

JRPP No:	2010NTH007
DA No:	DA 2010.310
PROPOSED DEVELOPMENT :	Rail Freight Terminal Facility, Reynolds Road, Casino (Lot 1 DP 576154 and Lot 2 DP 547143)
APPLICANT:	Mr John McMahon
REPORT BY:	Manager Planning & Development, Richmond Valley Council

Assessment Report and Recommendation

Background

The Development Application for the establishment of a 'rail freight terminal facility' on Lot 1 DP 576154, Lot 2 DP 547143 and Lot 35A DP 938611, Reynolds Road, Casino was lodged with Council on the 19 March 2010. Upon review of the Application, Council determined the JRPP would be the Determining Authority due to the overall cost of the development being \$12.7M which is greater than the \$10M capital investment value threshold. Subsequently Council required additional copies of the SEE and associated plans in order to refer the application to several government departments, relevant organisations, as well as the JRPP.

The proponents of the subject development met with Council Officers on two (2) separate occasions for pre-lodgement meetings to discuss the draft proposal to establish a rail freight terminal facility. Council provided advice on these occasions pertaining to the legislative requirements and the Development Application process.

Chronology of Assessment

Date	Event
30/07/09	Pre-lodgement meeting No.1
22/10/09	Pre-lodgement meeting No.2
19/03/10	Development Application and OSMS Application lodged with Council
24/03/10	Applicant notified that Council had concluded the application was to be determined by the JRPP and additional copies of the application requested in order to begin processing the DA
27/03/10	Exhibition Period commenced
31/03/10	Adjoining owners notified
01/04/10	JRPP notified via website
01/04/10	Notification to Local Aboriginal Land Councils and Elders, and Australian Rail Track Corporation, NSW Rural Fire Service
13/04/10	Stop-the-clock letter No.1
15/04/10	Hardcopies and electronic copies of the application forwarded to the JRPP
19/04/10	RTA notification
27/04/10	Exhibition Period closed
04/05/10	Additional information received by Council from applicant

27/05/10	NWS Rural Fire Service provided Council with recommendations
03/05/10	Stop-the-clock letter No.2
11/05/10	Stop-the-clock letter No.3
10/06/10	Additional information received by Council from applicant
01/07/10	Meeting between Council staff, applicant and consultants
01/07/10	Additional information - Traffic Impact Assessment lodge by applicant
02/07/20	Council forwarded Traffic Impact Assessment to RTA via email
05/07/10	Stop-the-clock letter No.4
13/07/10	OSMS Application refused by Council
29/07/10	RTA provided Council with comments
30/08/10	Owners Consent provided by Australian Rail Track Corporation
07/09/10	Additional information received by Council from applicant
23/09/10	Stop-the-clock letter No.5
15/10/10	JRPP Issues Workshop
28/10/10	Additional information received by Council from applicant
18/11/10	Version 1 of draft conditions reviewed by the Development Assessment Panel.
25/11/10	Draft Conditions endorsed by the Development Assessment Panel
29/11/10	Determination Report to the JRPP finalised and forwarded via email
09/12/10	Determination Meeting scheduled

During the initial assessment phase, Council identified numerous issues pertaining to the application and supporting documentation. Additional information was sought from the applicant on a number of occasions. The significant issues which where required to be addressed were:

- Owners Consent being the State Rail Authority who owns the land known as Lot 35A DP 938611 on which works pertaining to the application are detailed on plans and in statement. Linking the proposed development to the existing rail infrastructure over Lot 35A DP 938611 is crucial to the feasibility of the proposal.
- On-Site Sewerage Management Report from a suitably qualified person. Details of site and soil assessment, daily waste water flow, full design details, details of the proposed ablution block i.e. number of toilets, showers and expected number of persons who will be using the facility were required.
- Traffic Impact Statement in accordance with RTA requirements as the proposed development is defined as a Traffic Generating Development pursuant to Schedule 3, SEPP (Infrastructure) 2007. Council received notification from the RTA that the information supplied in the SEE was “inadequate to permit a comprehensive assessment of the impacts the proposal will have on the road network, in particular the Reynolds Road and Summerland Way intersection”.
- Dust Control Plan was required given number of vehicle movements on the internal roads which are not proposed to be sealed at this stage.
- Stormwater/Drainage Design and Report. Given the proximity of a 7(k) Environmental Protection (Habitat) Zone, additional design details and

statement with regards to the management/detention/retention of stormwater on the subject site was sought.

- Survey plan to demonstrate the distance of the proposed development works and the 7(k) zone. Proximity to the wetland area may trigger Designated Development. In addition, a survey plan was required to determine to required earthworks volumes i.e. amount of cut and fill and the volume of material which will have to be imported to the site.
- Flood Impact Assessment from a suitably qualified person to determine the potential impacts of the development on hydrology given the proposed earthworks and filling of the site as well as the proximity of a wetland.

Report

Applicant

Mr John McMahon, 100-102 Walker Street, Casino was the applicant for the subject Development Application.

The Statement of Environmental Effects was prepared by Plateway Pty Ltd with subsequent information being prepared by several consultancies which including Stephen Fletcher and Associates and Transport Ideas.

Subject Property

Lot 1 DP 576154, Lot 2 DP 547143, and Lot 35A DP 938611, Reynolds Road, Casino.

Ownership

Lot 1 DP 576154 and Lot 2 DP 547143 are owned by Mr John McMahon and Mrs Robyn McMahon.

Lot 35A DP 938611 is owned by the State Rail Authority.

Zoning

The subject land is zoned 1(b) Rural (Secondary Agriculture Land) Zone and 7(k) Environmental Protection (Habitat) Zone pursuant to the Casino Local Environmental Plan 1992.

The sidings allow for train lengths up to around 800m without marshalling but could be used to load a full length train if the two halves were joined. This uses the current ballast siding. Without a similar neck on the southern end of the ballast siding northbound train lengths would be limited to around 800m. The terminal has sufficient capacity for all of the identified traffics and a significant reserve for future growth.

The terminal requires some earthworks to provide level areas for loading. The northern side of the terminal has been designated as a bulk products loading area. Depending on the loading available this area would be used to stockpile aggregate, woodchip and logs. The northern boundary will have a buffer zone consisting of mounded topsoil which will be revegetated to provide a visual and noise barrier.

The detailed drainage design will shed water into the existing floodway, and feed an in-ground water tank which will be used to store run-off for fire fighting and dust suppression purposes.

The shunting neck will be on a high embankment which will have a drainage structure including a row of pipes to maintain the level of flood waters at an even height either side of the embankment (including a stock underpass). The finished level of the terminal will be significantly higher than the current floodplain level. The embankment crossing the flood plain will be around 3m higher than the existing floodplain. However the embankment sides will be revegetated with grass and will blend into the surrounding topography.

The southern side of the terminal would be used to load containerised products and have facilities for powered containers, with a future provision for tank containers with dangerous goods and chemicals.

If developed in a similar manner to other regional terminals, the terminal would take out a lease on the ballast siding and adjacent railway land. The current ballast loading and stockpiling operation would be shifted to the terminal”.

The application seeks approval to operate the facility 24 hours per day, 7 days per week.

