



Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

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| Application No.: | DA21/0086 |
| Modification No.: | N/A |
| Council File No.: | D/2021/0086 |
| Date of Lodgement: | 08/03/2021 |
| Applicant: | Michael Keys Wagga Wagga City Council Po Box 20 WAGGA WAGGA NSW 2650 |
| Proposal: | 15 Lot Subdivision - Riverina Intermodal Freight and Logistics (RIFL) Hub |
| Description of Modification: | N/A |
| Development Cost: | \$4150000 |
| Assessment Officer: | Steven Cook |
| Determination Body: | Council |
| Other Approvals | Nil |
| Type of Application: | Development Application |
| Concurrence Required: | No |
| Referrals: | Internal |
| Adjoining Owners Notification: | 9/4/21 - 23/4/21 |
| Advertising: | 9/4/21 - 23/4/21 |
| Owner's Consent Provided: | 22/02/21 |
| Location: | Western side of the Main Southern Railway, south of Trahairs Road and in the case of Lot 11 DP 1223041 and Lot 21 DP 1230517, north-east of Merino Dr. A small part of the development site, being Lot 41 DP 1215424 is located to the east of Dorset Dr and is bisected by Merino Dr, being overall to the south of Lot 11 DP 1223041. |

SITE DETAILS

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| Subject Land: | RIFL 177 Merino Rd BOMEN NSW 2650 Lot 41 DP 1215424, Lot 11 DP 1223041 and Lot 21 DP 1230517 |
| Owner: | Wagga Wagga City Council |

REPORT

DESCRIPTION OF DEVELOPMENT

The proposal is for a 15 lot industrial subdivision on the site of the Riverina Intermodal

Freight and Logistics (RIFL) Hub.

The 15 Torrens titled lots are proposed to range in size from approximately 2.5 hectares to 28 hectares. Two reserves are proposed to be dedicated. A public road to service the development is also proposed in this Development Application, along with individual service connections to each allotment.

Separate to this proposal, a range of other works have been approved that are associated with the RIFL Hub, under Part 5 of the Environmental Planning and Assessment Act. These works include:

- The unnamed “RIFL Access Road” that provides connection to the road proposed in this development,
- Enabling works for the subdivision, including bulk earthworks, vegetation clearing and trunk service provision along the frontage of each lot (including electricity, sewer, water and communications).
- Stormwater drainage.
- Relocation of 132kV power lines.
- A 5.8km master siding off the Main Southern Railway line,
- Construction of the RIFL intermodal terminal.

These works do not form part of this Development Application, however, it is noted that the proposed road under this development would rely on construction of the RIFL Access Road for connection to the local road network. At this time this road has not yet been constructed.

THE SITE & LOCALITY

The site, being Lot 11 DP 1223041, Lot 21 DP 1230517 and Lot 41 DP 1215424, 177 Merino Dr and Dampier St, Bomen, is located on the western side of the Main Southern Railway, south of Trahairs Road and in the case of Lot 11 DP 1223041 and Lot 21 DP 1230517, north-east of Merino Dr. A small part of the development site, being Lot 41 DP 1215424 is located to the east of Dorset Dr and is bisected by Merino Dr, being overall to the south of Lot 11 DP 1223041.

The site is vacant, and is largely devoid of vegetation, having been used historically for agricultural purpose. It is currently undergoing works associated with the Part 5 approvals granted on the site, including the bulk earthworks.

The site is within a developing industrial area. Land to the west is zoned for industrial purposes but is undeveloped. Immediately to the east is the Main South Railway, and beyond are large lot industrial developments, including the former woolcombing site, an oilseed crushing and refining plant, and a battery recycling plant. South of the site is vacant land, beyond which is the existing Bomen Industrial Area, including salesyard facility, and various industrial developments. Land to the north is rural and zoned for rural purposes.

The site is located within an area that has been investigated to form the Wagga Wagga Special Activation Precinct (SAP). The SAP recognises the strategic importance of the

Bomen area, with its strong transport linkages and proximity to major infrastructure. A range of technical documents have been prepared and a Master Plan endorsed. The SAP would permit a range of uses to be carried out as Complying Development within the area, subject to compliance with relevant planning documents, including a Master Plan and Delivery Plan. For the land to be within the SAP, State Environmental Planning Policy (Activation Precincts) 2020 would need to be amended to include the land associated with the proposed SAP. Amendments to this effect have been published, but are not proposed to take force until 31 December 2021.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.

**(a)(i) - The provisions of any environmental planning instrument (EPI)
Local Environmental Plan**

Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the site is zoned IN1 General Industrial. The objectives of the IN1 zone are as follows:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*

The proposed subdivision will facilitate future industrial development on the subject land, and is therefore consistent with the zone objectives, particularly by providing land for a range of industrial and warehouse land uses, encouraging future employment opportunities, and supporting and protecting land for industrial uses. It is noted that if uses on the subject site are limited to rail-related industries, it would constrain the breadth of the range of uses somewhat, however given the relatively wide range of uses that would still fall under the “rail-related” umbrella, this constraint is not considered so significant for the development to be inconsistent with the objectives of the zone.

Clause 2.6 of the plan sets out that subdivisions such as that proposed require the consent of Council.

Clause 4.1 of the WWLEP 2010 sets minimum lot sizes for certain land. There is no minimum lot size on the subject site.

Clause 5.10 relates to heritage conservation. There are no heritage items listed in the WWLEP 2010 either within or in the vicinity of the site that are likely to be impacted by the proposed development.

Part 6 of the WWLEP applies as the land is within an Urban Release Area (URA).

Clause 6.1 of the WWLEP requires that the Director-General for the Department of Planning provides certification that satisfactory arrangements are in place for the provision of state public infrastructure prior to the issuing of any Development Application within a URA. The Director-General provided this certification on 30th November 2011.

Clause 6.2 of the WWLEP 2010 requires that development consent must not be granted for development on land in a URA unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required. Essential infrastructure is available in the vicinity of the site. Trunk electrical, sewer, water and communications services along the frontage of each lot were approved under the REF for the site. Stormwater infrastructure was also approved under the REF. The development proposes the following service connections to each individual lot:

- Sewer,
- Mains water supply,
- High voltage electricity, and
- Telecommunications (NBN)

These services proposed are considered to constitute the “essential services” for the proposed development, and Council can consider that adequate arrangements are in place for their provision. It is recommended that this be secured via a condition of consent. With reference to high voltage electricity, whilst this is not a standard requirement of subdivisions, given the nature of the uses likely to occupy these sites in future, its provision is recommended at this time.

It is noted that gas is not proposed to be connected at this time. Gas is not considered an essential service, as alternative energy means are available for developments of the kind likely to occupy these sites, such as hydrogen.

Clause 6.3 of the plan requires that a Development Control Plan, addressing certain matters, is in place before Development Consent can be granted. Such a DCP is in place.

Clause 7.1A relates to earthworks and is as follows:

(3) Before granting development consent for earthworks, the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Bulk earthworks have been approved previously for the site under the REF. No further earthworks are proposed under this Development Application.

Clause 7.3 applies to land identified as “Biodiversity” on the ‘Terrestrial Biodiversity Map’ of the WWLEP 2010. The northern end of the site, along with small sections along the eastern boundary are mapped as such.



Clause 7.3 requires that:

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters-*
 - (a) any potential adverse impact of the proposed development on any of the following-*
 - (i) a native vegetation community,*
 - (ii) the habitat of any threatened species, population or ecological community,*
 - (iii) a regionally significant species of plant, animal or habitat,*
 - (iv) a habitat corridor,*
 - (v) a wetland,*
 - (vi) the biodiversity values within a reserve, including a road reserve or a stock route,*

(b) any proposed measures to be undertaken to ameliorate any such potential adverse impact.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is consistent with the objectives of this clause and-

(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or

(b) if a potential adverse impact cannot be avoided, the development-

(i) is designed and sited so as to have minimum adverse impact, and

(ii) incorporates effective measures so as to have minimal adverse impact, and

(iii) mitigates any residual adverse impact through the restoration of any existing disturbed or modified area on the site.

The removal of vegetation was approved under the associated Part 5 approval on the site. The impacts of this were assessed at this time. Therefore, it is considered that the proposed subdivision will not increase impacts on the matters listed in this clause. It is further noted that a reserve is proposed adjacent to the significant vegetation located within Trahairs Rd. All relevant matters have been considered.

