impact on the amenity of adjoining property owners as the original application, that is, stormwater discharge will occur as originally approved over adjoining land, in accordance with the Mid-Western Regional Council Community Participation Plan 2019. It is noted, there were no submissions received against the original development application and only one submission received from an adjoining lot owner in response to modification application (MA0046/2020) which related solely to the dividing fence and retaining wall in Stage 1 adjoining the objectors land. Council considers the proposed changes will have no impact on adjoining land owners.

The proposed development complies with the requirements of the *Environmental Planning and Assessment Act 1979*, *Environment Planning and Assessment Regulation 2021*, relevant State Environmental Planning policies, *Mid-Western Local Environmental Plan 2012* and Mid-Western Regional Council Development Control Plan 2013 and is recommended for approval.

Pursuant to the powers handed down by the General Manager, conferred under Section 378 of the *Local Government Act 1993*, and as the original application was approved by Council resolution, staff do not have the power to determine the application in accordance with their *Delegation of Authority*. Subsequently, the application is referred to a full Council meeting.

Disclosure of Interest

Nil

Detailed report

The application has been assessed in accordance with Section 79C(1) of the Environmental Planning & Assessment Act 1979. The main issues are addressed below as follows.

REQUIREMENTS OF REGULATIONS AND POLICIES

4.55(1A) Modifications involving minimal environmental impact

(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 modification relates to the reduction in the size of the detention basin to enable the creation of a new 465.3m² allotment, which is to be consolidated with neighbouring Council owned land, the Lady Gowrie Childcare Centre (Lot 30 DP1267151). The construction of two driveways and retaining walls on Lots 26 and 27. The replacement of the temporary turning head at the end of Marskell Circuit with a permanent cul-de-sac, which in turn will marginally reduce the size of Lots 16, 17, 18, 19, 20 and 21 and a minor change to the location of the stormwater dispersal. The proposed changes are minor in nature and considered to be of minimal environmental impact.

(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 that originally approved for the demolition and residential subdivision of the land.

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

- (i) The regulations, if the regulations so require, and*
- (ii) A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.*

Comment The subject application was not neighbour notified as the modification application is considered of minor environmental impact under section 4.55(1A) of the Environmental Planning and Assessment Act 1979. Public exhibition was not required, as Council is satisfied that the development will have the same or lesser impact on the amenity of adjoining property owners as the original application, that is, stormwater discharge will occur as originally approved over adjoining land, in accordance with the Mid-Western Regional Council Community Participation Plan 2019.

It is noted, there were no submissions received against the original development application and only one submission received from an adjoining lot owner in response to modification application (MA0046/2020) which related solely to the dividing fence and retaining wall in Stage 1 adjoining the objectors land. Council considers the proposed changes will have no impact on adjoining land owners.

(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 submissions 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) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comment The applicant has submitted the Section 4.55(1A) application to Council in order to amend conditions of consent relating to the approved subdivision only. No further development consent is sought by the modification application in accordance with this part.

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 includes the inclusion of one additional allotment and some minor lot size changes to nine of the original lots, therefore, re-considered of clause 4.1 has been undertaken.

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.

A final survey plan has been lodged with Council since the original approval, and therefore has provided more accurate lot sizes for all lots within the final stage of the subdivision, including those being amended by this modification. They are as follows;

Lot number	Approved lot size	Proposed lot size
Lot 7	620	713.5 m ²
Lot 8	620	663 m ²
Lot 9	803	866.9 m ²
Lot 10	818	753.2 m ²
Lot 11	794	761.2 m ²
Lot 12	696	692.2 m ²
Lot 13	683	680.6 m ²
Lot 14	683	680.6 m ²
Lot 15	683	680.6 m ²
Lot 16	682	666.7 m ²
Lot 17	682	671.9 m ²
Lot 18	665	641.9 m ²
Lot 19	868	861.3 m ²
Lot 20	868	863.8 m ²
Lot 21	665	670.4 m ²
Lot 22	665	673.4 m ²
Lot 23	868	869.9 m ²
Lot 24	868	869.5 m ²
Lot 25	665	676.8 m ²
Lot 26	665	680.7 m ²
Lot 27	1053	978.3 m ²
Lot 28	878	854.8 m ²
Lot 29 (proposed new lot)	N/A	465.3 m ²
Lot 30 (Green space)	Not allocated a lot number	1.260ha
Lot 31 (Drainage Reserve)	Not allocated a lot number	1002 m ²

All lots are above the required minimum lot size pursuant to the mapping which is 450m². Accordingly, the proposal complies with the development standard.

