

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 20 June 2016

PE2 – Development Application No. 010.2011.00000039.004 – 90 Railside Avenue Bargo – S96(2) Modification to Amend Existing Car Park Ingress/Egress and Car Parking Numbers

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LOCATION MAP N

DEVELOPMENT INFORMATION

Development Application No:	010.2011.00000039.004
Property Details:	90 Railside Avenue, Bargo
Applicant:	3D Evolution
Owner:	Nathan Stamatis
Proposal Details:	S96 (2) Modification to Amend Existing Car Park Ingress/Egress and Reduce Car Parking Numbers by Two (2)
Zone:	Part B2 Local Centre and R3 Medium Density Residential

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EXECUTIVE SUMMARY

- In 2011, Council granted development consent for demolition of existing buildings on the subject site, construction of a grocery store, commercial premises and associated car parking infrastructure. The purpose of this report is to provide an assessment of a Modified Application to amend the car park arrangements for the site.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- The modification application was notified to those land owners who objected to the original application in accordance with Council's Development Control Plan and no submissions were received.
- It is recommended that the modification application be approved subject to certain conditions being amended and a number of additional conditions.

REPORT

BACKGROUND

Consent was issued on 21 July 2011 for the demolition of existing buildings and the subsequent construction of a single storey retail development comprising a grocery store, small commercial space and car parking areas containing 45 spaces.

On 10 November 2014, an application to modify the consent was approved because reticulated sewer became available to the land.

On 21 December 2015, approval of a further modification of consent allowed deliveries on weekends (between 8am to 1pm on weekends and public holidays).

The current modification, the subject of this report was lodged on 23 November 2015. It was initiated due to the installation of alternate site access/egress from Noongah Street to allow Council to undertake remedial civil works to the Railside Avenue and Noongah Street (i.e footpath widening, stormwater drainage works, road shoulder reconstruction etc). The alternate site access/egress was constructed in accordance with Council's Engineering Standards.

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CONSULTATION

	Party	Comment
Internal	Development Engineer	The proposal is acceptable to the Development Engineer subject to conditions.
External	Roads & Maritime Services (RMS)	<p>NSW RMS advises:</p> <p>'RMS has recently reviewed its level of involvement on classified regional roads and considers that it is more appropriate for councils to determine if the proposed access and egress arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency).</p> <p>Given the above, RMS entrusts Council to assess the traffic implications of this development application.</p> <p>RMS recognises that the amendments to the access arrangements to Railside Avenue would require Section 138 consent from Council and concurrence from RMS under Section 138 of the Roads Act, 1993. Should the developer be able to demonstrate to Council that the proposed access arrangements to Railside Avenue are acceptable and comply with relevant standards, RMS would issue its concurrence under Section 138 of the Road Act, 1993.</p>

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1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The subject site is located at the Railside Avenue (Remembrance Driveway) and Noongah Street intersection, Bargo and directly opposite the Bargo Railway Station. The development land is approximately 3,828m² in area.

The land is in two separate entities and is separated by Nos. 84-86 Railside Avenue.

1.2 DESCRIPTION OF PROPOSED MODIFICATION

It is proposed to amend the existing car park ingress/egress and as a result reduce car parking numbers by two (2).

In the originally approved development there were two parking areas for the development. The first is accessed via a right of carriageway over Nos. 84-86 Railside Avenue (Remembrance Driveway/MR 620). A total of 31 spaces are available to the public in this area.

The modification impacts upon this parking area. Access would still be via a right of carriageway over Nos. 84-86 Railside Avenue. Circulation within the parking area would then become one-way and a new exit point would be constructed onto Noongah Street. As a result, the car park spaces will be reduced from 45 to 43.

The second parking area located behind the former CWA Hall was designated as being for staff only and access would be via Noongah Street. A total of 14 spaces are available in this area. Further, this parking area would also cater for all deliveries and service vehicles to load/unload and manoeuvre to achieve forward entry and exit from the site. The area has been designed to cater for a maximum 12.5m long rigid vehicle. There are no proposed changes to this parking area as a result of the proposed modification.