Clause 7.9 requires that Council consider the impact of developments on the primacy of the Wagga Wagga Central Business area. The development is for an industrial subdivision which is likely to house uses that would not be appropriate in the Wagga Wagga CBD. Therefore the development is considered unlikely to impact on the primacy of the existing CBD.

Clause 7.11 applies where the consent authority is satisfied that the proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Wagga Wagga Airport. The subject site is around 123m below the OLS at its highest point and as such, the development will not penetrate the OLS and the clause does not apply.

There are no other provisions of the WWLEP 2010 relevant to the development.

State Environmental Planning Policies

State Environmental Planning Policy (Activation Precincts) 2020

Following the submission of this Development Application, on 21/05/21 *State Environmental Planning Policy (Activation Precincts) Amendment (Wagga Wagga) 2021* was notified on the NSW Legislation website which will incorporate the Wagga Wagga Special Activation Precinct into the SEPP. The site is located within the Wagga Wagga SAP.

The relevant provisions of the SEPP are as follows:

Clause 5 states that the SEPP applies to land within an Activation Precinct. Section 1 of Schedule 2 of the SEPP states that:

The land shown as Wagga Wagga Activation Precinct on the State Environmental Planning Policy (Activation Precincts) 2020 Wagga Wagga Activation Precinct Land

Application Map is declared to be the Wagga Wagga Activation Precinct.

The site is situated on such land, and thus would fall within an Activation Precinct. However, section 15 of Schedule 2 states:

A development application for development on land in the Wagga Wagga Activation Precinct that was lodged before the land was part of that Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.

In addition to the above, the Schedule itself has a delayed commencement, with *State Environmental Planning Policy (Activation Precincts) Amendment (Wagga Wagga) 2021* stating that Schedule 2 commences on 31 December 2021.

Therefore, the SEPP should be considered in a similar manner to if it were a draft environmental planning instrument. It should be given reasonably significant weighting as it should be considered substantially certain, given it has been published. It could not yet be considered imminent, as it does not commence for over 6 months.

The remainder of the SEPP is assessed as follows:

Clause 6 of the SEPP would switch off the Wagga Wagga Local Environmental Plan 2010 for the site. This is of minimal consequence, as the assessment under the WWLEP 2010 demonstrates no significant inconsistencies with that plan.

Clause 8 sets out the requirements for a master plan for an Activation Precinct. A Master Plan has been endorsed for the site - The Wagga Wagga Special Activation Precinct Master Plan.

Clause 9 sets out the requirements for a delivery plan for an Activation Precinct. At the time of writing this report, a delivery plan had not been approved for the site, nor had a draft plan been exhibited.

Clause 10 sets out that:

A consent authority must have regard to the following when determining an application for development consent to carry out development on land within an Activation Precinct-

- (a) the master plan for the Activation Precinct,*
- (b) any delivery plan that applies to the land on which the development is to be carried out,*
- (c) any draft master plan or draft delivery plan that is published on the NSW planning portal.*

As noted above a master plan has been endorsed for the site, however a delivery plan has not. The master plan is considered below.

The development is considered to be generally consistent with the master plan providing developable land for industries associated with the rail siding indicated in the

plan and the Riverina Intermodal Freight and Logistics Hub. It is noted that the exhibited “Wagga Wagga Special Activation Precinct Structure Plan” shows a new road generally in the location of the road proposed under this development. Connecting roads are also indicated off this road, and the proposed development will not provide any constraint to this happening in future.

Clauses 11-13 of the SEPP relate to Activation Precinct Certificates, which are issued by the Development Corporation. Under the *Environmental Planning and Assessment Regulation 2000*, an Activation Precinct certificate is required to accompany an application for development consent for development on land within an Activation Precinct. The Development Application does not have one, and does not require one as the site is not yet within an Activation Precinct. Furthermore, an Activation Precinct Certificate can only be issued by the Development Corporation if there is a master plan and delivery plan that apply to the land. Neither are in place at this time.

Schedule 2 sets out zones, land use tables and exempt and complying development. It also sets out that the consent authority in the Regional Enterprise Zone (REZ) zone is the Planning Secretary. As the Schedule is not yet in force, the consent authority remains Council.

The proposed zoning of the subject site under the master plan is Regional Enterprise Zone. The objectives of the REZ are:

- *To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.*
- *To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.*
- *To provide opportunities for regional economic development and employment.*
- *To attract industries that would contribute to and benefit from being close to major freight transport networks.*
- *To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.*
- *To encourage the development of industry leading renewable energy generation and resource and waste management.*

The proposed subdivision would facilitate the use of the land for a range of industrial purposes in close proximity to transport linkages. This will help attract industries and provide opportunity for regional economic development and employment. As such, the development is considered consistent with these objectives. As noted in the discussion under the WWLEP 2010 IN1 zone objectives, if uses on the subject site are limited to rail-related industries, it would constrain the breadth of the range of uses somewhat, however given the relatively wide range of uses that would still fall under the “rail-related” umbrella, this constraint is not considered so significant for the development to be inconsistent with the objectives of the zone.

Subdivision is not covered by the land use table for the REZ zone. Instead, the requirements of the WWLEP 2010 that subdivisions require consent is adopted via

Section 13 of Schedule 2, which states that:

Clauses 2.6-2.8, 5.1, 5.8 and 5.11 of Wagga Wagga Local Environmental Plan 2010 apply to land in the Wagga Wagga Activation Precinct in the same way as they apply to land to which that Plan applies.

Clause 2.6 of the WWLEP 2010 sets out that subdivision requires consent.

There are no other provisions of the SEPP applicable to the development. Overall the development is considered not inconsistent with the provisions of the SEPP where they would be reasonably applicable.

State Environmental Planning Policy (Infrastructure) 2007

Section 45 of SEPP (Infrastructure) 2007 requires that for development carried out “within 5m of an exposed overhead electricity power line” Council must:

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

The development is proposed on land on which electricity supply infrastructure exists. Essential Energy was notified of the proposed development and advised that they had no comments to make as to potential safety risks arising from the proposal and made a number of general comments. Where relevant comments have been addressed in recommended conditions of consent.

Clause 85 of the SEPP applies to certain development adjacent to rail corridors. Specifically, it applies to development that:

- (a) is likely to have an adverse effect on rail safety, or*
- (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
- (c) involves the use of a crane in air space above any rail corridor, or*
- (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.*

It is considered that the development is not development of the kind referred to in Clause 85 and thus the clause does not apply. Notwithstanding, the development was referred to ARTC as an adjoining landowner. No submission had been received from ARTC at the time of preparation of this assessment report.

There are no other provisions of SEPP (Infrastructure) 2007 relevant to this application.

State Environmental Planning Policy No 55 - Remediation of Land

Clause 7 of SEPP 55 requires that:

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land:*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

With respect to SEPP 55, Clause 7 of the SEPP requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The site has been historically used for agricultural purposes, which is a potentially contaminated activity in Table 1 of the 'contaminated land planning guidelines' (as referenced in (4)(b)).

Arguably the development represents a change of use of the land, however it is considered that the land use has changed when the works associated with the REF commenced. As such it is considered that 7(2) of the SEPP does not strictly apply and there is no legislative requirement for Council to consider the findings of a Preliminary Site Investigation.

Notwithstanding, the suitability of the land with regard to contamination has been

considered previously on the site under a PSI, and this can be relied on for this Development Application. PSIs were prepared both under previous REFs for the enabling roads, and as part of the Special Activation Precinct Masterplan. Neither document identified areas of concern on the subject site, with the PSI for the SAP masterplan noting:

“for former agricultural land, potential contamination impact during future developments can be managed during construction through an unexpected finds protocol within a construction environmental management plans (CEMP) as part of development standards.”

Accordingly, it is recommended that a CEMP be conditioned.

Taking into consideration the above matters, Council can be satisfied that it has considered whether the land is contaminated and that the land is suitable for the proposed development.

State Environmental Planning Policy (Koala Habitat Protection) 2021

The subject land is located within the Wagga Wagga LGA, which is listed in Schedule 1 of the State Environmental Planning Policy (Koala Habitat Protection) 2021 (Koala SEPP). The SEPP applies to land greater than 1 hectare in size. There is no approved koala plan of management for the land. Therefore Clause 11 of the SEPP applies to the proposed development. Clause 11(3) of the SEPP indicates that if the Council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the Council may grant consent to the development application.