Clause 5.21 Flood planning

The extent of inundation shown by current flood mapping will be reduced by the construction of the detention basin and other drainage infrastructure.

With regards to the area created for proposed Lot 29 and its consolidation with the Child Care Centre, it is the applicant's intention that this area is likely to be car parking and playground area with no building or structures to be located on the new lot. Suitable conditions can be applied in the future when an application is made to Council for the development of the site and a comprehensive assessment is undertaken.

(ii) Do any draft environmental planning instruments (EPI) apply to the land to which the Application relates?

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

(iii) Do any development control plans apply to the land to which the Application relates?

Mid-Western Regional Development Control Plan 2013 (DCP)

The original development was considered against the relevant chapters of the Mid-Western Regional Development Control Plan 2012. The individual changes have been discussed below and whether consideration/reconsideration of the DCP for each change is required.

Reduced detention basin size - from an engineering perspective, the proposed changes can be easily managed by amendments to the construction and design details with a modified Construction Certificate Application and therefore, does not give rise to any issues that need to be considered/reconsidered under the current DCP.

Creation of proposed Lot 29 - the proposed new lot will be consolidated with adjoining Council owned land, Gowrie Child Care Centre (Lot 30 DP1267151) to accommodate future development of the Child Care Centre. The new lot is not for residential purposes, and for this reason, does not give rise to any issues that need to be considered/reconsidered under the current DCP for the creation of this lot.

Changes to lot sizes - the lot size changes for Lots 9, 10, 11, 16, 17, 18, 19, 20 and 21 are only minor and will not affect the developments ability to comply with the DCP controls under Part 7.1 for urban subdivision and therefore, does not give rise to any issues that need to be considered/reconsidered under the current DCP.

Permanent Cul-de-sac – the surrounding undeveloped land was rezoned to R1 General Residential with the adoption of the Mid-Western Regional Local Environmental Plan 2012, providing opportunity for the land owners to subdivide to a minimum of 600m². Council provided an overall subdivision conceptual framework plan for the area, which included the surrounding land, in accordance with the Comprehensive Land Use Strategy.

It is understood that the adjoining land owner has no intention of subdividing his land, now or in the future. The current owner continues to utilise his land for extensive agricultural purposes in accordance with the existing use provisions under Division 4.11 of the Environmental Planning and Assessment Act 1979 and will continue to do so.

Due to the above, it has been necessary for Council to modify the road design to replace the temporary turning head with a permanent cul-de-sac at the end of Marskell Circuit. As a result of this change, minor changes are proposed to the size of Lots 16, 17, 18, 19, 20 and 21.

The minor changes to the road are considered acceptable and an amendment to the road standards condition has been included.

Stormwater dispersal & Easement

The modification is proposing to reduce the size of the detention basin by nearly half and disperse stormwater towards a natural drainage feature / watercourse on adjoining privately owned land and into a nearby culvert in the road reserve as per the original design approved by Council.

It should be noted that the works on the amended design for the detention basin have already been completed with stormwater dispersing onto the adjoining owner's property as per the original design approved by Council under CCC0145/2022 without a development application in place or amended construction plans.

It should be noted, that formal registration of an easement to discharge/drain stormwater onto and over adjoining private land (Lot 3 DP1099282) was not required as part of the original development consent. As the subject modification proposes the same method of stormwater disposal onto, and over the adjoining land, no easement will be required / conditioned.