1.3 SECTION 79C ASSESSMENT

The original application DA 010.2011.00000039.001 was comprehensively assessed in accordance with Section 79C in a report presented to Council at its meeting held on 18 July 2011.

The assessment in this report focusses upon those provisions in Section 96(2) Modification of consents of the Environmental Planning and Assessment Act (EPA Act).

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1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

Section 96(2) Provision	Comment
Consent authority satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).	It is considered that the development to which the consent as modified relates is substantially the same development.
Consent authority has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent.	The original development proposal did not constitute 'integrated development'. The RMS has been consulted and has advised: 'RMS recognises that the amendments to the access arrangements to Railside Avenue would require Section 138 consent from Council and concurrence from RMS under Section 138 of the Roads Act, 1993. Should the developer be able to demonstrate to Council that the proposed access arrangements to Railside Avenue are acceptable and comply with relevant standards, RMS would issue its concurrence under Section 138 of the Road Act 1993'.
Consent authority has notified the application in accordance with: (i) the regulations, if the regulations so require, or (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	The application has been notified in accordance with the provisions of Council's Development Control Plan. Previous objectors were notified and the exhibition period was for 15 days ending on 14 December 2015.

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Section 96(2) Provision	Comment
Consent authority has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan	No submissions were received.
Consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.	Matters referred to in section 79C (1) as are of relevance to the development the subject of the application have been considered in this report.

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1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Not applicable.

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS (DCP)

The issue to be addressed is the loss of two (2) parking spaces reducing the number from 45 to 43.

The report to Council's meeting held on 18 July 2011 for the original application assessed the car parking requirements against the provisions of 'Development Control Plan No.7 Off-Street Car Parking' which was the relevant DCP at the time. That report stated:

'The proposal includes provision of 45 spaces and is, therefore, compliant with the provisions of this DCP.'

According to the Roads and Traffic Authority Guide to Traffic Generating Developments, the development would require a total of 95 spaces. This guideline has been used to assess some applications for supermarkets, eg, Coles in Picton and Woolworths at Tahmoor.

There is a large disparity between the RTA guide and DCP 7. An application for a supermarket at Appin approved by the Land and Environment Court which used DCP 7 to determine the parking requirements. Due to the similarities in the developments, it is considered that DCP 7 should be used in this case.'

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Justification for the proposed loss of two (2) car spaces revolves around the benefits of better on-site circulation for cars and delivery vehicles, improved traffic management on Railside Avenue and adapting to Council's traffic management for the area. In this regard the applicant has provided the following information:

In the latest amendment to the proposal, the applicant is seeking to retain the existing access/egress from Railside Ave while adding another egress only point on the Western side of the existing Noongah Street car park. As part of the proposal, the applicant is also suggesting to remove an existing kerb to the existing "E4" car space in order to create a wider swept turning path for vehicles entering the site. It is important to note that space E4 was already a "no parking" space and so is not expected to have any negative impacts.

Additionally, the newly created traffic conditions will also be supplemented by adequately placed signage in order to ensure traffic is directed appropriately.

During the meeting with Council, a suggestion was made that Council would implement an "island" adjacent to the existing Railside Ave access/egress which would be laid far enough across the driveway to disallow any right turn (south bound turns) onto Railside Ave while still allowing a right turn into the site for those traveling south from the north of Railside Ave. The idea being that those who would have to travel south on Railside after visiting the site would be forced to take the newly created egress point from Noongah Street, make a left turn out of the site onto Noongah Street and then turn right at the 'T' intersection of Railside Ave and Noongah Street, a suggestion which is considered feasible and not expected to have any adverse traffic generation issues for Noongah Street.

It is believed that the implementation of the suggested island by council to the Rallside Ave egress point will alleviate any existing known congestion issues within the car park. Users who wish to travel south on Railside Ave can simply take the newly created Noongah Street egress completely alleviating any back up within the site created by people making a right turn onto Railside Ave as is currently the case.