Vegetation on the site is Yellow Box and White Box, which are “Koala use tree species” listed in Schedule 2 of the SEPP for the Koala Management Area. However, as vegetation clearing was approved under the REF, it is considered that impacts on koalas and koala habitat as a result of the Development Application are unlikely. It is also understood a resident population of koalas is not considered present in the Wagga Wagga area and it is considered that the site does not meet the definition of core koala habitat. As such, Council may grant consent to the Development Application.

There are no other SEPPs relevant to the Development Application.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies to the land, as the development is within a zone to which the SEPP applies. However, as no vegetation is proposed to be removed under the Development Application, there are no relevant provisions under the SEPP for the proposed development.

(a)(ii) - The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

There are no draft epis relevant to this Development Application.

(a)(iii) - Any development control plan

Wagga Wagga Development Control Plan 2010

1.10 - Notification of a Development Application

The application was notified to adjoining neighbours from 9th April 2021 to 23rd April 2021 in accordance with the provisions of the WWDCP 2010. No public submissions were received. Submissions were received from APA Gas, Essential Energy, Riverina Water, Riverina Local Land Services, the NSW Department of Planning, Industry and Environment, and Regional Growth NSW Development Corporation. These are discussed in part (d) of this assessment report.

Section 2 - Controls the Apply to All Development

Whilst the controls in this section apply to all development, the majority are not directly relevant to subdivisions. These controls will become applicable as further Development Applications are received for development of the proposed lots. The relevant controls are addressed below.

2.1 Vehicle access and movements

C1 Access should be from an alternative secondary frontage or other non-arterial road where possible.

None of the proposed lots have frontage only to an arterial road.

C2 A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.

The Statement of Environmental Effects notes that:

The development site is well-serviced by surrounding main thoroughfares. The draft SAP Transport and Traffic Plan indicates that upgrades within and around the SAP would not be required prior to 2030. Further detail regarding road layouts, hierarchy and any requirement for upgrades would be identified in the Stage 1 Delivery Plan under the SAP Masterplan. The accompanying swept path analysis indicates the intersection of the RIFL Access Road and Road No. 1 can cater for A-Double and B-Triple turning movements. It is considered further traffic assessment is not required in support of the development application.

The position set out in the SEE is supported.

C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.

This requirement will need to be assessed at the time of future development of the land, noting all proposed lots are very large and are likely to provide adequate onsite space for manoeuvring.

C4 Provide adequate areas for loading and unloading of goods on site. The loading

space and facilities are to be appropriate to the scale of development.

This requirement will need to be assessed at the time of future development of the land, noting all proposed lots are very large and are likely to provide adequate onsite space for loading and unloading goods.

C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.

This requirement will need to be assessed at the time of future development of the land.

C6 Ensure adequate sight lines for proposed driveways.

This requirement will need to be assessed at the time of future development of the land.

2.2 Off-street parking

There are no controls in this section relevant to subdivisions. Off-street parking will need to be assessed at the time of future development of the land.

2.3 Landscaping

There are no controls in this section relevant to subdivisions. Landscaping will need to be assessed at the time of future development of the land. It is noted that standard conditions of consent with regard to street tree planting are recommended.

2.4 Signage

No signage is proposed under this Development Application.

2.5 Safety and Security

Delineation of private and public areas in a subdivision primarily relies on the road network to provide these cues. This will be predominantly established more definitively as more development occurs. The remaining controls in this section are primarily relevant at the time of future development of the land.

2.6 Erosion and Sediment Control Principles

Standard conditions of consent to manage erosion and sediment control are recommended to be imposed.

2.7 Development Adjoining Open Space

The development does not adjoin open space.

Section 4 Environmental Hazards and Management

4.1 Bushfire

C1 Applications are to satisfy the relevant provisions of Planning for Bush Fire Protection 2006 (or any later versions) and Australian Standard: 3959 Construction of Buildings in Bush Fire Prone Areas.

C2 Where required, a clear separation is to be provided between buildings and bushfire hazards in the form of a fuel-reduced Asset Protection Zone (APZ). In all cases the APZ is to be located wholly within the land zoned Residential. Refer to the

requirements of Planning for Bush Fire Protection 2006

The site is not mapped as bushfire prone land, but surrounding land, in its undeveloped state, would be considered a potential grassland hazard. *Planning for Bush Fire Protection 2019* applies to all development applications on land classified as bushfire prone. In this instance the development would be classed as 'other development'. Section 8 of the PBP2019 is therefore relevant:

8.1 Introduction

...In order to comply with PBP the following conditions must be met:

- satisfy the aim and objectives of PBP outlined in Chapter 1;*
- consider any issues listed for the specific purpose for the development set out in this chapter; and*
- propose an appropriate combination of BPMs...*

The aim and objectives are as follows:

The aim of PBP is to provide for the protection of human life and minimise impacts on property from the threat of bush fire, while having due regard to development potential, site characteristics and protection of the environment. More specifically, the objectives are to:

- afford buildings and their occupants protection from exposure to a bush fire;*
- provide for a defensible space to be located around buildings;*
- provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent the likely fire spread to buildings;*
- ensure that appropriate operational access and egress for emergency service personnel and occupants is available;*
- provide for ongoing management and maintenance of BPMs; and*
- ensure that utility services are adequate to meet the needs of firefighters.*

No buildings are proposed at this stage. The subdivision includes essentially a perimeter road to the land to the west, which has sufficient width to allow for the turning of vehicles, and is connected to a broader road network with connections to both Byrnes Road and the Olympic Highway. The site is proposed to be serviced by mains water supply and high voltage electricity is to be provided underground. Lots are large enough that Asset Protection Zones are able to be provided around buildings in future if deemed necessary. Servicing and landscaping of individual developments will be a relevant consideration in future developments on each individual allotment. The objectives of PBP are considered to have been met and satisfied.

There are no specific issues listed in Chapter 8 of PBP 2019 relating to Industrial Subdivisions.

Remaining Sections

The Bomen Urban Release Area has a designated chapter in the WWDCP 2010.

Section 1.7 of the WWDCP 2010 states that where an area has a dedicated chapter in the DCP, no further reference to the controls in section D of the DCP (i.e. sections 7-12) is required. Therefore the application will not be assessed under these sections. The relevant sections of the Bomen chapter are addressed as follows:

Section 13 - Bomen Urban Release Area

13.4 Site Topography and Landscape Character

C1 Retain existing vegetation along the Olympic Highway and Byrnes Road and along creek lines and all other treed locations indicated on the Bomen Site Topography and landscape character plan.

Vegetation removal across the site was approved under the previous REF. Therefore the proposed development itself will not result in any vegetation removal. Notwithstanding, vegetation indicated on the referenced plan is considered to not be adversely impacted.

C2 Protect ridgelines as visual features of Bomen. Ridgelines at all times, are to remain visible above the topmost ridge of all new buildings, when viewed from any point along the eastern boundary of the Bomen Urban Release Area.

No buildings are proposed in this development. The proposed subdivision is not located on the major ridge line identified in the WWDCP 2010.

C3 Roads and pathways should generally run along the contours of the land and generally perpendicular to the contour where the land is steeper.

The proposed road runs generally perpendicular to the contours which is considered appropriate given the undulating nature of the land.

C4 Development Applications shall include management and mitigation information for land identified in the LEP as environmentally sensitive.

The site includes land identified as biodiversity. This is address in part(a)(i) of this assessment report.

C5 Development with large building footprints should be sited on flatter land to avoid excess cut and fill. 3D modelling including view corridors will be required for development applications for sloping land with a gradient of over 10 percent.

No buildings are proposed at this time. Further earthworks may be required in future developments. The impacts of these earthworks will need to be assessed when these developments occur, however, it is noted that the proposed lots are large and provide substantial area to site future buildings.

13.5 Distribution of Land Uses

C1 Development Applications shall respond to the distribution of uses proposed in the Bomen Precinct Plan.

No land uses are proposed under this development. The Development Application is for a subdivision of land.