It should also be noted that Council has secured the agreement of the surrounding land owner, for Council to purchase Lot 2 DP510997, a 177.4m² parcel of land adjoining the new proposed Lot 29. The acquirement of this parcel of land will provide Council with an additional alternative for the dispersal of stormwater, should an issue ever arise with the existing arrangement.

Contribution Plans

The original application was levied with Section 64 contributions and Section 94 contributions. It should be noted that the creation of Lot 29 does not warrant contributions to be levied under any contribution plan, as this parcel of land will be consolidated with adjoining Council owned land – Lady Gowrie Childcare Centre and therefore, the original contributions do not need to be modified by this application.

(iiiia) Do any planning agreement or any draft planning agreement apply?

No Planning Agreements are applicable.

(iv) The regulations

Environmental Planning and Assessment Regulation 2000

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

IMPACT OF DEVELOPMENT

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

The proposed changes are not likely to significantly increase any impacts that were anticipated by the original development and subsequently, the modification application is considered acceptable and unlikely to create any significant issues.

Given the above, the proposed modification will result in the same outcome as that which was originally envisaged under the original development consent. No further impacts have been identified as a result of the proposed modification and accordingly, the proposed modification is considered to be suitable for the site.

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

Does the proposal fit in the locality?

Yes, the proposed development remains suitable for the site and locality.

Are the site attributes conducive to development?

The subject site has road frontage and access to services, making the site conducive to the development.

4.15(1)(d) Any submissions made in accordance with Act or Regulations

(a) Public Submissions

The application was not required to be notified to adjoining owners in accordance with Mid-Western Regional Council's Community Participation Plan 2019. No submission were received.

(b) Submissions from public authorities

The application did not need to be referred to any government agencies and is not integrated development.

4.15(1)(e) The Public Interest

Federal, State and local government interests and community interests

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

Consultations

CONSULTATIONS

Health & Building

No consultation necessary.

Development Engineer

Comments and new conditions received.

Heritage Advisor

No consultation necessary.

Community Plan implications

Theme	Good Government
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Goal	Strong civic leadership
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Strategy	Provide accountable and transparent decision-making for the community
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Strategic implications

Council Strategies

Not applicable.

Council Policies

Mid-Western Development Control Plan 2013.
Mid-Western Regional Local Environmental Plan 2012.

Legislation

Environmental Planning and Assessment Act 1979 (as amended).
Environmental Planning and Assessment Regulations 2000.

Financial implications

Not applicable.

Associated Risks

The application may be subject to a further review of this decision or appeal through the Land and Environment Court, if procedural matters are challenged by a third party.