As a result of these changed traffic conditions, 2 of the existing 45 car spaces have been removed in order to achieve better outcome in regards to traffic flow within the site. The existing disabled car space was also re-positioned to a location which is better suited to the proposed altered traffic conditions.

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The applicant understands that in this case, the proposal is in direct opposition to the required DCP requirements for car parking, the conditions set out in the original DA consent and stated LEP objectives. However, the applicant believes that the proposal is justified in that the altered traffic conditions would ultimately serve to improve the sites traffic flow in and out of the site and alleviate the chances of congestion within. This key point should result in a reduction to congestion currently being experienced by those travelling north and south on Railside Ave due to the existing internal car park congestion spilling over onto Railside Ave.

Along with implementation of the suggested island, it is believed that the proposed changed traffic conditions and the reduction in car parking spaces from 45 to 43 spaces is justified due to an overall improvement of the traffic flow in its overall context. Additionally, it is not anticipated that the deletion of 2 spots will have any adverse effects in regards to the original concerns raised by the RTA regarding "on stream" parking along Railside Ave or Noongah Street, an issue which could quite easily be remedied by introducing "No parking" or "No stopping" signs adjacent to the site.'

Regarding the Applicant's submission, the installation of a traffic island in Railside Avenue is one option to improve road safety in the vicinity of the site. Any upgrade works that reducing conflicts between vehicles and the existing pedestrian crossing would be desirable. In terms of funding additional works in Railside Avenue, it is considered reasonable to require a contribution from the developer equal to the additional cost incurred by Council to facilitate alternate access/egress in Noongah Street.

It is considered that there is sufficient merit to vary the DCP requirements in respect of on-site car parking because the proposed modification would result in:

- Better on-site circulation for cars and delivery vehicles
- Improved traffic management on Railside Avenue
- Achievement of Council's traffic management objectives for the area
- The proposed modification is acceptable to Council's Development Engineer.

NSW RMS has also advised:

- Should the developer be able to demonstrate to Council that the proposed access arrangements to Railside Avenue are acceptable and comply with relevant standards, RMS would issue its concurrence under Section 138 of the Road Act, 1993.

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1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

Not applicable

1.4 IMPACT OF THE DEVELOPMENT

It is considered that the proposed modification would not result in any unreasonable environmental, social or economic impacts.

1.5 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed modified development.

1.6 SUBMISSIONS

No submissions have been received.

1.7 THE PUBLIC INTEREST

This proposed modification application has been designed to improve on-site traffic circulation and local traffic issues that have been in part identified by Council staff.

Based on the merits of the case, it is considered that the modified development is within the public interest.

FINANCIAL IMPLICATIONS

The Development Consent for the retail development required replacement / construction of a footpath to the road reserve. Rather than complete the works themselves, the developer paid Council \$20,000 towards the cost of the planned streetscape works.

The replacement of the kerb and gutter and installation of a new footpath along Noongah Street formed part of the Bargo Streetscape Project. To facilitate alternate access/egress arrangements to the site, a layback was provided to a section of Noongah Street rather than kerb and gutter. A link slab between the footpath and site boundary was also installed to facilitate the access/egress arrangements. The additional cost incurred by Council to facilitate alternate access/egress in Noongah Street is estimated at \$2,250 (i.e. the cost of the link slab and labour to install a layback rather than kerb and guttering).

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ATTACHMENTS

1. Proposed modified site plan of development.
2. Roads and Traffic Authority comments.

RECOMMENDATION

That pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*, Council grant approval to the Modification Application No. 010.2011.00000039.004 and amend the subject Development Consent 010.2011.00000039.001 as follows:

1. Compliance condition (2) is amended to read:

Plan Title	Author/Drawn By	Plan Number	Dated
Ground Floor Plan (including landscaping schedule) as amended by Site Plan	Drawn by I.V. from PDS Project Design Services as amended by the plan drawn by 3d evolution	PDS-10-10 (Issue D) Sheet No. DA 01 as amended by Drawing No. CON-100 (Revision L)	13/05/11 25.01.2016
Section and Elevations	Drawn by I.V. from PDS Project Design Services	PDS-10-10 (Issue D) Sheet No. DA 03	13/05/11
Roof Plan	Drawn by I.V. from PDS Project Design Services	PDS-10-10 (Issue D) Sheet No. DA 02	13/05/11

2. The following condition is added to 7. Engineering & Construction Specifications:

(7) All works are to be designed and carried out in accordance with Wollondilly shire Council's adopted Design and Construction Specifications.