C2 It is preferred that the eastern side of Byrnes Road will contain larger lots (> 5Ha) (see Subdivision Design Principles Diagram. Figure 12) and that "cleaner" developments locate in that area.

The site is west of Byrnes Road.

C3 It is preferred that heavier industry locates on the land west of Byrnes Road, which can accommodate a variety of lot sizes.

A variety of lot sizes are proposed, consistent with this clause.

13.6 Major Infrastructure Planning

13.6.1 Location of Major Infrastructure Corridors

C1 Maintain existing easements for infrastructure, as shown in the Bomen Precinct Plan Map.

The development proposes the relocation of the existing power lines across the site. This will necessitate the relocation of easements.

C2 New infrastructure shall be located in major road corridors except for Trahairs Road
The development complies with this control.

C3 Subdivision can only be considered where there are appropriate arrangements for servicing (electricity, gas, water, sewer and communications).

Servicing of the development, excluding gas, is proposed. This is discussed in detail in part(a)(i) of this assessment report.

C4 The developer shall be responsible for providing reticulated mains sewer supply to allotments, including associated pump stations, to the satisfaction of Council.

Sewer is proposed to be connected to the development.

C5 Developers should discuss expected water usage with Riverina Water County Council at an early stage of project planning, as there may be restrictions of supply due to existing infrastructure capacity or topography. Development is not permitted over the utility corridor that accommodates the water supply main.

The Development Application notes that discussions between the Developers and Riverina Water have been held. Riverina Water provided standard comments for the development.

C6 Developers should refer to the Precinct Plan Map for sewer servicing planning. Detailed sewer design plans for each stage of subdivision must be submitted with the development application for that stage of subdivision.

Concept sewer plans have been provided.

C7 Developers should consult with Telstra to determine telecommunications requirements. Costs for providing communications infrastructure will be shared between Telstra and the developer.

NBN Connections are proposed for each lot.

C8 Gas supply depends on the type of industry that establishes in Bomen. Developers should consult with Country Energy Gas in relation to gas supply.

The Development Application notes that discussions between the Developers and APA Group have been held and no limitations have been identified. Gas supply is further discussed in part(a)(i) of this assessment report.

C9 Developers shall supply load applications to Country Energy to determine specific electrical requirements. Where sites are serviced by existing overhead 11kV electrical mains the proponent should consult with Country Energy to determine the opportunity for these lines to be placed underground. Developers are encouraged to discuss timing of placement of underground cables in order to reduce costs.

Underground high voltage electricity is proposed in the development. This is considered necessary for the types of development likely to occupy the development. Conditioning of this is necessary to ensure Essential Energy are able to provide necessary information to enable this.

C10 Use existing available land for the purposes of a corridor to provide services and service road (refer to Proposed Road Location and Hierarchy diagram Figure 6)
N/A to this development.

13.7 Sewer and Effluent Disposal

C1 The developer shall be responsible for providing reticulated mains sewer supply to allotments, including associated pump stations, to the satisfaction of Council.

Sewer mains are proposed to be extended to the site.

C2 Sewerage and Drainage provision should be installed in accordance with: Appendix A of Part 2 “Service Areas” of the City of Wagga Wagga Development Servicing Plan for Sewerage 2007, where this plan is applicable, and; the map appendix A included in Part 2 Service Area of the City Of Wagga Wagga Development Servicing Plan (DSP) for Sewerage 2007, covers the Bomen Urban Release Area.

Part of the site is within the Sewer DSP area. The remainder of the site is outside, but adjacent to the Sewer DSP area.

C3 The map in Appendix C included in Part 2 “Areas of land to which this Policy applies” of the City of Wagga Wagga Development Servicing Plan (DSP) for Drainage 2007 cover the Bomen Urban Release Area.

The site is outside, but adjacent to the Stormwater DSP area.

13.8 Location of principal Internal Movement Linkages

C1 The preferred road hierarchy and layout for Bomen is shown in the Proposed Road Location and Hierarchy diagram. Applications for subdivision should respond to this plan.

The proposed road is not inconsistent with the road hierarchy plan. Whilst not shown on the plan, it would not generally preclude the carrying out of further development on the site.

C2 Road design shall be suitable for potential future use by B-triple vehicles.

The road design caters for B-Triple vehicles.

C3 The Bomen area shall include service facilities, driver facilities and rest areas, and areas for the standing of and uncoupling of large vehicles

Noted. The proposed development does not preclude the provision of such facilities elsewhere within the Bomen area.

C4 A maximum of one additional road access point from the Olympic Highway into Bomen between Bomen Road and Trahairs Road.

No new accesses to the Olympic Highway are proposed.

C5 Development is not to have an active frontage with direct access onto the Olympic Highway. All access should be to internal roads. (see diagram opposite).

C6 New industrial development shall be designed with vehicular access from internal roads only and not require access to the Olympic Highway to move within the estate.

C7 Provision of an internal north-south road to avoid traffic using the Olympic Highway as a link between different parts of Bomen.

The development does not front the Olympic Highway.

C8 Carriageway and intersection widths should reflect road status and purpose.

The development is considered to comply with this control, providing a road of substantial width.

13.8.1 External Site Linkages

C1 Applications for subdivision should show connection to arterial roads, as well as respond to and integrate with the road layout established in earlier stages of development and to the proposed road hierarchy for new development.

The development connects to an existing approved road, and integrates with roads previously constructed under the Bomen Enabling Roads project.

C2 Development applications may require detailed traffic study to investigate and provide solutions to potential traffic generation impacts on the existing and proposed road network. Particular attention to the Olympic and Sturt Highways and Eunony Bridge Roads will be required, The traffic study should determine the anticipated traffic generation created by the estate and the various staging within the estate and define the required works and the critical stage at which such works are warranted to be undertaken.

The proposed development is not considered to trigger the need for a detailed traffic study, noting that the development connects to the wider network that has been recently constructed under the Bomen enabling roads project, and is associated with the RIFL project that was approved under an REF. Traffic modelling has been undertaken as part of the draft SAP.

C3 The proposed additional intersection with the Olympic Highway shall be designed and constructed as a grade separated interchange, suitable for B-triple access. Funding and staging of this interchange shall be discussed and agreed between Council, the Roads and Traffic Authority and developers as part of the Development Application process.

N/A to this development.

13.8.2 Rail

C1 Land adjacent to the railway, generally 450m to 750m in width measured from the railway line, is identified for transport related facilities and industries requiring access or proximity to the railway, as shown in the Bomen Railway and Landscape Buffer

Plan. Only developments requiring and utilising rail directly will be allowed adjacent to the rail corridor. This control only applies to greenfield sites within the designated area, There are a number of existing sites that have already been developed which maintain existing use status.

The site is within 750m of the railway line. No specific land uses are proposed at this time, however, it is noted that the development is intended to be for industries associated with the intermodal hub.

C2 Generally these areas are required for activities such as:

- loading and unloading of freight and containers*
- storage and repair of containers*
- servicing of and repairs to locomotives and rolling stock*
- warehousing*
- heavy vehicle servicing and parking*
- transport and rail-dependent industries*

The existing 88B instrument on the land does contain restrictions as to uses that can be carried out on the land, being generally rail related uses.

C3 Developers requiring rail access shall consult with the relevant rail infrastructure provider as part of preparing any Development Application relating to the land.

Noted. This control will be relevant at the time that future development occurs on the land.

13.9 Land Release and Subdivision Staging

C1 Land release in Bomen shall occur in accordance with the Indicative Industrial Release Area Staging diagram.

The site is within the area identified as Stage 1 in the staging diagram.

C2 Where development proposals seek to extend infrastructure through undeveloped land, this extension will be the responsibility and at the cost of the developer.

Infrastructure is proposed to be provided by the developer.