KIM ORTH
TOWN PLANNER

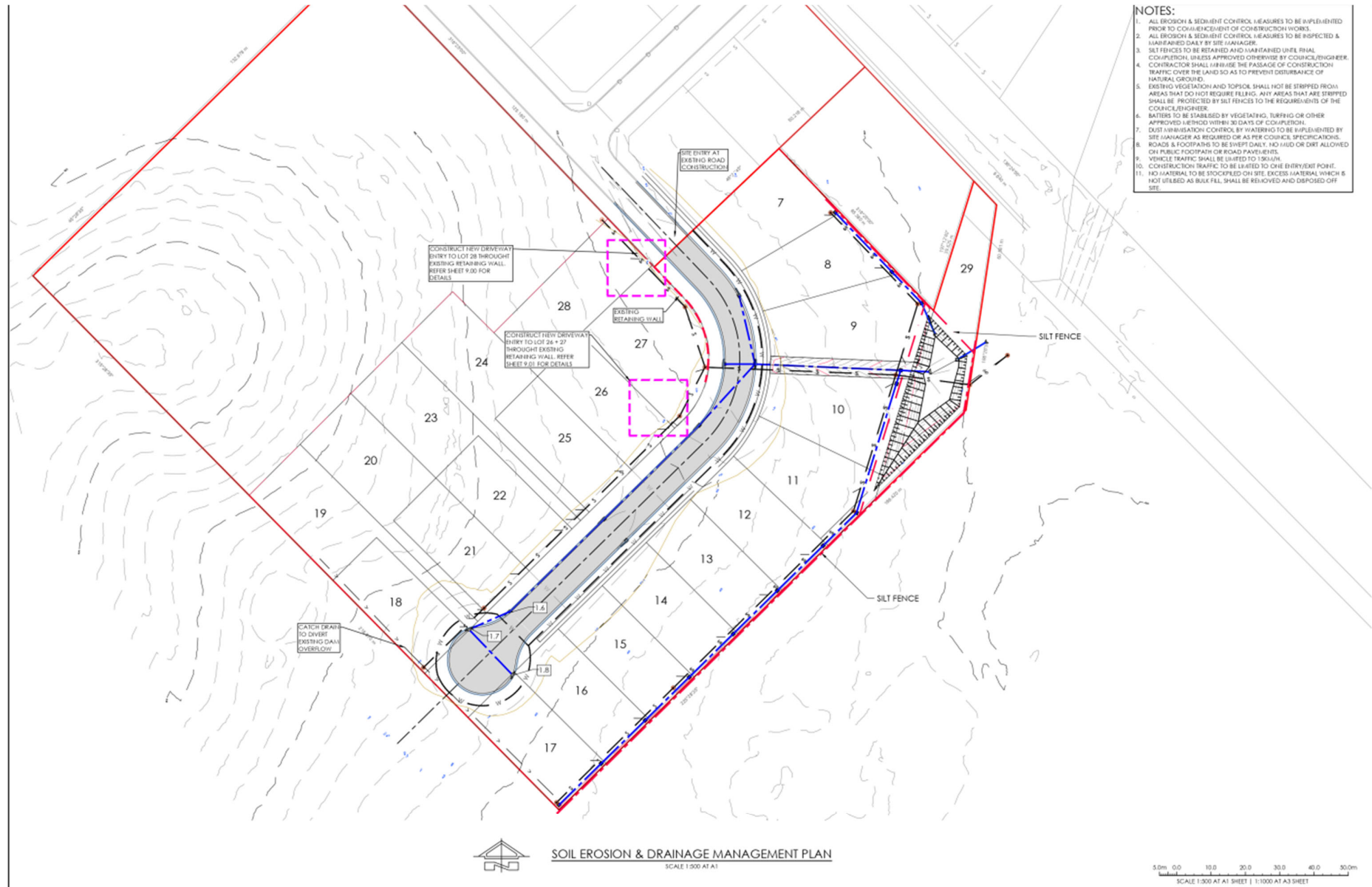
ALINA AZAR
DIRECTOR DEVELOPMENT

14 August 2023

- Attachments:*
1. Amended detention basin design.
 2. Draft Subdivision Plan.

APPROVED FOR SUBMISSION:

JULIAN GEDDES
ACTING GENERAL MANAGER GENERAL MANAGER



- NOTES:**
1. ALL EROSION & SEDIMENT CONTROL MEASURES TO BE IMPLEMENTED PRIOR TO COMMENCEMENT OF CONSTRUCTION WORKS.
 2. ALL EROSION & SEDIMENT CONTROL MEASURES TO BE INSPECTED & MAINTAINED DAILY BY SITE MANAGER.
 3. SILT FENCES TO BE RETAINED AND MAINTAINED UNTIL FINAL COMPLETION UNLESS APPROVED OTHERWISE BY COUNCIL ENGINEER.
 4. CONTRACTOR SHALL USE THE PASSAGE OF CONSTRUCTION TRAFFIC OVER THE LAND SO AS TO PREVENT DISTURBANCE OF NATURAL GROUND.
 5. EXISTING VEGETATION AND TOPSOIL SHALL NOT BE STRIPPED FROM AREAS THAT DO NOT REQUIRE FILLING. ANY AREAS THAT ARE STRIPPED SHALL BE PROTECTED BY SILT FENCES TO THE REQUIREMENTS OF THE COUNCIL ENGINEER.
 6. BATTERS TO BE STABILISED BY VEGETATING, TURFING OR OTHER APPROVED METHOD WITHIN 30 DAYS OF COMPLETION.
 7. DUST ABatement CONTROL BY WATERING TO BE IMPLEMENTED BY SITE MANAGER AS REQUIRED OR AS PER COUNCIL SPECIFICATIONS.
 8. ROADS & FOOTPATHS TO BE SWEEPED DAILY. NO MUD OR DIRT ALLOWED ON PUBLIC FOOTPATH OR ROAD PAVEMENTS.
 9. VEHICLE TRAFFIC SHALL BE LIMITED TO 150KM/H.
 10. CONSTRUCTION TRAFFIC TO BE LIMITED TO ONE ENTRY/EXIT POINT.
 11. NO MATERIAL TO BE STOCKPILED ON SITE. EXCESS MATERIAL WHICH IS NOT UTILISED AS BULK FILL, SHALL BE REMOVED AND DISPOSED OFF SITE.