3. The following condition be amended under 10. Carparking/Loading/Access to read:

(1) A total of forty-three (43) sealed car parking spaces and access thereto shall be provided for the proposed development. Such spaces are to measure not less than 2.6m x 5.5m and are to be marked on the pavement in white line marking paint.

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4. The following conditions are added to 11. Engineering & Construction Specifications:
- (7) The applicant shall construct a new heavy duty concrete access (exit only) in Noongah St and alter the parking to relocate the Disabled Parking space as generally shown on the concept plan by Building Designers Australia (3d evolution) dated 25 January 2016. This exit shall include the installation of kerbs each side to delineate the access & provide separation to the parking & trolley bay. Details of this must be provided on engineering plans and approved by Council's Infrastructure Planning Section, under Section 138 of the Roads Act 1993. Engineering plan checking and inspection fees will be advised for payment prior to the issue of the approved plans and 138 Consent Certificate.
 - (8) The applicant shall carry out alternation works in Railside Ave. entry/exit generally as shown on the concept plan by Building Designers Australia (3d evolution) dated 25 January 2016. Details of this shall be included on the engineering plans for approval by Council's Infrastructure Planning Section.
 - (9) The applicant shall install signage, including Exit only and No Entry for the Noongah Street access, and provide line marking for the proposed alternation works generally as shown on the concept plan by Building Designers Australia (3d evolution) dated 25 January 2016. Details for this shall be included on the engineering plans.
 - (10) An upgrade of the traffic facility including line marking in Railside Avenue shall be undertaken to improve traffic safety in the general vicinity of the site. Details shall be included on the engineering plans and approved by the Local Traffic Committee and Council's Infrastructure Planning Section prior to the issue of a 138 Consent. The developer shall contribute to the cost of these works as determined by Council.
5. Advice (d) is to be amended to read as follows:
- (d) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:

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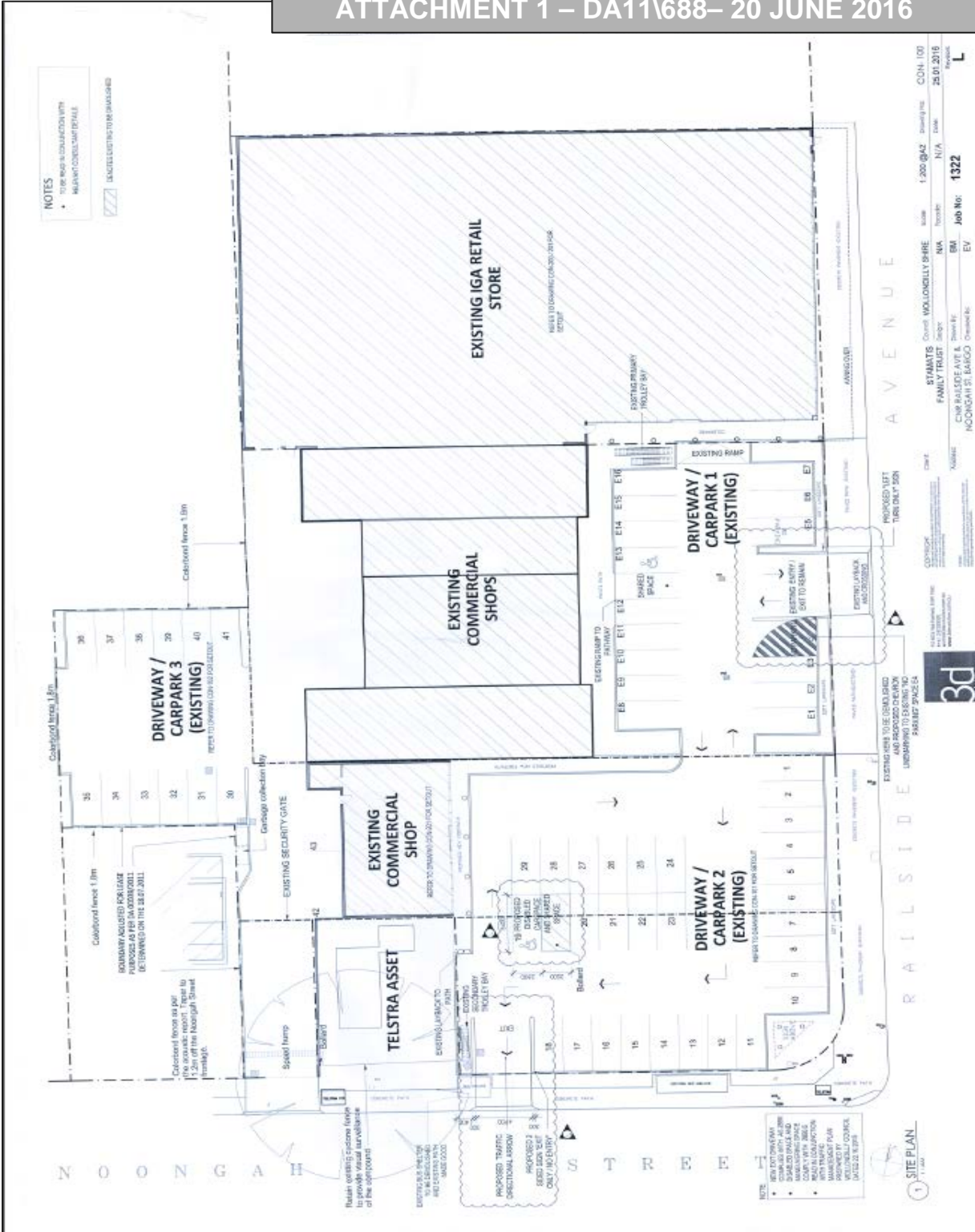
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- Motor Vehicle Insurance (comprehensive or property damage) for all self-propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
- Workers Compensation Insurance.
- Twenty Million Dollar Public Liability Insurance.

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ATTACHMENT 1 – DA11\688– 20 JUNE 2016



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ATTACHMENT 2 – DA11\688– 20 JUNE 2016

Our Ref: STH09/02363
Contact: Sasha Ryan 4221 2769
Your Ref: 010.2011.39.004



10 March 2016

D S Lukic
Wollondilly Council
BY EMAIL: council@wollondilly.nsw.gov.au

DEVELOPMENT APPLICATION 010.2011.39.004 – LOT 1 DP 1192880, 90 RAILSIDE AVENUE BARGO, AMEND CONDITIONS REGARDING CARPARKING ENTRY/EXIT

Dear Sir

Roads and Maritime Services (RMS) refers to your email dated 1 March 2016 regarding the subject development application.

Railside Avenue (Remembrance Drive) is a regional classified road, managed by Wollondilly Shire Council.

RMS has recently reviewed its level of involvement on classified regional roads and considers that it is more appropriate for councils to determine if the proposed access and egress arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency).

Given the above, RMS entrusts Council to assess the traffic implications of this development application.

RMS recognises that the amendments to the access arrangements to Railside Avenue would require Section 138 consent from Council and concurrence from RMS under Section 138 of the Roads Act, 1993. Should the developer be able to demonstrate to Council that the proposed access arrangements to Railside Avenue are acceptable and comply with relevant standards, RMS would issue its concurrence under Section 138 of the Road Act, 1993.

Upon determination of this matter, it would be appreciated if Council could email a copy of the Notice of Determination to RMS via development.southern@rms.nsw.gov.au.

Yours faithfully

Chris Millet
Manager Land Use
Southern Region

WOLLONDILLY SHIRE COUNCIL
TRIM NO. DA11\688 P4
PROP. No.
11 MAR 2016
AUTH. No.
ASSIGNED TO: D. LUKIC

Roads & Maritime Services

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