Exhibition Period

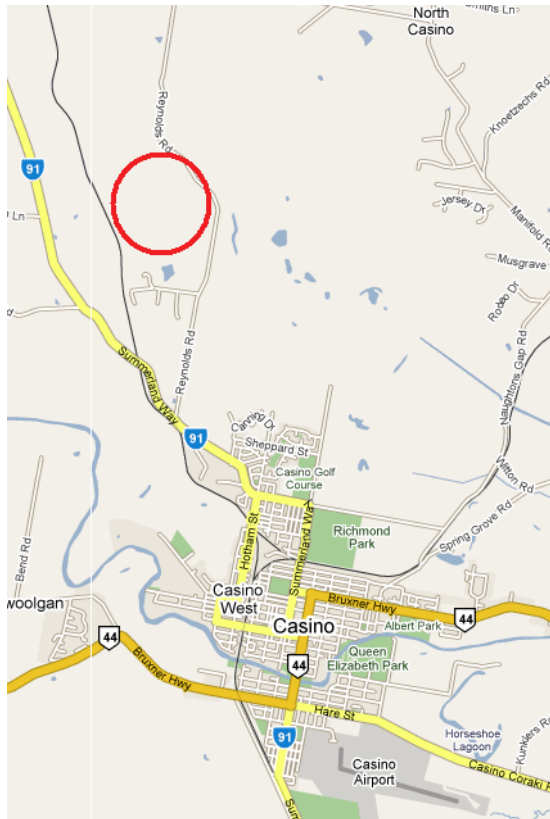
Given the scale and nature of the proposed development, Council decided to exhibit the subject application as they would a Designated Development. The subject proposal was notified for a period of 30 days being from 27 March 2010 to 27 April 2010. The Statement of Environmental Effects was on display at the administration offices of Richmond Valley Council at Evans Head and Casino. In addition, the JRPP posted the application on their website in accordance with their operational procedures.

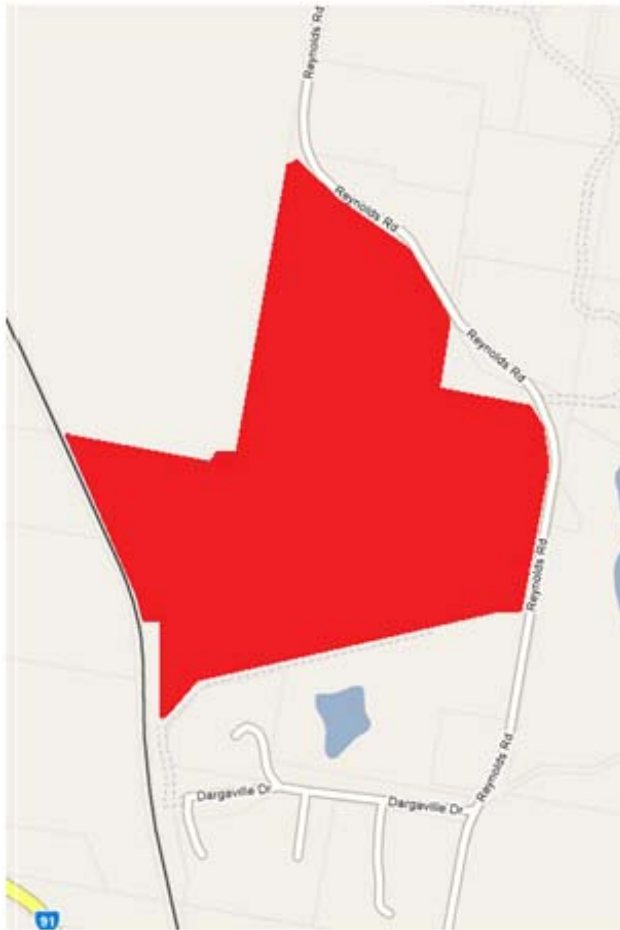
All adjoining landholders, as well as owners in the immediate vicinity, were notified in writing of the proposed development and exhibition period in accordance with Council Policy No. 2.7.6.

Site Overview

The subject site is currently used for agriculture (beef production). The land is largely cleared with development currently restricted to improvements supporting agricultural use (fencing, cattle yards, etc.). The land which is to be developed is predominantly cleared with scattered paddock trees. A wetland is located roughly central within the site. The proposal does not seek to establish the rail freight terminal facility or undertake any site works within the wetland area or the buffer zone.

The subject site is bounded on the west by the main North Coast Railway Line and on the east by Reynolds Road. Reynolds Road joins the Summerland Way approximately two kilometres south of the site. The site is approximately two kilometres north-west of the nearest residential zoned land.





Source: Google maps

Adjoining land uses include the Richmond Valley Council Casino Livestock Exchange (saleyards), Richmond Valley Council Nammona Landfill and Waste Facility, Boral (timber processing plant) and Riverina Stockfeeds (grain distributors). The site is in the vicinity of the Northern Co-Operative Meat Company Ltd which consists of an abattoir, tannery, stockyards and paddocks.

The site has been identified as having areas being classified as flood prone by Council. The classification has been defined as “Possible High Depth Hazard or Low Hazard”. Based on actual ground levels, this is considered to be in the “High Depth Hazard” category.

As stated in the submitted Ecological Study by Greenloaning Biostudies (2010), “the subject site is situated on the edge of the coastal floodplain and alluvial fans of the alluvial plain of the Richmond River. Topography of the site is characteristically of low relief, with the central sector being very low-lying and supporting a modified freshwater wetland system. To the west, south and south-east of the wetland, the land slopes gently upwards to an elevation of 32m in the west and 39m on the western side of the southern boundary. Areas of higher elevation around the wetland consist of Grafton formation geology comprising interbedded sandstone, clayey siltstone, claystone and minor coal”.

External Referrals

The subject development proposal was not defined as either Designated or Integrated Development pursuant to the provisions of the Environmental Planning

and Assessment Act and Regulation. It did not reach the threshold triggers and therefore was considered a Local Development.

In accordance with Clause 104 - Traffic-generating development, of State Environmental Planning Policy (Infrastructure) 2007 the subject Development Application was referred to the NSW Roads and Traffic Authority (RTA) for comment. The subject Development Application falls within Schedule 3 of the SEPP as it proposes to establish a freight intermodal facility and terminal.

The RTA requested a Traffic Impact Assessment in accordance with RTA Guidelines, on 29 April 2010. The provision of a Traffic Impact Assessment would facilitate a full and proper assessment of the potential impacts of the development. Once the RTA were provided a Traffic Impact Assessment, the potential impacts of the development were assessed which resulted in no objection or requirements being raised to Council.

The NSW Rural Fire Service was notified and requested to provide recommendations to Council in relation to the proposed development which resulted in five (5) conditions relating to access, landscaping, asset protection zones and water and utilities.

Notification letters for the proposed development were sent to Junbung Elders Aboriginal Corporation, Casino Boolangle Aboriginal Land Council, and Australian Rail Track Corporation Ltd as a matter of courtesy. Both Junbung Elders Aboriginal Corporation and Casino Boolangle Aboriginal Land Council provided Council with correspondence outlining their recommendations.

Environmental Planning Considerations

A full assessment under Section 79C (1) of the *Environmental Planning and Assessment Act 1979 (as amended)* has been undertaken. The following planning instruments and policies are relevant to the proposal and their requirements have been considered as part of the assessment process:

- ***Environmental Planning and Assessment Act 1979, Section 79(c)***

79C (1) (a) the provisions of any environmental planning instrument, draft environmental planning instrument, development control plan and the regulations.

The proposal is consistent with all relevant planning instruments. Greater detail is provided below with regards to the planning instruments under which this proposal was assessed.

At the time of lodging the subject application, the Draft Richmond Valley Local Environmental Plan had not been exhibited. However, during the assessment of the subject proposal, the draft plan was placed on exhibition and as such it is prudent to consider the draft provisions which apply to the land subject to this Development Application. The site is proposed to be zoned RU1. Under the draft provisions for this zone, "freight transport facilities" (which would include rail freight terminal facilities) are prohibited. During the exhibition period of the Draft Richmond Valley Local Environmental Plan, Council received a submission on

behalf of the subject property owners requesting this site be included in Schedule 1 – additional permitted use provision. Should the subject development be approved under the existing Casino Local Environmental Plan 1992, the rail freight terminal facility will enjoy existing use right provisions and as such any future expansions of the facility would be permissible with the consent of Council.