SOIL EROSION & DRAINAGE MANAGEMENT PLAN
 SCALE 1:500 AT A1



ISSUE FOR CONSTRUCTION AMENDMENTS	03/04/23	0	JD
	DATE	ISSUE	BY
NORTH POINT UNCL.	ARCHITECT	CLIENT MID WESTERN REGIONAL COUNCIL	PROJECT SALEYARDS SUBDIVISION STAGE 2 MARSKELL CIRCUIT
DESIGNED	DRAWN	DATE	SITE CAD REF
		1300 874 294 TRIAXIAL.CO.NZ.AU UNIT 1, 28 MARKET STREET, HUNDEE NSW 2850 PO BOX 1073, HUNDEE NSW 2850	DRAWING TITLE SOIL EROSION & DRAINAGE MANAGEMENT PLAN
PROJECT No.		DRAWING No.	ISSUE

NOTES

- EASEMENTS SHOWN ARE FROM CIVIL PLANS BY TRIAXIAL CONSULTING REVISION E DATED 20/02/2023.
- THESE ARE BASED ON DESIGN INFORMATION, AND ARE SUBJECT TO FINAL SURVEY.
- ADDITIONAL EASEMENTS MAY BE REQUIRED FOR SERVICING OR OTHER REASONS & AS SUCH ARE SUBJECT TO FINAL SURVEY.
- DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY.

PH TO SSM (NOT TO SCALE)
 116°53'26" 597.167 MGA GROUND
 116°53'26" 597.166 SURVEY

SSM 77192 FD ESTABLISHED
 SSM TO SSM (NOT TO SCALE)
 306°11'30" 384.410 MGA GROUND
 306°11'30" 384.405 SURVEY

PH TO SSM
 155°18'11" 224.49

PH TO CORNER
 172°12'35" 142.175

SSM TO PH (NOT TO SCALE)
 329°37'29" 714.704 MGA GROUND
 329°37'30" 714.705 SURVEY

SSM TO CORNER (NOT TO SCALE)
 309°14'35" 344.62

REFERENCE TO CORNERS				
CORNER	BEARING	DISTANCE	FROM	ORIGIN
A	4°04'	5.76	RM DH & WING FD	DP1267151
B	29°11'30"	14.135	RM DH & WING FD	DP1267151
C	91°25'30"	6.08	RM DH & WING FD	DP1267151
D	91°25'30"	19.235	RM DH & WING FD	DP1267151
E	38°27'	4.295	RM DH & WING FD	DP1267151
F	43°54'	13.655	RM DH & WING FD	DP1267151
G	69°00"	0.855	RM DH & WING IN WALL FD	DP1267151
H	214°15'	5.635	RM DH & WING FD	DP1233109
I	205°26'	16.67	RM DH & WING FD	DP1233109
J	188°29'	0.795	RM GI PIPE FD (10.5 DEEP)	3701-3090
K	227°54'	0.435	RM GI PIPE FD	DP1215414
L			RM DH & WING PLACED	
M			RM DH & WING PLACED	
N			RM DH & WING PLACED	
O			RM DH & WING PLACED	
P			RM DH & WING PLACED	
Q			RM DH & WING PLACED	
R			RM DH & WING PLACED	