13.10 Environmental Conservation, Biodiversity and Natural Resource Management

13.10.1 Natural Resource Management

C1 A development application for:

- land containing the Yellow Box Woodland remnant along the Trahairs Road road reserve west of Byrnes Road as identified in Figure 14 of the "Biodiversity Certification Report";*
- the larger areas of low conservation value treed native vegetation as identified in Figure 14 of the "Biodiversity Certification Report"; and,*
- any low conservation value treed native vegetation within the mapped (biodiversity) sensitive area shown on the Natural Resources Sensitivity Map - Biodiversity, shall be accompanied by a draft management plan which will not only provide for protection but also for revegetation of the perimeter areas of the Bomen industrial zones with the multiple objectives of management for visual impact mitigation, assistance in the management of surface water runoff, acoustic protection and biodiversity offsetting and enhancement.*

The proposed development does not propose any vegetation removal, as this was

assessed and considered under previous REFs. The site adjoins Trahairs Rd. A reserve is proposed on the site adjacent to Trahairs Rd, but the development does not extend to within it. The site does not include any of the low conservation value treed patches identified in the referenced report. Therefore a draft management plan is not considered to be required. Furthermore, it is noted that these controls relate to the Biocertification Order for the WWLEP 2010. This is no longer in force, and thus all impacts on biodiversity are now required to be considered in full.

C2 Trees within the area referred to in C1 are to be protected in accordance with a conservation management plan, prepared by a qualified ecologist and approved by Council.

No trees are proposed to be impacted by this development.

C3 Revegetation of the area referred to in C1 is to be undertaken in accordance with a management plan approved by Council.

See above.

C4 Ridgelines identified in Figure 4 to be preserved as a landscape buffer.

The site contains no such ridgelines.

13.11 Stormwater and Drainage

C1 Provide stormwater detention facilities to capture rainwater and surface runoff to ensure post development flows do not exceed pre-development flows, for storm events up to and including the 1 in 100 year storm event.

Concept details have been provided at this time. It is recommended that standard conditions of consent relating to the discharge of stormwater be imposed on any consent.

C2 All new and existing roads will be required to have collector pits and an underground pipe system to carry water to the discharge point for each lot. Interallotment drainage will also be required to collect drainage from higher lots and avoid uncontrolled discharge onto lower lying properties.

The proposed roads include the provision of collector pits and underground mains. Inter-allotment drainage is not required as each of the proposed lots would drain to the street.

C3 Developers proposing subdivision involving a variety of lots shall design lots to allow for appropriate stormwater management by means of, either kerb and gutter or swale drainage.

As above

C4 Developers will be required to manage stormwater resulting from the development. Preferred solutions for managing stormwater include:

- Developers shall provide details of their stormwater management plan at the time of submitting a development Application.*
- Collection of stormwater by rainwater tanks for re-use onsite is preferred.*
- Surface water runoff may be required to be collected and treated onsite.*
- Broadacre development is suitable for swale stormwater management. Small,*

intense development will require kerb and gutter stormwater management.
Concept details have been provided and are considered acceptable.

C5 Each lot is to incorporate a range of water sensitive urban design measures to achieve the nominated water quality targets.

This control is applicable at future development stage.

C6 Stormwater runoff from communal areas is to be treated through communal water sensitive urban design measures to achieve the nominated water quality targets.

Not applicable.

13.11.1 Water Conservation

C1 Development should include the provision of rainwater collection measures for reuse onsite.

This control is applicable at future development stage.

13.12 Heritage Conservation

C1 Proponents are to comply with the provisions of the NPW Act 1974 with respect to Aboriginal cultural heritage.

C2 Prior to the commencement of development within the Bomen Urban Release Area further investigations of PADS and areas of high or moderate sensitivity as shown on the Heritage Plan, are required at the development assessment stage, to identify whether or not Aboriginal objects are present. Such investigations must comply with the provisions of the National Parks and Wildlife Act 1974.

C3 Proposals must be designed to avoid harm to Aboriginal objects and/or Aboriginal places by designating the areas where they are located and appropriate buffers as open space and documenting proposed management practices to ensure the conservation of those objects and/or places.

C4 Satisfactory consultation is to be carried out with Council and Aboriginal stakeholders to confirm the proposed method of management for areas containing Aboriginal objects and/or Aboriginal Places.

C5 Council must be provided with documented justification where proposals cannot avoid harm to Aboriginal objects and/or Aboriginal Places.

C6 Where harm to Aboriginal objects and/or Aboriginal Places is proposed, the development will be 'Integrated Development' under section 91 of the Environmental Planning and Assessment Act 1979 and necessary approvals must be obtained from DECCW in accordance with the NPW Act prior to Council determining the development application.

C7 A member of the Wagga Wagga Local Aboriginal Land Council or other Aboriginal stakeholder group must be invited to supervise works carried out in proximity to an Aboriginal object, Aboriginal place, or other site with Aboriginal cultural heritage values.

An Aboriginal Cultural Heritage Assessment (ACHA) has been previously carried out on Lot 11 which identified several Aboriginal objects and potential archaeological deposit (PAD) sites. An AHIP was subsequently obtained for the entirety of Lot 11 (as well as various other sites) for the works under the REF. Whilst there are no items proposed to be harmed under this development (the bulk earthworks having occurred under the REF), it is recommended that a condition of consent be imposed requiring

that works be consistent with the requirements of the AHIP previously issued for the site for the RIFL Hub project.

No physical works are proposed within Lot 41. As such it is considered unlikely that there would be impacts on any item of Aboriginal Cultural Heritage on that site.

It is recommended that standard conditions of consent relating to unexpected finds be incorporated into any conditions of consent.

It is considered that the above controls of the WWDCP 2010 have been considered and have been satisfied via these previous investigations and the proposed conditions of consent.

13.13 Environmental Hazards and Conditions

13.13.2 Odour

This section is not relevant at subdivision stage. Applicable for future developments on the site.

13.13.3 Noise

This section is not relevant at subdivision stage. Applicable for future developments on the site.

13.13.4 Contamination

Contamination matters were addressed under the SEPP 55 assessment above.

13.14 Subdivision

13.14.2. Topography, Views and Setting

C1 Lot orientation, size and frontages should be suitable to accommodate energy efficient development, required setbacks, landscaping, vehicle movement and parking. Consideration should be given to maximising lot orientation to take advantage of solar orientation in gaining thermal efficiencies. Subdivision layouts will reflect consideration of sewer and drainage servicing, topography, legibility, safety and security, functionality and utilities.

The lots are considered to be of sufficient size for future development to satisfy these matters.

C2 Maintain existing mature trees where possible or provide a reasonable strategy for replanting mature specimens in the subdivision.

No tree removal is proposed under this application (with vegetation removal occurring under the REF).

C3 It is preferred that subdivision east of Byrnes Road be restricted to lots greater than five (5) hectares to reduce runoff, allow onsite stormwater management and mitigate the impact of development on adjoining rural land uses.

N/A. Site west of Byrnes Rd.

13.14.3. Design for Use and Accessibility

C1 Neighbourhood road networks are to maximise connectivity. Avoid long roads with

few connecting side streets that reduce the ability to readily access the area. New local roads shall link with the Internal Roads Map with details of proposed bus routes to service the business to be provided by the developer and agreed by Council prior to development approval.

The proposed road is only a single road at this time, but capacity exists for connections to land to the north and west in future.

C2 Connect to the existing street network and adjoining neighbourhoods.

The development connects to the existing and under construction street network.

C3 Shared paths, located on both sides of collector roads (Byrnes Rd and the major east west arterial annotated as 1 on the proposed road location and hierarchy sketch) and constructed in accordance with Council's standards, are to be provided to service the development, and constructed by the developer at the same time as the roads.

Shared paths - at least 2.5m in width

No such roads are proposed under this development.

C4 Avoid cul-de-sac roads in locations where the dead end would limit links through the estate.

Whilst the road is a cul-de-sac, it is located so that there are connection opportunities to the west and north in future.

C5 Roads shall be located predominantly along the contours of the land to assist with stormwater containment and management.

The road runs perpendicular to the contours which is considered appropriate given the undulating nature of the land.

13.15 Industrial Development

The controls in this section will become relevant as development of the sites occur.

There are no other provisions of the WWDCP 2010 relevant to this application.

(a)(iia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

No related planning agreement has been entered into under section 7.4.

(a)(iv) - the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

92A Additional matters that consent authority must consider for Wagga Wagga

Clause 92A applies to development in the Wagga Wagga Local Government Area and is as follows:

(1) In determining a development application for development on land to which Wagga Wagga Local Environmental Plan 2010 applies, the consent authority must take into consideration whether the development is consistent with the Wagga Wagga Special Activation Precinct Master Plan published by the Department in April 2021.

(2) This clause does not apply to a development application made on or after 31 December 2021.

(3) This clause prescribes matters for the purposes of section 4.15(1)(a)(iv) of the Act.

The Wagga Wagga Special Activation Precinct Mast Plan has been considered in detail in part(a)(i) of this assessment report. The development is considered consistent with the Master Plan. This position is supported by the Department of Planning, Industry and Environment in their submission (discussed in part(d) of this assessment report).

(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Context and setting

The proposal is for an industrial subdivision within a developing industrial area. It is considered that from a long-term sense the proposal will be entirely consistent with the character of the area and entirely compatible with adjacent land uses. However, during transition from a rural area to an industrial area there will be some potential for conflict and inconsistencies in character. These short-term effects are unavoidable during these transitional stages, however, a strategic decision has been made for the conversion of the locality to industrial uses, and are therefore considered acceptable

Access, transport and traffic

The proposed subdivision will increase traffic within the locality as the individual lots are developed, however, the proposal is largely consistent with the Bomen Master Plan which includes an extensive road network designed to carry traffic within the suburb. Impacts on the broader road network are considered acceptable.

Services

The development proposes the installation of reticulated services. This is discussed in detail in part(a)(i) of this assessment report.

Heritage

There are no known items of non-indigenous heritage on the site.

Aboriginal Cultural Heritage is discussed in detail in section 13.12 of part(a)(iii) of this assessment report.

Natural Hazards

The site is not mapped as being bushfire prone, however, land surrounding the site would be considered a potential grassland hazard in its current undeveloped state. This is discussed in part (a)(iii) of this assessment report.

Man-Made Hazards

Potential contamination is discussed in the SEPP 55 assessment.

Economic Impact in the Locality

The development is considered likely to result in a positive economic impact in the locality, through job creation both in the construction phase, as well as within future developments on these allotments. The subdivision is part of, and facilitates, the much larger RIFL Hub development which is of regional economic significance.

Social Impact in the Locality

The proposed development is unlikely to result in any significant social impacts.

Other Land Resources

Given the increasing industrial development in the area, and the residential zoning of the site, it is considered that the site has limited value from a land resource perspective.

Pollution and off-site environmental effects

During construction appropriate measures will need to be implemented to ensure soil erosion and degradation does not occur. It is recommended that a condition of consent be imposed to this end.

Stormwater will be required to be discharged at pre-development flows.

Flora and fauna

Flora and fauna matters were addressed in part (a)(iii) of this report. It is noted that no trees are proposed to be removed as part of this Development Application, with tree removal considered previously under the REF.

Noise and Vibration

Noise in the locality is likely to increase as a result of industrial subdivision of the land. Specific noise increases will need to be assessed and considered at the time of future developments on the land, however, it is noted that a strategic decision has been made to development this locality for large scale industrial purposes.

Energy Impacts

It is likely that some future developments on the site will need to be serviced by high voltage electricity. This is proposed to be supplied. Gas has not been supplied to encourage alternative energy sources in this regard.

It is considered that the proposed lots are large enough to allow developments to be designed to minimise energy requirements.

Site Design and internal design

The design of the site is considered acceptable. Lots are large which allows for flexibility in design for future developments.

Construction

There will likely be an increase in noise and dust during construction of the proposed subdivision. In addition there will be potential for other construction related impacts such as erosion. It is recommended that standard conditions of consent be imposed

to manage these construction related impacts

The Principles of Ecologically Sustainable Development

The proposal is considered to comply with the principles of Ecologically Sustainable Development such as inter-generational equality and conservation of biological diversity and ecological integrity.

(c) - The suitability of the site for the development

The site is considered suitable for the proposed development, being within an area earmarked and supported for substantial growth to support large scale industrial developments. The site is considered to be potentially bushfire prone, but the development complies with Planning for Bushfire Protection 2019. All impacts identified can be managed through the imposition of suitable conditions.

(d) - any submissions made in accordance with this Act or the Regulations

Referrals

As well as standard internal referrals, the Development Application was referred externally to ARTC, APA Gas, Essential Energy, Riverina Water, Riverina Local Land Services, the NSW Department of Planning, Industry and Environment, and Regional Growth NSW Development Corporation.

Notification

The application was notified to adjoining neighbours from 9th April 2021 to 23rd April 2021 in accordance with the provisions of the WWDCP 2010.

Advertising

The application was advertised on Council's website and a notice placed on the site from 9th April 2021 to 23rd April 2021 in accordance with the provisions of the WWDCP 2010.

Public Submissions and those from public authorities

No public submissions were received.

Submissions were received from a number of public authorities, being APA Gas, Essential Energy, Riverina Water, Riverina Local Land Services, the NSW Department of Planning, Industry and Environment, and Regional Growth NSW Development Corporation. These are discussed below.

APA Gas

APA Gas advised that they had no objection or comment to make in relation to the development.

Essential Energy

Essential Energy advised that they had "no comments to make as to potential safety risks arising from the proposed development". Essential Energy also provided a number of general comments. Where relevant, it is recommended that these be incorporated into conditions of consent.

Riverina Water

Riverina Water requested the imposition of standard conditions.

Riverina Local Land Services

Riverina Local Land Services (LLS), who have Travelling Stock assets in the Bomen area, advised that they had no objection to the development:

“providing safe and adequate access and freedom of stock movement is maintained for livestock coming to and exiting from the Bomen Saleyards complex. To achieve this, clear protocols will need to be developed, agreed upon and followed between Council, LLS and Transport Operators in the operation of the freight and logistics centre. We would suggest that this be part of any conditions imposed on the development.”

It is noted that these TSRs are not located in the immediate vicinity of the site (see figure below), and as such this appears to be a Bomen-wide issue with only limited nexus to the proposed development for a subdivision. The matters raised in this submission should be addressed outside the Development Application process. As such, the submission will be passed onto Council’s Regional Activation Directorate for action as part of the wider Bomen planning.



NSW Department of Planning, Industry and Environment

The NSW Department of Planning, Industry and Environment (DPIE) advised that they

had reviewed the proposed development and that they had determined that it is consistent with the proposed Master Plan for the precinct and the SEPP Amendment (noting this submission was received prior to the notification of the SEPP Amendment on 21/05/21 and the endorsement of the master plan). The following reasons were provided by DPIE for reaching this conclusion:

- *The proposal is located within land that is proposed to be rezoned as Regional Enterprise. Subdivision of land is permitted in this zone under the proposed planning framework for the Wagga Wagga Special Activation Precinct.*
- *Some of the land is located within the area identified in the Master Plan to be preserved for rail-related logistics and transport facilities. The creation of the new lots within this area supports future development for these purposes.*
- *Stormwater would be managed to ensure peak discharge does not exceed predevelopment flows in line with the performance criteria in the Master Plan.*
- *The proposal creates lots in proximity to supporting services and infrastructure in line with the performance criteria in the Master Plan.*

The DPIE Submission is noted.

Regional Growth NSW Development Corporation.

Regional Growth NSW Development Corporation (RGDC) was established by the NSW Government as the body managing the delivery of the Special Activation Precincts across NSW. RGDC advised that they were supportive of the proposed development, noting details of the project were likely to be resolved between Council (as the proponent) and RGDC through the “Project Control Group”.

RGDC requested that conditions of consent requiring the provision of a shared pathway and the provision of landscaping (including street trees) within the development be imposed.

With regard to shared pathways, there is no requirement under the WWDCP 2010 for the provision of such pathways, nor are shared pathways identified in the Draft SAP Masterplan for such roads as that proposed in the development. There is a shared path indicated on the subject road in the Wagga Wagga SAP Structure Plan that forms part of the “technical documents” supporting the master plan. The masterplan does note that the Delivery Plan “must include” a plan showing a walking and cycling network “that has been refined in consultation with Council and Transport for NSW”. The delivery plan, which would presumably clearly identify the requirements on the proposed road, has not yet been exhibited. Given the absence of a shared path requirement in the current controls (ie the WWDCP 2010) and the master plan, which is the document required to be considered under the SEPP, it is considered unreasonable to impose a blanket requirement on this consent. Until a delivery plan is developed, it is considered only reasonable to rely on current requirements.

In relation to landscaping, again there is no requirement for landscaping within Council

current planning documents beyond standard street tree planting, which would be conditioned. Again, the Draft Masterplan does not indicate additional landscaping along the proposed road, with buffering located along Byrnes Road, the rail corridor and the Olympic Highway. It is anticipated that the Delivery Plan may provide more detail in this regard, but as noted above, a Delivery Plan has not been placed on public exhibition.

(e) - the public interest

The proposed development is considered to be significantly in the public interest, by helping facilitate the delivery of the RIFL Hub and the Wagga Wagga SAP, which in turn is of regionally significant economic benefit, generate jobs in the local community.

The development is consistent with the strategic objectives for the city and the precinct.

It is considered to be in the public interest to have consistent street naming themes for suburbs to assist in wayfinding. The theme adopted by Council for Bomen is 'Sheep and Cattle Breeds'. Therefore it is recommended that the new road be named Limousin Drive after the Limousin cattle breed.

Other Legislative Requirements

Biodiversity Conservation Act 2016

Section 1.7 and Part 7 of the Biodiversity Conservation Act 2016 (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

The land is not biocertified and the Biodiversity Conservation Act 2016 applies. This results in the need for further assessments or offsets.

1. *Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?*

No.

2. *Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.*

No. Vegetation clearing has been previously assessed under the REF. Therefore no further clearing is proposed under this development.

3. *Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.*

Given no native vegetation is being removed and the absence of any recorded endangered flora or fauna on the site, the proposed development is not anticipated to significantly affect threatened species or ecological communities or their habitats.

Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme and no further assessment is required.

Local Government Act 1993

The Section 88B instrument for Lot 11 DP 1223041 contains two “restrictions on the use of land”. The first requires the provision of services to the land prior to any further development. The second restricts the type of land uses that can be carried out on the land. These specifically relate to uses such as those that require direct access to rail or rail intermodal or bulk facilities. This second restriction is of no effect as of 7/11/23. The proposed development is not inconsistent with these matters.

The subject land is owned by Council and is classified as operational land. As operational land, the Local Government Act 1993 provides for the land to be developed and sold.

Roads Act 1993

Where works extend onto existing public roads, approval is required under Section 138 of the Roads Act 1993. It is recommended that a condition to this end be imposed.

Council Policies

There are no additional Council policies applicable to this development.

Comments by Council's Officers and/or Development Assessment Team

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. Relevant comments or requirements are details are available on the file.

Development Contributions - Section 7.11/7.12 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

s7.11/s7.12

Sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Wagga Wagga Local Infrastructure Contributions Plan 2019-2034* enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. As the cost of development is over \$100,000 a section 7.12 contribution of 1% of the development cost is payable. The calculation is as follows:

$$\begin{aligned} &0.01 \times \$4,143,892 \\ &= \$41,438.92 \end{aligned}$$

s64 Sewer and Stormwater

Section 64 of the *Environmental Planning and Assessment Act 1979*, Section 306 of the *Water Management Act 2000* as well as the City of Wagga Wagga's *Development Servicing Plan for Stormwater 2007* and/or *City of Wagga Wagga Development Servicing Plan for Sewerage 2006* enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

s64 Sewer

“Addendum - Wagga Wagga City Council Development Servicing Plan - Sewerage Services 2013” has been adopted by Council. The addendum states that “industrial and commercial subdivision will not be charged Section 64 Sewer infrastructure contributions”.

s64 Stormwater

“Addendum - Wagga Wagga City Council Development Servicing Plan - Stormwater 2007” has been adopted by Council. The addendum states that “industrial and commercial subdivision will not be charged Section 64 Stormwater infrastructure contributions”.

Other Approvals

No other approvals were sought

Conclusion

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies. No objections to the proposal were received.

RECOMMENDATION

It is recommended that application number DA21/0086 for 15 Lot Subdivision - Riverina Intermodal Freight and Logistics (RIFL) Hub be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO. DA21/0086

A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

- C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

| Plan/Doc Title | Prepared by | Issue | Date |
|--------------------------------------------------------------------------------|-------------|-----------|---------|
| Proposed Subdivision Plan (Sheet 1 of 2) | Spiire | B | 9/2/21 |
| Proposed Subdivision Plan (Sheet 2 of 2) | Spiire | B | 9/2/21 |
| Typical Cross Sections (Sheet 1 of 3) | Huon | C | 16/2/21 |
| Detail Plan and Long Section - Industrial Precinct Access Sheet (Sheet 1 of 5) | Huon | C | 16/2/21 |
| Detail Plan and Long Section - Industrial Precinct Access Sheet (Sheet 2 of 5) | Huon | C | 16/2/21 |
| Detail Plan and Long Section - Industrial Precinct Access Sheet (Sheet 3 of 5) | Huon | C | 16/2/21 |
| Detail Plan and Long Section - Industrial Precinct Access Sheet (Sheet 4 of 5) | Huon | C | 16/2/21 |
| Detail Plan and Long Section - Industrial Precinct Access Sheet (Sheet 5 of 5) | Huon | C | 16/2/21 |
| Stormwater Drainage Masterplan | Huon | C | 16/2/21 |
| Sewer and Water Masterplan | Huon | C | 16/2/21 |
| Pollution Control Plan | Huon | C | 16/2/21 |
| Turning Movements at Access Road Intersection - B-Triple (Left) | Huon | C | 16/2/21 |
| Turning Movements at Access Road Intersection - B-Triple (Right) | Huon | C | 16/2/21 |
| Statement of Environmental Effects | NGH | Final 1.2 | 7/6/21 |

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

Requirements before a Subdivision Works Certificate can be issued

- C.2 Prior to the issue of a Subdivision Works Certificate, stormwater drainage shall be designed to limit post development flows from the site to pre-developed flows for all storms up to and including the 100 Year ARI event. Stormwater shall be discharged from the site so as not to cause erosion and scouring on downstream land. Full plan details of any proposed On-Site Detention (OSD) system and supporting calculations shall be provided.
- C.3 Prior to the release of the Subdivision Works Certificate, a Soil and Water Management Plan for the site shall be submitted to and approved by Council, to the

satisfaction of the General Manager of delegate. The Soil and Water Management Plan shall be consistent with Council's Engineering Guidelines for Subdivision and Developments and Soils and Construction Volume 1, Managing Urban Stormwater. No engineering or excavation work, or topsoil stripping or vegetation removal, is to be carried out in relation to this development until such time as is approved. Once approved, the measures in the Soil and Water Management Plan are to be implemented during the course of the development.

- C.4 Prior to the release of the Subdivision Works Certificate, a Construction Environmental Management Plans (CEMP), shall be developed for the site, and submitted to and approved by Council, to the satisfaction of the General Manager or delegate. The CEMP shall include (but not be limited to):
- an unexpected finds protocol,
 - a Soil and Water Management Plan for the site consistent with Council's Engineering Guidelines for Subdivision and Developments and Soils and Construction Volume 1, Managing Urban Stormwater.

No engineering or excavation work, or topsoil stripping or vegetation removal, is to be carried out in relation to this development until such time as the CEMP is approved. Once approved, the measures in the CEMP are to be implemented during the course of the development.

- C.5 The existing Dorset Drive and Merino Road, where they traverse the subject land, and the approved "Terminal Access Road" shall be dedicated as public road in the final Plan of Subdivision. An amended Plan of Subdivision, clearly indicating road reserve widths, shall be submitted to, and approved by Council, to the satisfaction of the General Manager or delegate, prior to the release of the Subdivision Works Certificate.
- C.6 Prior to the release of the Subdivision Works Certificate, an amended Plan of Subdivision shall be submitted to, and approved by Council, to the satisfaction of the General Manager or delegate, showing the relocated transmission easement.
- C.7 Prior to the issue of a Subdivision Works Certificate the two (2) copies of engineering plans, specifications and calculations in relation to the development together with payment of any relevant fees must be submitted to Council. The works are to comply with Council's Engineering Guidelines for Subdivision and Developments.
- C.8 Prior to the release of the Subdivision Works Certificate, a Street Tree masterplan showing the location of all proposed street trees within the development shall be submitted for approval by the General Manager or delegate. Given the size of the proposed lots, more than one tree per lot will be required to ensure an appropriate tree cover.

Requirements before the commencement of any works

- C.9 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-
- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
 - b) Erosion and Sediment Control Guidelines for Building Sites; and

c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.10 A Subdivision Works Certificate must be obtained pursuant to Division 6.2 of the Environmental Planning and Assessment Act 1979, as amended, from either Council or an accredited certifying authority certifying that the proposed works are in accordance with Wagga Wagga City Council's Engineering Guidelines for Subdivisions and Developments prior to any subdivision works commencing.

NOTE 1: No building, engineering or excavation work must be carried out in relation to this development until the necessary Subdivision Works Certificate or relevant certificates of approval have been obtained.

NOTE 2 YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE SUBDIVISION WORKS CERTIFICATE, even if you made an application for a Subdivision Works Certificate, at the same time as you lodged the Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work, and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

NOTE 4: Wagga Wagga City Council's Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Council's document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.

- C.11 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.

It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

- C.12 Prior to works commencing a container must be erected on site for the enclosure of all construction rubbish and debris, including that which can be wind-blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at Council's Waste Management Centre.

Materials and sheds or machinery linked to construction associated with the subdivision must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: The applicant must retain weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited. Documentation must include quantities and nature of the waste.

C.13 No works are to take place to any services without prior written approval from the relevant authority.

NOTE: Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au <<http://www.1100.com.au>> or telephone on 1100 before excavating or erecting structures.

Requirements during construction or site works

C.14 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.

C.15 All earthworks, filling, building, driveways or other works, must 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.

C.16 Sewer mains must be extended to the site, at full cost to the developer, in accordance with Council's Engineering Guidelines for Subdivision and Developments. A sewer connection point shall be provided for each lot.

C.17 Stormwater drainage must be constructed to provide a connection point for each lot and shall be sized in accordance with Council's Engineering Guidelines for Subdivision and Developments.

C.18 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.

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'.

- C.19 Any excavated material removed from the site must only be taken to a site approved for the receipt of such material.
- C.20 The electricity supply connections made available to each allotment shall be a high voltage supply.
- C.21 A temporary security fence shall be provided to the perimeter of the site to prevent public access during the construction phase. The temporary security fence shall not be erected in the Council road reserve without an approved Section 138 Permit.
- C.22 Where works involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where excessive dust generation is occurring due to high winds and/or dry conditions it may be necessary to temporarily cease operations.
- C.23 All disturbed development areas shall be progressively stabilised and/or revegetated so that no development areas remain exposed to potential erosion damage for a period of greater than 14 days.
- C.24 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.25 All works must be consistent with an Aboriginal Heritage Impact Permit (AHIP) previously issued for the site, including AHIP C0002180 and AHIP C0003609 (as modified).
- C.26 If any Aboriginal object is discovered and/or harmed in (beyond those authorised under any AHIP applying to the site), on or under the land, all work must cease immediately and the area secured so as to avoid further harm to the Aboriginal object. The Heritage NSW shall be notified as soon as practicable on 131 555, providing any details of the Aboriginal object and its location, and no work shall recommence at the particular location unless authorised in writing by Heritage NSW. If necessary, an Aboriginal Heritage Impact Permit (AHIP) must be obtained.

A member of the Wagga Wagga Local Aboriginal Land Council or other Aboriginal stakeholder group must be invited to supervise works carried out in proximity to an Aboriginal object, Aboriginal place, or other site with Aboriginal cultural heritage values, if identified during subdivision construction.

Requirements before a Subdivision Certificate can be issued

- C.27 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$41,438.92 must be paid to Council, prior to the issuing of the Subdivision Certificate. The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment

is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. .The applicable rate of CPI at the time of consent is 115.1

NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.

C.28 Prior to the release of the Subdivision Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Subdivision Certificate.

NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.

NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.

NOTE 5: The Section 64 Sewer base figure is \$0

NOTE 6: The Section 64 Stormwater base figure is \$0

NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.

NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.

C.29 Prior to the release of the Subdivision Certificate, the road shown on plan as "Terminal Access Road" shall be constructed and dedicated as a public road.

- C.30 Prior to the release of the Subdivision Certificate, the sewer infrastructure constructed under this development shall be connected to the reticulated sewer network.
- C.31 Pursuant to Section 88B of the Conveyancing Act 1919, a 'Restriction as to User' shall be created over proposed Lots 1 and 15 in the final Plan of Subdivision, denying access to and from these lots from Merino Road. Details of the Restriction shall be submitted to, and approved by Council, to the satisfaction of the General Manager or delegate, prior to the release of the Subdivision Certificate.
- C.32 Prior to the release of the Subdivision Certificate, the final Plan of Subdivision shall identify easements for services over proposed lot, to the satisfaction of the General Manager or Delegate.
- C.33 Prior to the issue of Subdivision Certificate one A1 set of plans and electronic copies in PDF and AUOTCAD of the Works-As-Executed plans must be submitted to Council and must detail the works as approved by the Subdivision Works Certificate and shall reflect the approved Subdivision Works Certificate plans. The information on the Works-As-Executed plans shall be as specified in Council's Engineering Guidelines for Subdivision and Developments.
- C.34 The establishment of street tree/s in accordance with the approved plan referred to in condition C.8 shall be carried out at full cost to the applicant.

Works shall be carried out by Council or a contractor approved by Council. Works include the supply, planting and two years maintenance for each street tree. Street trees are to be supplied in pot sizes ranging from 45ltr to 100ltr dependant on availability, with 45ltr being the minimum pot size.

If the applicant chooses to engage Council, they are to pay to Council a fee of \$500.00 per street tree proposed for installation prior to the release of the Subdivision Certificate.

Using this fee Council will undertake the supply and installation of containerised stock, and will maintain them for a period of two years following installation. Installation will occur during the next available planting season (generally May-August each year).

NOTE: The fee per street tree will be in accordance with the figure nominated in this condition or in accordance with Council's adopted Revenue and Pricing Policy at the time of payment of this fee whichever is the greater.

- C.35 A Subdivision Certificate, pursuant to Division 6.2 of the Environmental Planning and Assessment Act 1979, as amended must be obtained from Council, prior to its lodgement with NSW Land Registry Services.

The Final Survey Plan (two paper copies and an electronic copy) must be submitted to Council along with the application for Subdivision Certificate and associated checklist.

NOTE: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of development consent relating to the subdivision have been complied with and the appropriate fee paid.

- C.36 Lighting shall be designed and constructed to comply with the Australian standard. Certification from an appropriately qualified person shall be provided prior to the release of the subdivision certificate. The Access Road shall have PR4 lighting category provided. Prior to release of Subdivision Certificate an “into maintenance inspection” must be carried out of the completed works. The maintenance period will last for the period as specified in Council’s Engineering Guidelines For Subdivisions and Development, upon which time an “out of maintenance inspection” will be required to ensure the works are acceptable to Council.
- C.37 Prior to the issue of the Subdivision Certificate the following documents shall be submitted to Council to demonstrate that the requirements of the public utility services have been met:-
- i) Essential Energy: Notice of Arrangement (to be made to the Contestable Works Section at Essential Energy);
 - ii) Riverina Water: Certificate of Compliance;
 - iii) Certification from an approved telecommunications provider.

NOTE: Due to the nature of the developments likely to occupy the site in future, electricity supply must be a high voltage supply.

General requirements

- C.38 The proposed road shall be named as follows:

- ‘Limousin Drive’ after the parish of Limousin cattle breed.

This is in accordance with Council's street naming policy for Bomen of ‘Sheep and Cattle Breeds’.

D. SCHEDULE D – Activity Approval Conditions (Section 68)

N/A

E. SCHEDULE E – Prescribed Conditions

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E.1 Fulfilment of BASIX commitments (clause 97A EP&A Reg 2000)

The commitments listed in any relevant BASIX Certificate for this development must be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.

- E.2 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 98 EP&A Reg 2000)

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.

- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or
- (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.

NOTE 2: In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) construction certificate, in every other case.

NOTE 3: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

E.3 Erection of signs (clause 98A EP&A Reg 2000)

For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental

Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

E.4 Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000)

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

E.5 Entertainment venues (clause 98C EP&A Reg 2000)

If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.

E.6 Maximum capacity signage (clause 98D EP&A Reg 2000)

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

- (a) entertainment venue,
- (b) function centre,
- (c) pub,

- (d) registered club,
- (e) restaurant.

NOTE: Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

E.7 Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000)

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

NOTE: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

F. SCHEDULE F – General Terms of Approval (Integrated Development)

N/A