There is no planning agreement which applies to this proposal.

79C (1) (b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The context and setting of the proposal and associated works is considered reasonable in this locality. The proposed office facilities are single storey and will be adequately landscaped. The rail sidings, stockpiles, container storage and handling areas are to be located on the western boundary of the site adjacent to the existing North Coast Railway Line. A buffer zone on the western boundary is to be constructed with a landscaped mound which will assist in providing some visual amenity to the stockpile and loading area.

Adequate car parking and vehicle manoeuvrability is available on site for all types of vehicles that are expected to access the site, including b-double trucks. Traffic volumes in the immediate vicinity to the proposed rail freight terminal facility will increase. Works will be required to the existing road network to ensure the development is able to comply with current engineering standards. These required works are conditions on the draft consent.

Telephone and electricity services are available to the site. The site does not have a town water supply and will therefore rely on rain water capture and detention. Sewer is not available to the site and as such approval to operate an on-site sewage management system in accordance with Council's requirements and standards will be required. This requirement will form a condition of consent.

The facility will provide employment opportunities both during the construction and operation phase of the development. Council considers the proposed development will provide an economic benefit to the Local Government area and the wider North Coast Region as the facility will provide for further transport options for industry and agriculture.

The site has been mapped as containing areas of Bushfire Prone Land and as such the application was referred to the NSW Rural Fire Service for expert comment. The recommendations of the NSW Rural Fire Service have been included as conditions of consent.

The potential for adverse noise impact as result of the proposed rail freight terminal facility was considered a significant issue and as such additional information was sought by Council. The following comments with regards to the noise and vibration assessment have been provided by Council's Senior Environmental Health Officer.

"A noise and vibration assessment of the proposed rail terminal has been carried out by consultants Noise Mapping Australia Pty Ltd. Background noise levels

were recorded over a 9 day period from 8/12/09 to 16/12/09 and Rating Background Levels (RBL) provided in accordance with the Industrial Noise Policy. A RBL of 30dB(A) has been adopted for day, evening and night.

The report identifies that there are 5 residential premises in close proximity to the site ranging in distance from 0.65km to 1.6km. Other residential premises exist in the area but are further away and are less impacted than the five identified.

The predicted noise level at the closest receptors (residents) from rail terminal operations has been determined using a noise model that considers meteorological conditions and terrain. The levels predicted to be received at the closest affected residents have been compared against the intrusive criteria as outlined in the EPA Industrial Noise Policy. An intrusive noise level of 35dB(A) has been adopted.

Predicted noise levels from operational activities are based on various scenarios and include the following;

- 2 x loaders
- Reach stacker
- Trucks at 140 per day and 40km/hr speed
- 10 x Reefer units
- Container impact noise (LA Max (1hr))

The report identifies that the predicted noise levels from most operations readily complies with the intrusive noise level goals during the day and evening at all sensitive receptors however the noise level from the loader exceeds the intrusive level (35dB(A)) at three residences during the day and evening. The report however states that the measured levels at these residences are extremely low and unlikely to be representative of premises close to a busy road. For night time operations the report states that the loader exceeds the intrusive noise level goal at residents along the Summerland Way.

In conclusion the report identifies that the most significant noise source at the rail terminal is from the loaders. The report states that a noise level of 118dB(A) has been assumed for this equipment and states that this is a high noise level and it is likely that a quieter unit could be selected.

The report suggests that a quieter loader such as a Komatsu WA500 loader has a sound power level of 109dB(A). A loader limited to 113db(A) could be used during the day and evening but not at night. In order for a loader to be used at night the sound power level would need to be limited to 108dB(A).

The report also recommends that further noise monitoring be carried out near three of the affected residents to check noise levels for validity. The noise from the reach stacker and container loading / unloading operation is acceptable for daytime and evening operations and likely to be acceptable for night-time subject to further monitoring once the facility is operational.

Noise conditions have been recommended that reflect the outcome of the noise assessment carried out by Noise Mapping Australia Pty Ltd. In this respect recommended conditions require that the use of a loader(s) and reach stacker and

loading /unloading operations is limited to day and evening operations only (7.00am – 10.00pm) and no night-time operation of this equipment (10.00pm-7.00am). In addition a condition recommending ongoing noise monitoring of the site be carried out has been recommended until the site is fully operational”.

Potential for adverse impacts associated with the development and operation of the facility have been identified and assessed. Council considers these impacts to be minimal due to appropriate mitigation measures being incorporated into the design of the facility and imposition of extensive consent conditions which will reduce or remove the potential for any adverse environmental or social effects.

Section 79C (1) (c) the suitability of the site for development

The site is suitable for a proposed rail freight terminal facility due to the proximity of the existing North Coast Railway Line and surrounding compatible land uses such as Richmond Valley Council Casino Livestock Exchange, Richmond Valley Council Landfill, Boral (timber processing plant), Riverina Stockfeed (grain distributors) and Northern Co-Operative Meat Company Ltd.

The site is not in close proximity to residential properties. The environmental assessments undertaken confirm the site is appropriate for the development based upon physical and ecological criteria. The consent has been suitably conditioned to protect both the environment and amenity of the area.

Section 79C (1) (d) any submissions made in accordance with this act or the regulations

Council received seven (7) submissions with regards to the proposed development. Submissions have been addressed separately in this report.

Section 79C (1) (e) the public interest

The proposal is not considered to be contrary to the public interest.

● ***Environmental Planning and Assessment Regulation 2000***

Schedule 3 of the Environmental Planning and Assessment Regulation 2000 lists developments by type, scale and location which are deemed to be ‘designated’. Applications for designated developments must be accompanied by an Environmental Impact Statement.

Railway freight terminals (including any associated spur lines, freight handling facilities, truck or container loading or unloading facilities, container storage, packaging or repackaging facilities) are designated developments where they:

- a) involve more than 250 truck movements per day, or
- b) involve the clearing of more than 20 hectares of native vegetation, or
- c) are located:
 - i) within 40 metres of a natural water body, wetland or environmentally sensitive area, or

- ii) within 500 metres of a residential zone or dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

The proposal does not meet the threshold triggers under (a), (b) or (c) above. Accordingly the development is not designated and an Environmental Impact Statement is not required.

- ***SEPP (Infrastructure) 2007; Traffic-generating development (Clause 104; Schedule 3)***

In accordance with Clause 104, the subject Development Application was referred to the RTA for comment. The subject Development Application falls within Schedule 3 of the SEPP as it proposes to establish a freight intermodal facility and terminal.

- ***SEPP No. 44 – Koala Habitat Protection***

The subject site is not considered 'Core Koala Habitat' due to the scarcity of Koala food trees and no recorded sightings or observations during the fauna assessment. As such provisions of the SEPP to undertake a Plan of Management do not apply.

- ***SEPP No. 55 – Remediation of Land***

The site has previously been used for beef production. There is no known history of land use on the site which would be associated with potential for contamination, therefore no further assessment is warranted.

- ***SEPP (North Coast Regional Environmental Plan)***

The following clauses to the North Coast Regional Environmental Plan have been considered and Council is satisfied the proposed development does not contravene provisions or intent of the plan:

- Clause 47 Development Control— Principles for Commercial and Industrial Development
- Clause 6 Objectives (Division 1 – Agricultural Resources)
- Clause 12 Development control-impact of development on agricultural activities
- Clause 13 Objectives (Division 2 – Catchment Management)
- Clause 15 Development control-wetlands or fishery habitats
- Clause 28 Objectives (Part 2 – Conservation and the Environment, Division 1 – The Natural Environment)
- Clause 29A Development control-natural areas and water catchment

- ***Casino Local Environmental Plan 1992***

Pursuant to Clause 9 (Zone objectives and development control table), the subject land has been identified as being zoned 1(b) Rural (Secondary Agricultural Land)

and 7(k) Environmental Protection (Habitat). The proposed development will be carried out wholly on land which is zoned 1(b) Rural (Secondary Agricultural Land) with no works being undertaken in the 7(k) Environmental Protection (Habitat) Zone.

The proposed land use, being a rail freight terminal facility, is not defined pursuant to the Casino Local Environmental Plan 1992. As such it has been determined as an innominate land use with regards to the zoning table. As the proposed land use is not defined as a prohibited use within the 1(b) Zone, it is permissible with the consent of Council.

Clause 18 relates to environmentally sensitive land, which includes 7(k) zoned land. As no works are proposed in this zone, its provisions are not relevant to this application.

Clause 25 (zone 7(k) catchments) and Clause 27 (heritage items) have been considered and relevant conditions have been placed on the consent.

- ***Development Control Plan No.1 – Casino; Control Plan Area R1 (Rural Land) and E1 (Environmentally Sensitive Land).***

The proposed development will be carried out wholly on land which has been identified as R1. Many of the development standards for this control plan area are to be considered on merit. These include floor space ratio, site coverage, setbacks, and car parking.

The building height limit for the R1 Control Area is generally two (2) storeys as stated in Policy Statement No.8 – building height limitations. The proposed building heights (i.e. the office complex) do not exceed the 7.5m requirement.

Policy Statement No. 21 pertains to the land which is zoned 7(k). As no works are proposed in this zone, its provisions are not relevant to this application.

The recommendations of external referral agencies; the NSW Rural Fire Service, Local Aboriginal Land Council and Elders have been considered by Council Officers and have been incorporated into proposed conditions of consent.

Appropriate conditions have been imposed on the draft consent to ensure requirements of the applicable planning instruments are met and no adverse environmental impacts will result.

Submissions

To date, seven (7) submissions have been received being three (3) objections and four (4) in support of the proposal. One objection was signed by six (6) people who owned four (4) of the rural properties in the vicinity of the proposed rail freight terminal facility. It should be noted, one (1) of the submissions of support constituted 181 'form letters' which were submitted in a bundle by the applicant. Council has treated these 'form letters' as they would a petition.

The submissions in support of the proposed rail freight terminal facility are summarised below:

- The terminal will encourage bulk containerised products to be taken off the roads and placed on to the rail network.
- Encourage industries to the area.
- The development will provide a major economic boost to Casino and the North Coast.
- Development of such terminals, broaden the supply chain options available to local industries and rural producers.
- Increased community benefit through lower levels of transport related injuries and fatalities, reduced road congestion and a reduced level of green house gas emissions.
- Increase employment and job opportunities and reduce the number of long-haul heavy vehicle movements on the road.

A summary of the issues raised in the submissions objecting to the subject application and relevant comments are outlined below.

Owners Consent

This issue was subsequently addressed by the applicant and owners consent was provided by Australian Rail Track Corporation to submit a Development Application on Lot 35A DP 938611.

Zoning

Pursuant to Clause 9 (Zone objectives and development control table), the subject land has been identified as being zoned 1(b) Rural (Secondary Agricultural Land) and 7(k) Environmental Protection (Habitat).

The proposed land use, being a rail freight terminal facility, is not defined pursuant to the Casino Local Environmental Plan 1992 and as such it has been determined as an innominate land use with regards to the zoning table.

The proposed development will be carried out wholly on land which is zoned 1(b) Rural (Secondary Agricultural Land) with no works being undertaken in the 7(k) Environmental Protection (Habitat) Zone. As the proposed land use is not defined as a prohibited use within the 1(b) Zone, it is permissible with the consent of Council.

Protected Wetland/ Ecological Impact

Council is satisfied the wetland habitat will not be significantly impacted due to the proposed land use. To ensure the wetland habitat and surrounds environs are protected, Council has drafted numerous consent conditions which will be enforced, one of which pertains to the 40 metre buffer being protected and adhered to at all times.

Cut and Fill

It is noted that a significant amount of cut and fill (some import of material will be required) is required in order to facilitate the proposed land use. Council is confident adequate conditions have been imposed to ameliorate any potential impacts.

Flooding Impact

Full and detailed engineering design plans of the proposed embankment and other earthworks on the site will be submitted and approved by Council prior to issue of the Construction Certificate. Council will assess the plans to ensure the proposed development will not have a detrimental impact on the hydrology of the vicinity and potential flood impact.

Heritage Impact

Council is satisfied Cultural Heritage of the site and surrounding environs will be adequately protected through to imposition of the draft conditions of consent. Both the Junbung Elders Aboriginal Corporation and the Casino Boolangle Aboriginal Land Council provided recommendations to Council which have been drafted as conditions of consent.

Vegetation Clearing

The extent of vegetation clearing is considered reasonable in this circumstance. Additional landscaping will be established on the site and this requirement forms a condition of consent.

Traffic Impact

The subject application was referred to the NSW Roads and Traffic Authority for comment. The RTA has no objection to the proposed development and did not state any requirements to be placed on the Consent. Council's Works Directorate has required conditions pertaining to upgrade works which will ensure compliance with Council and Austroads standards.

Stormwater Drainage

Full and detailed engineering design plans of the stormwater drainage will be submitted and approved by Council prior to issue of the Construction Certificate. Council will assess the plans to ensure the proposed development will have adequate stormwater drainage and not have any detrimental impact on the surrounding environs.

Onsite Wastewater Disposal System

Approval to operate an on-site sewage management system in accordance with Council's requirements and standards will be required prior to issue of a Construction Certificate. Council is satisfied a on-site sewage management system will be able to be approved on this site.

Noise

Council is satisfied adequate conditions will be imposed on the consent which will ensure the development will not have a significant or detrimental impact on the locality.

Decrease the value of adjoining properties

Council does not consider this issue to have valid planning merit for consideration.

Amenity Impact – lighting

Conditions will be imposed on the consent to ameliorate against any potential amenity impact in relation to light spill.

Conclusion

The Development Assessment Panel endorsed the proposed conditions at its meeting of 25 November 2010. Appropriate conditions have been imposed on the draft consent to ensure requirements of planning instruments are met and any potential adverse environmental impacts will be minimised, particularly in relation to concerns raised in submissions received by Council.

Attachments

Plans for approval
Copies of submissions

RECOMMENDATION

Recommended that Development Application No. 2010.310 be approved subject to the following conditions.

STANDARD CONDITIONS

1. In granting this development consent, Council requires:

- All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. NAM-007 Rev 4 dated 28/10/2010, NAM-010 Rev 0 dated 10/03/2010 and/or supporting documents submitted with the application and/or during the assessment process including the revised Statement of Environmental Effects dated 22 October 2010. A copy of the approved plan is attached to this consent.

Reason: *To correctly describe what has been approved. (EPA Act Sec 79C)*

LANDSCAPING

2. A detailed landscaping plan (in duplicate) shall be submitted to the Principal Certifying Authority and approved **prior to release of the Construction Certificate**. Landscaping plans shall be in accordance with **Council's Landscape Guideline** and relevant Development Control Plans. Species identified in Council's Landscape Guideline shall be planted wherever possible. Landscaping plans shall indicate:

- location of Council's sewer
- proposed location for planted shrubs and trees
- botanical name of shrubs and trees to be planted
- mature height of trees to be planted
- location of grassed areas
- location of paved areas
- location of trees identified for retention in the development application plans.

The landscaping plan shall include but not limited to details pertaining to the proposed buffer zone on the western boundary and office complex. Principal Certifying Authority approved landscaping shall be completed prior to the release of the Occupation Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

Reason: *To ensure that appropriate landscaping is provided. (EPA Act Sec 79C(c))*

SIGNS/ADVERTISING

3. All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by Richmond Valley Council **prior to erection**, in accordance with Councils requirements. A separate Development Application shall be submitted.

Reason: *To preserve the amenity of the area. (EPA Act Sec 79C(b))*

CARPARKING

4. Provision shall be made for 20 (1 being for disabled persons) car parking spaces (not including truck parking) adjacent to the office complex with a bitumen sealed/paved or equivalent surface constructed and landscaped in accordance with the requirements of the Australian Standard AS2890.1 Parking Facilities – Off-Street

Parking and Council's Development, Design and Construction Manuals (as amended).

An additional four (4) b-double parking spaces shall be constructed adjacent to the office complex. Documentary evidence to be submitted to the Principal Certifying Authority **prior to the release of an Interim or Final Occupation Certificate**. Design plans to be submitted to and approved by the Principal Certifying Authority **prior to the release of the Construction Certificate**.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

5. All vehicles connected with the premises/land use shall be parked within the property **at all times**. No queuing of vehicles on Reynolds Road shall occur at any time.

Reason: *To ensure activities relating to the development do not interfere with the movement of traffic along the public road. (EPA Act Sec 79C(b))*

6. The development shall provide for adequate on site vehicle parking for all tradesmen, plant and equipment and the storage of materials **at all times** during the construction phase of this development.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

CULTURAL HERITAGE

7. The location of the two (2) scarred trees within the proposed rail freight terminal facility site shall be identified on all future plans, including all Construction Certificate documentation that pertains to the site.

Reason: *To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.*

8. The two (2) scarred trees within the proposed rail freight terminal facility site shall be buffered and fenced off **prior to any work commencing on the site**. This fence shall be maintained and in good condition **at all times**.

Reason: *To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.*

9. No land or vegetation clearing shall be undertaken within 50 metres of the identified tree group until such time as Richmond Valley Council has been furnished with documented appropriate management strategies which have been agreed by the NSW Department of Environment, Climate Change and Water, Casino Boolangle Local Aboriginal Land Council, Junbung Elders Aboriginal Corporation and traditional owners.

Reason: *To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.*

10. The site shall be registered with the NSW Department of Environment, Climate Change and Water for inclusion in the Aboriginal Heritage Management System (AHIMS) **prior to release of Construction Certificate**.

Reason: To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.

11. A subsurface investigation strategy shall be undertaken in accordance with industry standards **prior to any work commencing on the site**, which is agreeable to both the NSW National Parks and Wildlife Service and the Aboriginal stakeholders as the preliminary field survey identified the low hills adjacent to the floodplain as areas that have the potential to retain subsurface evidence of Aboriginal occupation, particularly artefact scatters. The investigation shall be conducted under permit pursuant to the provisions of the National Parks and Wildlife Act 1974 (NSW).

Reason: To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.

12. At any time if suspected Aboriginal material/artefacts or human remains are uncovered as a result of the development activities within the subject site the following actions shall be taken:
 - a) Work in the surrounding area shall stop immediately;
 - b) A temporary fence shall be erected around the site, with a buffer zone of at least 10 metres around the edge of the site;
 - c) An appropriately qualified archaeological consultant is to be engaged to identify the material; and
 - d) If the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the NSW Department of Environment, Climate Change and Water (DECCW) guidelines: *Interim Community Consultation Requirements for Applicants* (2005).
13. If human remains are located at any stage during site and construction works, all works shall halt immediately and the remains shall remain untouched. The nearest Police Station, NSW Department of Environment, Climate Change and Water, Casino Boolangle Local Aboriginal Land Council, Junbung Elders Aboriginal Corporation and traditional owners shall be notified.

Reason: To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.

14. Casino Boolangle Local Aboriginal Land Council shall be present on site to monitor and oversee the activities when any top soil is disturbed/removed on and during all ground work activities.

Reason: To ensure recommendations in accordance with the Cultural Heritage Assessment by Everick Heritage Consultants Pty Ltd dated December 2009 as submitted in the Statement of Environmental Effects on 19/03/10 are implemented.

ECOLOGICAL PROTECTION

15. A Wetland Management Plan shall be submitted to Richmond Valley Council for assessment and approval **prior to release of Construction Certificate**. The Plan include, but not limited to, detailed short and long-term protective measures and management strategies to protect the wetland system/habitat. Wetland management strategies shall be aimed at enhancing the wetland habitat values to develop a wetland of excellent value.

Reason: To ensure recommended mitigation measures to protect the wetland habitat are implemented in accordance with the Ecological Assessment by Greenloaning Biostudies Pty Ltd dated March 2010 as submitted in the Statement of Environmental Effects on 19/03/10.

16. Final design plans of the proposed embankment which is to be constructed to provide access to the western portion of the site shall facilitate natural drainage and allow fauna movement. Richmond Valley Council shall be satisfied these requirements are adequately addressed **prior to release of Construction Certificate.**

Reason: To ensure recommended mitigation measures to protect the wetland habitat are implemented in accordance with the Ecological Assessment by Greenloaning Biostudies Pty Ltd dated March 2010 as submitted in the Statement of Environmental Effects on 19/03/10.

17. A Weed Management Plan shall be submitted to Richmond Valley Council for assessment and approval **prior to release of Construction Certificate.**

Reason: To ensure recommended mitigation measures to protect the wetland habitat are implemented in accordance with the Ecological Assessment by Greenloaning Biostudies Pty Ltd dated March 2010 as submitted in the Statement of Environmental Effects on 19/03/10.

18. Pre-clearing surveys shall be undertaken in any habitat areas to be cleared (including wetland) and submitted to Richmond Valley Council for assessment and approval **prior to any clearing on the site.**

Reason: To ensure recommended mitigation measures to protect the wetland habitat are implemented in accordance with the Ecological Assessment by Greenloaning Biostudies Pty Ltd dated March 2010 as submitted in the Statement of Environmental Effects on 19/03/10.

19. All on-site personnel (during construction and operational stages of the rail freight terminal facility) shall undertake a suitable induction process **prior to works commencing.** The induction process shall make these personnel aware of the requirements of the approval in relation to habitat protection and mitigation measures which are to be implemented to ensure wetland system and fringing vegetation is protected. A suitable induction process shall be prepared and documented **prior to works commencing.**

Reason: To ensure recommended mitigation measures to protect the wetland habitat are implemented in accordance with the Ecological Assessment by Greenloaning Biostudies Pty Ltd dated March 2010 as submitted in the Statement of Environmental Effects on 19/03/10.

20. The completed works/infrastructure (and construction works) shall not encroach within the 40 metre buffer of the 7(k) Environmental Protection (Habitat) Zone at any time. **Prior to works commencing on the site,** the extent of the buffer area shall be surveyed and fenced off to clearly delineate the exclusion area.

Reason: To ensure the wetland habitat and environmentally sensitive areas on the site are suitably protected.

WORKS

21. All civil works that will become Richmond Valley Council assets are to be carried out in accordance with the Northern Rivers Local Government Development and Design

Manual, Northern Rivers Local Government Construction Manual and other Council standards/policies as appropriate.

Reason: *To ensure that works are carried out to Council Standards.*

22. Works within any part of the road reserve (including temporary site fencing that restricts pedestrian access, temporary disruption to traffic, etc) requires the preparation of a **Traffic Management Plan**. A number of individual Traffic Control Plans (TCPs) may be required to adequately implement the Management Plan. The Management Plan and TCPs shall comply with the provisions of the RTA document “**Traffic Control at Work Sites**” manual and shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course. The designer’s certification number is to appear on the Traffic Control Plans.

The Plan shall be submitted to and verified by Richmond Valley Council **prior to the issue of the Construction Certificate**.

The developer shall maintain all warning signs, lights, barriers and fences etc in accordance with the Traffic Control Plan, Australian Standards and Work Cover guidelines.

Safe public access around any works shall be provided at all times unless detailed in the Traffic Control Plan.

Any advertising required to be undertaken by Richmond Valley Council shall be at the developer’s cost.

All contractors working on such road reserve areas are to have Public Liability Cover to a minimum value of \$10,000,000. A certificate of currency is to be forwarded to Council **prior to the commencement of works**.

Reason: *To ensure works carried out in the road reserve are carried out in a safe environment.*

23. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of Richmond Valley Council. The repairs shall be carried out **prior to the commencement of the operations of the terminal**.

Richmond Valley Council shall be notified in writing, **prior to commencement of works**, of any existing damage to roads, stormwater drainage, kerb and gutter or footpaths.

Absence of notification signifies that no damage exists, and the applicant is therefore liable for the cost of reinstatement of any damage found at the completion of the works.

The public infrastructure certificate shall be issued by Richmond Valley Council **prior to the commencement of the operations of the terminal**.

Reason: *To protect the existing and future amenity of the locality and to formally record any pre-existing damage to existing assets.*

24. Application (under Section 138 of the Roads Act) for approval to carry out any work within the road reserve is to be made to Richmond Valley Council **prior to any such works commencing**. This includes driveway crossings and aprons, water, sewerage, stormwater, road works, kerb and gutter, etc. (Completion of Council’s

Application for Construction of Vehicular Accessway form and payment of the cost/bond satisfies the Section 138 requirement for crossings and aprons. Bond amounts are the rates applicable at the time of payment.)

Any advertising required to be undertaken by Council shall be at the developer's cost.

The owner or contractor shall not undertake any work within the public road reserve without giving Council's Works Department **five (5) working days notice of proposed commencement**. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

Note: Road Closure advertisement fees will be required for road closures and are required (10) working days notice of proposed commencement.

All contractors working on such areas are to have Public Liability Cover to a minimum value of \$10,000,000. A certificate of currency is to be forwarded to Council prior to the commencement of works.

Reason: *To comply with Section 138 of the Roads Act 1993.*

25. The developer shall have a suitably qualified or experienced supervisor on all projects where civil engineering works (to be vested in Richmond Valley Council) are required. The name of the supervisor, who shall be responsible for the overall supervision of the works, is to be submitted to and approved by Council **prior to the issue of the Construction Certificate**.

Reason: *To ensure adequate supervision and co-ordination of the works.*

26. The developer may engage contractors and sub-contractors to carry out civil engineering works that are to become Richmond Valley Council's assets. Details (name, qualifications, experience, insurance currency, etc) of proposed contractors and sub-contractors for specific civil works are to be submitted to Council's Works Department for approval **prior to the commencement of any work on the future Council assets**.

Reason: *To ensure adequately qualified and experienced contractors and sub-contractors are engaged on the works.*

27. All costs associated with satisfying Development Application conditions are at the expense of the developer.

Reason: *To ensure that the costs of development are borne by the developer.*

WORKS FEES AND CONTRIBUTIONS

28. A defects liability bond (in cash or Bank Guarantee) shall be lodged with Council. The date of Practical Completion shall be the date upon which all engineering works are completed and the defects liability bond has been paid. The bond shall be based on 10% of the value of the works that will become Richmond Valley Council's assets (Council's adopted Revenue Policy (Fees and Charges)), and will be held by Richmond Valley Council for a period of 12 months from the date of Practical Completion. The defects liability bond will be refunded at the satisfactory completion of the maintenance period (12 months).

The bond shall be paid to Richmond Valley Council **prior to the commencement of the operations of the terminal**.

Reason: To provide adequate funds for the rectification of non-compliances, or failure to carry out maintenance during the maintenance period.

29. A Civil Engineering assessment fee is to be paid to Richmond Valley Council **prior to the issue of a Construction Certificate** for the assessment of plans, issue of a Construction Certificate, and inspection of civil works that will impact on or become Council's assets. Rates are as detailed in Council's Revenue Policy (Fees and Charges), with quantities assessed from approved plans.

Reason: To ensure engineering works are designed and constructed to Council standards.

30. All building and construction work by private contractors in NSW, costing \$25,000 or more, is liable for the payment of the Long Service Levy to the Long Service Levy Payments Corporation. Construction work includes civil construction such as roads and bridges, pipelines, fuel gas and water storage and distribution infrastructure, sewerage drainage and treatment systems, retaining walls, electrical distribution infrastructure, etc. Confirmation of the payment to the Corporation (Council is an agent) is to be submitted to Richmond Valley Council **prior to the issue of the Construction Certificate**. (Payments through Council are to be made payable to Richmond Valley Council. Cheques payable to the Corporation cannot be accepted by Richmond Valley Council.)

Reason: To ensure the long service levy on private contractor constructed works is paid in accordance with State Government legislation.

31. Payment of contributions levied under Section 94A of the Environmental Planning and Assessment Act 1979 and Richmond Valley Council's Revenue Policy and Contributions Plan are required in accordance with the attached schedule. Such levies shall contribute towards the provision, extension or augmentation of public amenities or public services in accordance with Richmond Valley Council's Section 94A Development Contributions Plan.

Total cost of the development shall be in accordance with Section 5 of the Richmond Valley Council Section 94A Development Contributions Plan and clause 25J of the Environmental Planning and Assessment Regulation 2000.

Contributions required by this condition will be adjusted at the time of payment of the contribution in accordance with the formula detailed in Section 1.2 of Richmond Valley Council's Development Contributions Plan ie by CPI from the date of consent.

Where the total contribution payable exceeds \$10,000 payment to Richmond Valley Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions shall be paid **prior to the issue of any Construction Certificate**.

Reason: To provide funds for the provision of services and facilities identified in Richmond Valley Council's Section 94A Development Contributions Plan (EPA Act Sec 94A).

Section 94A Development Contributions Plan			
Levy area - full Richmond Valley Council		(Job No/ Receipt Code - PLD 103)	
Total Cost of Development	Total Cost	@ % of total cost	Contribution
> \$ 200,000	\$ 12,700,000	1.0 %	\$ 127,000

Total Section 94A contribution	\$ 127,000
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WORKS DESIGN

32. Existing services/infrastructure that requires reconstruction or adjusting to suit a development (stormwater, road works, footpath, kerb and gutter, etc.) are to be carried out at the developer's expense. Construction is to be in accordance with Richmond Valley Council's standards, or the affected asset owners standards, and shall be completed **prior to the commencement of the operations of the terminal.**

Reason: To protect existing services.

WORKS ENVIRONMENTAL

33. The applicant is to prepare and implement an Erosion and Sediment Control Plan in accordance with NSW Landcom's "Managing Urban Stormwater Soils and Construction, 2004.

For developments where the earthworks will involve the disturbance of greater than 2500 m² a Soil and Water Management Plan shall be submitted. Details of Erosion and Sediment Control Plan and re-vegetation works shall be submitted to Richmond Valley Council for approval **prior to the issue of the Construction Certificate.**

The plan shall contain where applicable:-

- a) Name, address and phone number of the person ultimately responsible for ensuring implementation of the plan.
- b) Site Boundaries, Scale, North Point and Locality Plan.
- c) Access protection measures.
- d) Nature and extent of earthworks including the volumes, levels and locations of cut and fill if undertaken.
- e) Where applicable the location of upstream diversion measures to divert "clean" water away from the area of earthworks.
- f) Stormwater discharge points during the construction phase.
- g) Location of all soil, gravel, landscaping material etc stockpiles.
- h) Location and type of proposed erosion and sediment control measures.
- i) Site rehabilitation measures including the timing of revegetation works.
- j) Frequency and nature of maintenance program for erosion and sediment controls.
- k) Existing and proposed contours of the site.
- l) Existing and proposed drainage patterns for the site.
- m) Location of lands where a protective ground cover shall, as far as practicable, be maintained.
- n) Approximate location of tree's and other vegetation showing trees and vegetation for removal and retention, consistent with other plans attached to the application.
- o) Identify any areas which are to be fenced off as "no go" areas. Areas to be protected from construction activities to prevent soil compaction (future infiltration, bio retention, grass swale areas or on site effluent disposal areas) or vegetation damage (vegetation to be retained on site).
- p) Details of calculations for sediment basins.
- q) Details of any measures proposed to be kept as permanent stormwater fixtures.

During construction works all motor fuels, oils and other chemicals are to be stored and used on site in a manner which ensures no contamination of stormwater. No

incidents of visible pollution leaving the construction site. No litter placed in a position where it may be blown or washed off site.

Reason: *To minimise erosion and sediment and associated impacts in accordance with the Protection of the Environment Operations Act, to protect the capacity of downstream drainage networks (both constructed and natural)*

WORKS INSPECTION/TESTING

34. Inspection and Testing Plans covering all the necessary inspections and testing of the civil engineering works that will become Richmond Valley Council's assets (eg roads, kerb and gutter, stormwater drainage, etc) shall be submitted to and approved by Richmond Valley Council. The Inspection and Testing Plans shall be in accordance with the Northern Rivers Local Government Development and Design Manual and the Northern Rivers Local Government Construction Manual. Council approval of the Plan is required **prior to the issue of the Construction Certificate**.

A copy of the approved Construction Certificate plans, Inspection and Testing Plans, details and specifications must remain on site at all times during construction.

Reason: *To ensure engineering works are constructed to council standards.*

ROADS

35. The developer shall provide the following road works, with associated stormwater drainage structures, that have been designed and constructed in accordance with Council's Northern Rivers Development and Design Manual and the Northern Rivers Local Government Construction Manual. The developer shall be responsible for any costs, including maintenance, for a period of twelve months from
1. the date of approval of completion of the work, or
 2. from the date of the commencement of the maintenance bond (whichever is later).

Required road works include:

INTERSECTION - From Reynolds Road

Construction of new intersection for the intersection of Reynolds Road and Development Service Road. The intersection shall be AC surface and generally in accordance with development intersection layout plan (NAM009 Revision 1) attached to the Traffic Impact Assessment for "Summerdowns" Rail Terminal at Narmoon Dated 25 October 2010. Particular attention shall be given to sight distance and drainage of the intersection.

ROADS AND TRANSPORT INFRASTRUCTURE

- a) The provision of hinged 'Trucks Turning' warning signs are to be permanently erected and displayed on both sides of the new intersection.
- b) Provision of double unbroken line marking 80m either side of the culvert approximately 215m North from the intersection of Reynolds Road and Dargaville Drive
- c) Provisions for a "U" turn area for b-double vehicles between the terminal gate and Reynolds Road.

Road works include pavement design, drainage design, construction and sealing of the proposed roadway in accordance with the Northern Rivers Local Government Development and Design Manual and the Northern Rivers Local Government Construction Manual. Pavement design plans and proposed sealing details are to be submitted to and approved by Richmond Valley Council **prior to the issue of the Construction Certificate**.

Construction and acceptance by Richmond Valley Council of the intersection works and roadworks is to be completed **prior to the commencement of the operations of the terminal.**

***Reason:** To ensure an adequate road network in accordance with adopted standards.*

ACCESS, APRONS AND DRIVEWAYS

36. The proposed development Service Road between the proposed intersection works and a point adjacent to the proposed Office is to be constructed as a sealed road pavement. Design details are to be provided to Richmond Valley Council and approved **prior to the release of the Construction Certificate**. Construction of the driveway is to be in accordance with the AUS SPEC Manual (Northern Rivers).

***Reason:** To provide adequate access for the anticipated traffic that will be generated by the development.*

STORMWATER

37. All stormwater shall be directed to proposed stormwater drainage paths and ultimately to the existing natural water courses. Stormwater design plans (including pipe sizes, pit surface and invert levels, driveway and parking area levels and directions of flow, treatment details, etc) in accordance with Richmond Valley Council's standards for urban and rural stormwater drainage and should be generally in accordance with the details in the Statement of Environmental Effects. Plans are to be prepared and shall be submitted to Richmond Valley Council. Richmond Valley Council approval of the plans of the management of stormwater is required **prior to the issue of the Construction Certificate**. Plans should include but not limited to

- a) Details of all relevant stormwater control infrastructure and how that infrastructure will minimise stormwater peak flows and peak pollutant concentrations (including lined inlet and outlet treatments)
- b) Procedure for the installation and maintenance of relevant stormwater control infrastructure
- c) Details of the fauna underpass
- d) Details of the proposed in-ground tank(s), pollution control methods and detention basin

All designs must have provision to ensure that all gross pollutants remain above ground and cannot enter Council's stormwater system or a natural watercourse.

Richmond Valley Council approval of the management of stormwater is required **prior to the issue of the Construction Certificate**.

Construction and acceptance by Richmond Valley Council of the Stormwater infrastructure is to be completed **prior to the commencement of the operations of the terminal.**

***Reason:** To ensure an adequate stormwater drainage system in accordance with adopted standards.*

WORK AS EXECUTED

38. **Prior to the commencement of the operations of the terminal**, a suitably qualified person or the Principal Certifying Authority is required to furnish a Compliance Certificate confirming:

All drainage lines have been located within the respective easements or road reserves,

Road works are in accordance with the approved design plan, any other structures like retaining walls, etc are located in accordance with the Construction Certificate, and all stormwater has been directed to a Council approved drainage system,

Reason: *To ensure the development is completed in accordance with the conditions and approved engineering construction design plans.*

39. Upon completion of works to be vested in Richmond Valley Council, Work as Executed drawings and plans in digital format shall be submitted to and approved by Richmond Valley Council **prior to the commencement of the operations of the terminal**. (AutoCAD or similar – changes as a separate layer in red). All work as executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plan is accurate. The plans shall clearly identify any amendments (in red) to the original design. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action with respect to breach of copyright.

Reason: *To provide adequate records of services for the development.*

BUILDING

40. **Prior to any work commencing** toilet facilities must be provided at or in the vicinity of the work site.

Reason: *To provide sanitary facilities for workers.*

41. Details of any earthworks which would alter the approved site levels by more than 300 mm, in conjunction with any drainage, erosion and retaining methods shall be submitted and approved by Richmond Valley Council **prior to work commencing**. Please Note: Structural retaining walls over 600 mm in height shall require the submission of an engineer's design and timber retaining walls are not advised for boundary retaining walls.

Reason: *To ensure minimal adverse environmental impact.*

42. The location of the office building on the site must be established by a suitably qualified Surveyor and must comply with this approval.

Reason: *To ensure the building is located on site in accordance with this consent.*

43. All plumbing, drainage and stormwater work must be in accordance with AS3500 and NSW Code of Practice – Plumbing and Drainage and the work must be carried out by a licensed person.

Reason: *Required by the Local Government (Water, Sewerage and Drainage) Regulation.*

44. The building must be clad in low-reflective material.

Reason: *To minimise the reflectivity of the building.*

45. The application for a Construction Certificate must be accompanied by;

- i) a list of any fire safety measures that are proposed to be implemented in the building or on the land.

Reason: *Required by the Regulation 2000.*

46. Access for people with disabilities must be provided to and within the building as set out in Table D3.2 of the Building Code of Australia by means of a continuous path of travel in accordance with AS1428.1:-
- i) from the allotment boundary at a point of entry from a road to the doorway at the entrance floor; and
 - ii) from any car-parking space on the allotment (whether within or outside the building) provided in accordance with D3.5; and
 - iii) from any other building on the allotment to which access for people with disabilities is required; and
 - iv) through the principal public entrance.

Reason: *Required by Part D3.2 of the Building Code of Australia.*

47. Sanitary facilities for people with disabilities must be provided as set out in Part D3.2 and F2.4 of the Building Code of Australia.

Reason: *Required by Parts D3.2 & F2.4 of the Building Code of Australia.*

48. The occupation or use of the building **must not commence until an Occupation Certificate has been issued** by the Principal Certifying Authority. Where Richmond Valley Council is not the Principal Certifying Authority then all documentation must be forwarded to Council within seven (7) days of issue.
(N.B. All Critical Stage Inspections must have been completed prior to the issue of the Occupation Certificate).

Reason: *To monitor compliance with the Development Consent and Construction Certificate.*

49. Where Richmond Valley Council is not the Principal Certifying Authority the following inspections will be required with 48 hours notice
- a) onsite Sewage Management System installation.
 - b) the external sewer drainage lines which have been installed by a licensed plumber. A water test is required prior to drains being covered. A layout plan of the house drains certified by the plumber must be submitted to Council.

Reason: *To ensure compliance with Local Government Act 1993.*

50. At completion/occupation, the following certification must be submitted to Richmond Valley Council, if Council is not the Principal Certifying Authority:
- a) 'Works as executed' diagram of external and internal drainage. A licensed plumber's certification that 'works as executed' complies with AS 3500 must accompany the diagram.
 - b) The development has been completed in accordance with the development consent.

Reason: *To monitor compliance with the Development Consent and Construction Certificate.*

ENVIRONMENTAL HEALTH

51. The use and occupation of the premises including the operation of all plant and equipment installed thereon must not create offensive noise as defined within the meaning of the Protection of the Environment Operations Act (1997).

In this respect noise monitoring of the site by a suitably qualified acoustic consultant must be carried out every quarter once the facility commences operations. A report from the acoustic consultant detailing noise levels and compliance with relevant noise standards must be submitted to Council within fourteen (14) days of each quarterly assessment. In the event the operation creates offensive noise, details of measures and recommendations required to be implemented to attenuate noise to acceptable standards must be submitted to and approved by Richmond Valley Council. Works and recommendations from the acoustic consultant as approved by Richmond Valley Council must be implemented within a time-frame acceptable to Richmond Valley Council.

Reason: *To protect the amenity of the area.*

52. Quarterly acoustic assessments must be submitted until such time that the site is fully operational and noise assessments identify that a fully operational site complies with the Protection of the Environment Operations Act (1997) as amended and relevant and recognised noise guidelines and standards.

Reason: *To protect the amenity of the area.*

53. Front end loader use on the site must be limited to the use of a front end loader that has an operational sound power level of no more than 113dB(A) and to the hours 7:00am to 10:00pm Monday to Saturday and 8:00am to 6:00pm on Sundays and public holidays.

Reason: *To protect the amenity of the area and comply with the NSW EPA Industrial Noise Policy, January 2000.*

54. The reach stacker and container loading / unloading operation must be limited to the hours 7:00am to 10:00pm Monday to Saturday and 8:00am to 6:00pm on Sundays and public holidays.

Reason: *To protect the amenity of the area and comply with the NSW EPA Industrial Noise Policy, January 2000.*

55. An application under Section 68 of the Local Government Act must be submitted to Council and approved **prior to issue of the Construction Certificate**. The Application must be in accordance with Richmond Valley Council Onsite Sewage and Wastewater Management Strategy.

Reason: *To protect the environment and comply with relevant standards.*

56. Facilities/amenities for staff working at the terminal in the western section of the site including the sites identified in the Statement of Environmental Effects as the ARTC ballast storage and loading area, the bulk product storage and loading area, and the container storage and loading area must be provided.

In this respect details of the proposed facilities / amenities to be provided **must be submitted to Council and approved prior to release of Construction Certificate**.

Reason: *To protect human health and the environment.*

57. A dust management plan must be submitted to Richmond Valley Council and approved **prior to issue of Construction Certificate**. The management plan must detail methods of controlling dust from traffic movements on the site and from the

operation of the terminal including all plant and equipment stored and operated on the site.

Reason: *To protect amenity and human health.*

58. Wood and timber products including, but not limited to, wood chip, mulch, logs and the like are not to be stored on the site **at any time**.

Reason: *To protect the environment.*

59. Any outdoor lighting shall be appropriately located or shielded so no additional light is cast on adjoining land or distracts traffic as specified in Australian Standard 4282 – *The Obtrusive Effects of Outdoor Lighting*.

Reason: *To preserve the amenity of the area.*

60. All hazardous/toxic/corrosive chemicals and fuels are to be stored in secure bunded area sufficient to hold 110% of the volume of the largest container. The bund floor and walls must be constructed of material impervious to the contents of any tank or container within the bund. A collection sump is to be provided within the bunded area to provide for easy removal of spilt liquids. Any spillages / leaks are to be collected and appropriately handled and not released into the environment.

Reason: *To preserve and protect the environment (EPA Act Sec 79C(b)).*

61. All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.

Reason: *To preserve and protect the environment (EPA Act Sec 79C(b)).*

62. An acceptable number of suitable waste containers must be kept on the premises for the storage of waste.

Reason: *To preserve and protect the environment (EPA Act Sec 79C(b)).*

NSW Rural Fire Service Conditions

Asset Protection Zone

The intent of measures is to minimise the risk of bushfire attack and provide protection for emergency services personnel, residents and other assisting fire-fighting activities.

1. At the commencement of building works the property around the terminal facilities, open storage yards and buildings to a distance of 10 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Reason: *To comply with Planning for Bushfire Protection 2006.*

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings, facilities or stored products during and after the passage of a bushfire and to locate gas and electricity so as not to contribute to the risk of fire to a building, facilities or products stored in open yards.

2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'
3. That the proposed development complies with Australian Standard AS 2419.1 – 2005 'Fire Hydrant Installations'.

Reason: *To comply with Planning for Bushfire Protection 2006.*

Access

The intent of measures is to minimise the risk of bushfire attack and provide protection for emergency services personnel, residents and other assisting fire-fighting activities.

4. Property Access Roads shall comply with section 4.1.3 (2) of 'Planning for Bushfire Protection 2006'.

Reason: *To comply with Planning for Bushfire Protection 2006.*

Landscaping

5. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bushfire Protection 2006'. In this regard the following landscaping principles are to be incorporated into the development:

- a) Grassed areas/mowed lawns/or ground cover plantings being provided in close proximity to the buildings.
- b) Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the buildings.
- c) No brushwood (or the like) fencing shall be used in the inner protection area.

Reason: *To comply with Planning for Bushfire Protection 2006.*