M.G.A. COORDINATE SCHEDULE

MARK	MGA COORDINATES		CLASS	PU	METHOD	STATE
	EASTING	NORTHING				
SSM 65206	741167.753	6391569.712	C	0.02	SCIMS	FOUND
PM 77332	740786.269	6392186.459	C	0.02	SCIMS	FOUND
SSM 77192	741318.988	6391916.305	C	0.02	SCIMS	FOUND
SSM 21138	740880.	6391982.	U	(C)	SCIMS	FOUND
SSM	(C)	(C)	(C)	N/A	CAD TRAVI	PLACED
SSM	(C)	(C)	(C)	N/A	CAD TRAVI	PLACED

DATE OF SCIMS COORDINATES 15/06/2023 MGA ZONE: 55
 MGA DATUM: GDA 2020 COMBINED SCALE FACTOR : 1.000240

CONNECTIONS

- SSM 21138 - SSM BEARING DISTANCE
- SSM - SSM BEARING DISTANCE
- SSM - SSM 65206 BEARING DISTANCE

- (A) EASEMENT TO DRAIN SEWAGE 3 WIDE & VARIABLE WIDTH
- (B) EASEMENT TO DRAIN SEWAGE 3.5 WIDE
- (C) EASEMENT TO DRAIN SEWAGE 3 WIDE
- (D) EASEMENT TO DRAIN WATER 3.5 WIDE



Surveyor: DANIEL KURZAWA
 Date of Survey: DRAFT
 Surveyor's Reference: 23-1214

PLAN OF SUBDIVISION OF LOT 29 IN DP1267151

LGA: MID-WESTERN REGIONAL
 Locality: MUDGEE
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1 : 1000

Registered

DP DRAFT



(A) EASEMENT TO DRAIN SEWAGE 3 WIDE & VARIABLE WIDTH
 (B) EASEMENT TO DRAIN SEWAGE 3.5 WIDE
 (C) EASEMENT TO DRAIN WATER 3 WIDE
 (D) EASEMENT TO DRAIN WATER 3.5 WIDE

NOTES

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DIAGRAM
NOT TO SCALE

SCHEDULE OF SHORT LINES & ARC

LINE	BEARING	CHORD	ARC	RADIUS
(1)	43°27'40"	3.025	3.025	43.0
(2)	32°11'10"	13.84	13.9	43.0
(3)	14°18'40"	12.885	12.93	43.0
(4)	2°21'50"	5.0	5.005	43.0
(5)	350°06'50"	13.33	13.385	43.0
(6)	332°18'28"	13.29	13.345	43.0
(7)	319°54'50"	5.25	5.255	43.0
(8)	180°54'40"	35.045	38.86	25.0
(9)	45°28'35"	4.68	4.68	31.5
(10)	60°31'40"	14.755	15.61	13.5
(11)	17°14'15"	4.765	4.79	13.5
(12)	14°03'10"	3.025	3.035	11.275
(13)	45°28'35"	4.675	4.675	31.5
(14)	28°46'10"	14.1	14.835	13.5
(15)	68°22'15"	3.815	3.83	13.5
(16)	80°14'05"	1.76	1.765	13.5
(17)	78°15'15"	2.47	2.475	11.525
(18)	70°46'50"	0.535	0.535	11.525

REFERENCE TO CORNERS

CORNER	BEARING	DISTANCE	FROM	ORIGIN
A	4°04'	5.76	RM DH & WING FD	DP1267151
B	29°11'30"	14.135	RM DH & WING FD	DP1267151
C	91°25'30"	6.08	RM DH & WING FD	DP1267151
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L			RM DH & WING	PLACED
M			RM DH & WING	PLACED
N			RM DH & WING	PLACED
O			RM DH & WING	PLACED
P			RM DH & WING	PLACED
Q			RM DH & WING	PLACED
R			RM DH & WING	PLACED

Surveyor: DANIEL KURZAWA
 Date of Survey: DRAFT
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PLAN OF SUBDIVISION OF LOT 29 IN DP1267151

LGA: MID-WESTERN REGIONAL
 Locality: MUDGEE
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1 : 600

Registered

DP DRAFT