

## 8.3 Development Control Plan 2013 - Amendment 7

REPORT BY THE MANAGER PLANNING  
TO 13 DECEMBER 2023 ORDINARY MEETING  
GOV400103, LAN900108

### RECOMMENDATION

#### That Council:

- A. receive the report by the Manager Planning on the draft Development Control Plan 2013 - Amendment 7;
- B. endorse and support the retention of the existing sewer treatment plant buffer at 1 Odour Unit; delete the *Note*; and commentary on a revised odour assessment, from Section 7.4 Odour, of Appendix C Caerleon DCP;
- C. endorse and publicly exhibit the proposed amendments to Mid-Western Regional Development Control Plan (DCP) 2013 outlined in this report, pursuant to Part 3, Division 3.6 of the Environmental Planning and Assessment Act 1979 and Part 2 of the Environmental Planning and Assessment Regulation 2021; and
- D. receive a further report following conclusion of the public exhibition period to consider any submissions received, or if at the end of the public exhibition period, no submissions are received, adopt the changes to the DCP as proposed.

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### Executive summary

Mid-Western Regional Council's Development Control Plan (DCP 2013) needs to be updated periodically to ensure it is meeting community expectations; is compatible with NSW planning legislation and policy; meets current industry standards; and to correct errors, omissions or provide clarity of content. This report outlines proposed amendments to the DCP 2013, specifically amendments to Appendix C – Caerleon DCP, and seeks Council's endorsement to publicly exhibit the proposed changes.

The amendments to DCP 2013 proposed as part of Amendment 7 are detailed as follows:

- *Amendments Table*, listing date and brief description of amendment made to the DCP 2013 Amendment No.7;
- Make changes/amendments to Appendix C Caerleon DCP, **Section 7.4 Odour** – so that it reads:

#### 7.4 Odour

~~There is to be no development within the 1 odour unit contour, as shown in the Indicative Odour Plan in **Figure 9**, until such time as a revised odour assessment is undertaken after the Mudgee Sewerage Treatment Plant (STP) is commissioned.~~

~~Note. The developer is to commission a qualified odour consultant to undertake an odour assessment within 6 months from the time the Mudgee Sewerage Treatment Plant (STP) is commissioned. The odour study shall determine the minimum odour contour from the Mudgee STP and the minimum buffer from the landfill site.~~

If endorsed, the draft DCP Amendment 7 will be placed on public exhibition for 28 days in accordance with the *Environmental Planning and Assessment 1979* (as amended).

## Disclosure of Interest

Nil

## Detailed report

Caerleon DCP forms Appendix C of DCP 2013 – and applies to the Caerleon Estate only. It was prepared for Blaxland Property Mudgee Pty Ltd ATF Blaxland Property Mudgee Trust, by Elton Consulting. It was submitted as part of the Caerleon Planning Proposal, and was exhibited and reported to Council on the 17 October 2012 – adopted with publication of the amendment to Councils LEP for the Caerleon Estate.

The assumptions upon which the Caerleon DCP were based, included consideration of an odour buffer surrounding the future Sewage Treatment Plant (STP), adjacent to the existing Mudgee Solid Waste Facility. The odour buffer was based on the odour impact assessment undertaken as part of the STP design. Since that time, Mudgee STP has been constructed and has been operational for approximately 9 years. Construction has commenced on a new landfill cell, located to the East of the active landfill cell at the Solid Waste Facility.

In reference to Section 7.4 Odour, of the Caerleon DCP, an odour assessment report was submitted by the Caerleon Estate developer recommending total removal of the odour buffer from the developer's land (Lot 1000 DP 1297490). Council engaged The Odour Unit Pty Ltd to peer review the developer's initial odour assessment dated 19 March 2021. Following provision of review findings to the developer and ongoing consultation between Council officers, Council's consultant, Developer and the Developer's consultant relating to the subject odour assessment, subsequent review was undertaken on the Developer's revised Odour Monitoring and Assessment report, dated 12 May 2022. The final report and cover letter submitted by the developer and resulting peer review report is attached.

A recommendation of the peer review is to ensure planning decisions are made by Council in the interest of protecting existing and future community amenity from unintended adverse odour release from Mudgee Sewage Treatment Plant and the Solid Waste Facility, including preserving the integrity of compatible land use within the available buffer surrounding the Mudgee STP and Solid Waste Facility.

Section 7.4 Odour, of the Caerleon DCP, does not align with the above intent and it is therefore recommended to adjust the clause, removing the potential for interpretation that refinement of the odour buffer could be based on an odour study without consideration of appropriate justification.

Further to the recommended Caerleon DCP adjustment, it is noted that throughout the consultation with the Developer and review of the odour assessment reports issued, it has been recommended by The Odour Unit and advised to the Developer that a wholistic risk assessment with consideration of avoidance, mitigation, and management measures for odour impact caused by unintended odour release events within the buffer zone on the Caerleon site is to be undertaken should the existing buffer be considered for future refinement.

In accordance with the recommendations made by The Odour Unit, it is recommended that any future consideration of the odour buffer refinement be limited to maintain the following minimum buffer distances from existing and future activity boundaries of the Mudgee STP and Solid Waste Facility:

- Sewage Treatment Plants – 400 metres;

- Solid Waste Facilities (< 50,000 tpa putrescible waste disposal) – 250 metres.

The above minimum distance odour buffer recommendations are referenced in NSW Government policy and guidance material and do not negate the need to undertake the above mentioned wholistic risk assessment in any future consideration of odour buffer refinement.

Change	Justification/Reason
Insert Amendments Table, listing dates and brief description of amendments made to the DCP.	For transparency, clarity and ease of reference, a table of amendments, including date endorsed is to be provided in the MWRC DCP 2013.
Delete the Note; and commentary on a revised odour assessment, from <b>Section 7.4 Odour</b>	To ensure planning decisions are made by Council in the interest of protecting existing and future community amenity from unintended adverse odour release from Mudgee Sewage Treatment Plant and the Solid Waste Facility.

**Public Exhibition**

The draft DCP Amendment 7 is required to be placed on public exhibition for a period of 28 days to enable submissions from the community in response to the proposed amendments.

A further report will then be prepared and presented to Council for final adoption, unless no submissions are received, where the proposed changes will be adopted as presented.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning

Strategic implications

**Council Strategies**

Nil

**Council Policies**

The report is presented to consider an amendment to the Mid-Western Regional Development Control Plan 2013.

**Legislation**

The amendment to the DCP 2013 is being undertaken in accordance with Part 2, Division 2 of the *Environmental Planning and Assessment Regulation 2021* and Schedule 1 of the *Environmental Planning and Assessment Act 1979* (as amended).

Financial implications

Nil

## Associated Risks

If Council does not wish to proceed with the Draft Development Control Plan – Amendment 7, the risk is that development may occur in close proximity to Council’s Sewerage Treatment Plant – without due consideration to its operational environment.

LINDSAY DUNSTAN  
MANAGER PLANNING

ALINA AZAR  
DIRECTOR DEVELOPMENT

*Attachments:*

1. Peer Review - Odour Assessment. (separately attached)
2. Caerleon Estate - Odour Monitoring Assessment. (separately attached)
3. Cover Letter - Caerleon Estate - Odour Monitoring and Assessment. (separately attached)

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER