

JOINT REGIONAL PLANNING PANEL (Region)

JRPP No	JRPP Reference Number
DA Number	2012/0051
Local Government Area	Forbes
Proposed Development	Forbes Business Centre incorporating the staged development of Bunnings, three (3) separate bulky goods retail premises, two (2) fast food outlets and truck stop including associated signage, car parking and re-subdivision of the land.
Street Address	22 - 40 Newell Highway, Forbes
Applicant/Owner	Applicant: Projects and Infrastructure Pty Ltd Owner: Forbes Shire Council
Number of Submissions	16
Recommendation	Approval with Conditions
Report by	Michael Eagles – Town Planner

Assessment Report and Recommendation

ASSESSMENT REPORT

DEVELOPMENT APPLICATION 2012/0051 – Projects and Infrastructure
- PROPOSED STAGED DEVELOPMENT OF FORBES BUSINESS CENTRE
INCORPORATING BUNNINGS STORE, THREE (3) SEPARATE BULKY
GOODS RETAIL OUTLETS, TWO (2) FAST FOOD RESTAURANTS &
TRUCK STOP INCLUDING ASSOCIATED SIGNAGE, CAR PARKING AND
SUBDIVISION – LOTS 1535, 1536, 1624, 1665 & 1674 DP750158 AND
LOTS 2 & 3 DP823430 (22 - 40) NEWELL HIGHWAY, FORBES:

Purpose

The purpose of this report is to provide the comprehensive consideration and assessment of the following Development Application including supporting documentation in accordance with the relevant matters to be considered as outlined under 79C of the Environmental Planning and Assessment Act 1979, (as amended).

Given the capital investment value (CIV) is greater than \$5 million and Forbes Shire Council owns the subject land the proposed development project, in accordance with Schedule 4A of the *Environmental Planning and Assessment Act 1979* and SEPP (State & Regional Development) 2011 the following Development Application is placed before the Western Region Joint Regional Planning Panel for determination:

Application No: Development Application 2012/0051.

Applicant: Projects & Infrastructure Pty Ltd.

Property: Lots 1535, 1536, 1624 & 1665 DP750158 and Lots 2 & 3 DP823430 (Nos' 22 - 40) Newell Highway, Forbes

Proposal: Forbes Business Centre incorporating the staged development of Bunnings, three (3) separate bulky goods retail premises, two (2) fast food outlets and truck stop including associated signage, car parking and subdivision of the land.

Introduction

An application has been received from Projects and Infrastructure acting as the project manager on behalf of Forbes Shire Council for the construction of the Forbes Business Centre comprising large bulky goods retail centre proposed to accommodate Bunnings, three (3) separate bulky goods tenancies, two (2) fast food outlets and a major truck stop. The development application has been lodged as a staged development comprising three (3) stages.

The subject site comprises the site of the former Forbes Saleyards which was relocated to the nearby Daroobalgie locality in 2005. The subject site comprises approximately 78,000m² located on the Newell Highway to the north of the Forbes

Commercial centre. The site is serviced by an existing access road off the Highway as well as Lamb and Corriedale Streets to the south and west respectively.

The development application as lodged comprises the following information:

- Completed Development Application Form including applicant and owners authority;
- Statement of Environmental Effects Report prepared by Coast Plan Group, May, 2012;
- Crime Prevention Through Environmental Design Assessment Report prepared by Coast Plan Group, May 2012;
- Storm Water and Servicing Strategy prepared by AT & L, April 2012;
- Economic Impact Assessment prepared by Hill PDA Pty Ltd, February 2012;
- Traffic Impact Report prepared by R Wagg, April 2012;
- Architectural Plans prepared by Woodhead Architects Pty Ltd, May 2012;
- Landscape Master Plan and Landscape Plan prepared by Woodhead Architects April, 2012; and
- Contamination Investigation prepared by Envirowest Consulting, May & July 2012.

This report provides the consideration and assessment of the proposed development in accordance with the Environmental Planning and Assessment Act, 1979 (as amended) prepared for determination of the subject development application.

Background

The subject site comprises the site of the former Forbes Saleyards. Forbes Shire Council as the owners of the land have commissioned Projects and Infrastructure Pty Ltd as the project managers for the proposed development, who have prepared and lodged the subject development application. Given Councils involvement in the project the development application is referred to the Western Joint Regional Planning Panel for determination in accordance with the provisions of SEPP (State and Regional Development) 2011.

A separate development application DA2011/0084 was lodged and approved in October 2011 for the demolition of the existing saleyards facilities. Demolition and site validation is in the process of being finalised.

This development application is for the staged development of the land to create the Forbes Business entre to be developed in three (3) separate stages.

The site was the subject of a Planning Proposal submitted with and approved by the Department of Planning in 2011 to permit bulky goods retail development and restaurants within the prevailing 4(a) Industrial zone including zone objectives for development fronting the Newell Highway.

Subject Site

The subject site comprises the former Forbes Mid-State Saleyards bounded by The Newell Highway and Corriedale Street and allotments to Dorset Street, Forbes. The site comprises seven (7) allotments listed as follows:

- Lot1535 DP750158
- Lot 1536 DP750158
- Lot 1624 DP750158
- Lot 1665 DP750158

- Lot 1674 DP750158
- Lot 2 Lot DP823430
- Lot 3 DP823430

The total site area comprises approximately 7.8ha.

The site is bounded by the Newell Highway to the east, Lamb Street to the South, Corriedale Street to the west and immediately adjoining properties fronting Dorset Street to the north located within the same street block comprising 2LVR Radio station, Wholesale Plant nursery and associated dwelling, auto dismantlers, open storage yards and materials recycling centre.

Surrounding development comprises a mix of TSR land to the south and west, light industrial land to the north and across the Newell Highway to the east traditional industrial land.

The subject site slopes gently from the north west to the south east with a total fall of approximately 1 metre across the site.

The development site is located to the north of the Forbes Central Business District divorced from the centre by the Parkes – Stockingbingal Railway and located along the Newell Highway leading north out of town to Parkes. This area has emerged as a bulky goods retail area with some industrial development on the western side of the highway and traditional industrial development on the eastern side of the highway. .

Proposed Development

The subject development application seeks staged development consent for the construction of the Forbes Business Centre. The entire Business Centre development is to comprise of the following components:

- Large bulky goods building proposed to accommodate Bunnings Warehouse;
- Three separate smaller standalone bulky goods tenancies envisaged for homemaker type tenancies (proposed occupants have not been provided)
- Two separate fast food restaurants
- A large truck stop providing for fuel and refreshments.

The proposal has been lodged as a staged development under the provisions of Section 83B of the Environmental Planning and Assessment Act, 1979 detailed as follows:

- Stage 1 – Concept approval and detailed consent for Bunnings warehouse and three separate bulky goods tenancies;
- Stage 2 – Fast Food Restaurants;
- Stage 3 – Truck Stop and associated facilities.

Development consent is for Stage 1 of the proposed development. Development consent is also sought at this stage for the following ancillary components of the business centre:

- Construction of surface level car park comprising 285 car parking spaces;
- Construction of driveways and access to the car park and loading/unloading areas from the existing service road adjacent to the Newell Highway and Corriedale Street;
- Erection of commercial signage upon the proposed buildings;

- Erection of pylon sign adjacent to the Newell Highway and Corriedale Street intersection;
- Landscaping
- Civil works including stormwater detention basin located at the south eastern corner of the site;
- Subdivision of the proposed tenancies.

The details of the various components of the development are proposed as follows:

- | | |
|---|--|
| <ul style="list-style-type: none"> ▪ Hardware Tenancy:
(Bunnings) | Main Warehouse – 1,998m2
Building Materials & Landscape Yard – 1,400m2
Bagged Goods Area – 1,800m2
Timber Trade Area – 1997m2

Total: 7,195m2 |
| <ul style="list-style-type: none"> Proposed Hours: Site Area: | 7.00am – 10.00pm Monday – Friday
6.00am – 7.00pm Sat. Sun. & Public holidays
Proposed Lot 1 - 30,927m2 |
| <ul style="list-style-type: none"> ▪ Bulky Goods tenancies: | 3 X - 1,315m2, 1,300m2 & 1,100m2 |
| <ul style="list-style-type: none"> Proposed Hours: Site Area: | 7.00am – 10.00pm Monday – Friday
6.00am – 7.00pm Sat. Sun. & Public holidays
Proposed Lot 4 - 5,115m2 |
| <ul style="list-style-type: none"> ▪ Fast Food Outlets: | 2x296m2 |
| <ul style="list-style-type: none"> Proposed Hours: Site Area: | 24 hour operation
Proposed Lot 2 – 1,414m2
Proposed Lot 3 – 1,547m2 |
| <ul style="list-style-type: none"> ▪ Truck Stop: | Subject to future DA |
| <ul style="list-style-type: none"> Proposed Hours: Site Area: | 24 hour operation
Proposed Lot 5 – 39,766m2 |

The proposed Bunnings store is located toward the south western portion of the site adjacent to the rear boundary facing east onto the proposed car parking area with a centrally located customer entry point from the car park. The warehouse comprises a central warehouse area, open timber trade sales area and building and materials yard and outdoor bagged goods canopy.

The separate bulky goods tenancies are located in the centre of the site positioned as three separate buildings sited in an east west direction forming a boundary to the proposed retail area and facing south toward the adjacent to the car park area.

The two fast food tenancies are sited along the eastern boundary toward the Newell highway however accessed internally providing access to separate car parking areas and drive-thru access facilities.

The main car parking area has been centrally located to accommodate 285 parking spaces provided with two entry/exit points along the existing slip road off the Newell Highway as well as a separate entry/exit provided to Lamb Street. A separate service road is proposed at the rear of the development running parallel to Corriedale Street with separate entry/exit points to promote a circular traffic flow to provide loading/access areas for each of the bagged goods, main warehouse, timber trade sales and building

materials and landscape yard. This service road is also proposed to extend behind and service the separate bulky goods tenancies exiting onto the existing slip road adjacent to the Newell Highway. The proposed truck stop is to be provided separate entry and exit points onto the slip road.

A 10m pylon sign is proposed square structure with sign boards for tenancies on all sides flood lit from below at night is proposed in the south eastern corner of the site within the green space area provided around the new proposed detention basin. This detention basin provides is located at the lowest point of the site providing the drainage functions for the entire site.

Landscaping is provided along the majority of the Newell Highway frontage for Stages 1 and 2 being around the proposed stormwater detention facility and in front of the fast food restaurant tenancies. A small area is also provided at either end of the Bunnings warehouse. Landscaping comprises predominantly native vegetation including:

Shade Trees:	Cupanlopsls anacardloldes (Tuckeroo); Corymbia citiodora (Lemon Scented Gum); Callestemon sallgnus (Willow bottlebrush); Eucalyptus cinerea (Argyle Apple); Eucalyptus botryolders (Southern Mahogany)
Feature Plants:	Doryanthes excelsa (Gymea Lily) Phormium tenax (Purpureum)
Shrubs:	Eremophila oldfieldii (Emu Brush) Grevillea floribunda (Seven Dwarf's Grevillea) Banksia spinulosa (Hairpin Banksia)
Hedges:	Westringia (Wynyabbe Gem)
Grasses/ground covers:	Dianella Little jess (Blue Flax Lily) Lomandra longifolia "Nialla"(Matt Rush) Hardenbergia Flat White (White Native Lilac) Poa Poliformis Eskdale (Blue Tussock Grass) Pennisetum "Rubrum" (Purple Pennistum)

The batters to the detention pond are to be planted with macrophytes and rushes
 Isolepis nodosa (Knobbly Club Rush)
 Lomandra Longifolia & Imperata cylindrica
 Carex appresa (Tall Sedge)

The proposed Bunnings warehouse is envisaged to generate employment for approximately 50 – 60 persons as well as those generated during construction. Similar employment is anticipated for the other uses proposed.

Statutory Framework

Consideration of the relevant statutory planning controls applicable to the proposed development is provided below:

1. Environmental Planning and Assessment Act, 1979 (as amended)

The Environmental Planning and Assessment Act, 1979 in conjunction with its Regulation 2000 and Model Provisions 1980 establishes the framework for the environmental planning system within NSW. It provides detailed provisions and controls for undertaking the development of land.

Development is defined by the Environmental Planning and Assessment Act as follows:

Development means

- (a) *the use of land, and*
- (b) *the subdivision of land, and*
- (c) *the erection of a building, and*
- (d) *the carrying out of a work, and*
- (e) *the demolition of a building or work, and*
- (f) *any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument.*

Development requires the relevant development consent from an appropriate determining authority in accordance with the provisions of Part IV of the Act. The objects of the Act are provided in Clause 5 as follows:

(a) To encourage

- (i) *The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment,*
- (ii) *The promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *The protection, provision and co-ordination of communication and utility services,*
- (iv) *The provision of land for public purposes,*
- (v) *The provision and co-ordination of community services and facilities, and*
- (vi) *The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities and their habitats, and*
- (vii) *Ecologically sustainable development, and*
- (viii) *The provision and maintenance of affordable housing, and*

(b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) To promote increased opportunity for public involvement and participation in environmental planning and assessment.

The proposed development seeks to provide for the orderly and economic development of the land in accordance with its environmental capacity and location within the town of Forbes. The development will benefit the social and economic welfare of the Forbes Shire and with appropriate site management will not result in adverse environmental impacts.

Development requires development consent to be obtained from the relevant determining authority. Part 4 clauses 76 – 83 establish the procedures and requirements for the submission, consideration and subsequent determination of a development application.

The subject development application has been lodged as a staged development. Section 83 of the Environmental Planning and Assessment Act 1979 provides special procedures concerning staged development applications as follows:

Section 83B - Staged development applications

- (1) For the purposes of this Act, a **staged development application** is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may set out detailed proposals for the first stage of development.
- (2) A development application is not to be treated as a staged development application unless the applicant requests it to be treated as a staged development application.
- (3) If consent is granted on the determination of a staged development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:
 - (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or
 - (b) the staged development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.

The scale of the proposed development result in the proposal being identified as "Regional Development" being subject to the provisions of Clause 23G and Schedules 4 and 4A which provides for the establishment and management of Joint Regional Planning Panels . In accordance with Schedule 4A the development falls within the following definition of Regional Development:

Subclause 4 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if:

- (a) *a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) *the council is the owner of any land on which the development is to be carried out, or*
- (c) *the development is to be carried out by the council, or*
- (d) *the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

Forbes Shire Council is the owner of the subject land and the development has a capital investment value of over \$5 million. In accordance with the Act the assessment functions are to be carried out by Council however the development is to be determined by the Western Region Joint Regional Planning Panel.

2. State Environmental Planning Policies

a) State Environmental Planning Policy No.33 – Hazardous and Offensive Development

Stage 3 of the proposed development includes a service station which will involve the storage of hazardous materials (fuels etc). Whilst a detailed design of the service station has not been provided as part of the development application the proposal utilises details based upon similar proposals and indicates the following storages assumed:

Diesel – 500,000 litres
 Petrol – 350,000 litres

LPG – 300,000 litres

Department of Planning Guidelines (January 2011) include screening guidelines to determine if development is “potentially hazardous”. The development application indicates that while the location of storage and fill points are unknown at this stage the required separation distances have been considered to determine if they can be accommodated within the site. Based upon the screening thresholds within SEPP33 Guidelines the following

Petrol	Class 3 (Packing Group II)	711g/l	249 tonnes
Diesel	Class C1	815g/l	408 tonnes

Required Separation distance 33m

LPG 2.1 If stored under ground – nil – Fill points 10-55m from residential, commercial, recreational and sensitive land uses.

The proposed size of the Service Station site means that all necessary separation distances can be achieved and incorporated in the future detailed design such that the development is not categorised as a potentially hazardous development. Detailed assessment will need to be undertaken in the assessment of this stage of the proposed development.

b) State Environmental Planning Policy No.55 – Remediation of Land

This policy requires planning authorities to consider at the development stage the potential for land contamination which would adversely affect the suitability of a site for its proposed use. If the land is unsuitable, remediation must take place before the land is developed.

A preliminary contamination assessment was undertaken by Envirowest Consulting 2003 considering the past history of the site, potential sources of contamination and a soil sampling program. The findings of this report were:

“The site investigation undertaken using the contaminated land planning guidelines enables the following conclusions to be made:

- The site has been used as a livestock selling centre since 1929. No contaminating activities are known to have occurred on the site.
- A soil sampling program was undertaken over the site.
- The commonly used pesticides (OCP, OPP) were not detected in the soil samples collected.
- Nitrogen and phosphorous levels were very high in the soil samples collected. The levels of nitrogen and phosphorous will not affect industrial land use. The levels have potential to cause environment impact if allowed to move off site.
- The soil pH of the samples collected was in the desirable range.
- Lead and arsenic were at background and less than industrial land use threshold.
- Building on the site are suspected of containing bonded asbestos.

The Envirowest Contamination Assessment recommended that:

- A nitrogen and phosphorous management plan should be developed prior to site development. The management plan will aim to prevent off-site movement of nitrogen and phosphorous into the ground and surface waters.
- Inspection of the site should be made after the removal of concrete for potentially contaminated fill from beneath the concrete of buildings. This should involve field observation and laboratory testing of suspected contaminated material.
- A search should be done of pasture protection board records to determine if animals infected with anthrax have been in the selling yards. Anthrax is a notifiable disease and is rapidly acting and it is likely that animals infected would develop severe symptoms whilst at the yards.

Development Consent 2011/0084 for the demolition of the existing saleyards facility included development conditions for the preparation of a remedial action plan to make the site suitable for redevelopment.

Compliance with this consent ensures that the site has been suitably cleared and remediated for the proposed development.

Further contamination investigations have been undertaken by Envirowest Consulting of the cleared site, the effluent ponds and concrete rubble dated May and July 2012. These investigations conclude:

- Remediation of the soil contaminated with *E. coli* is required before the site is suitable for the proposed commercial land-use. The recommended remediation method is cultivation to 300mm and the addition of lime. A remediation action plan should be prepared describing the works. A validation report should be prepared to confirm the effective remediation of the site.
- The location of the asbestos pipes is not known and removal is not practical.
- An environmental management plan (EMP) should be prepared to manage disturbances of the asbestos cement pipes. The EMP will provide procedures to be implemented for disturbance of asbestos cement pipes in excavations. Any work on asbestos should be undertaken in accordance with Work Health and Safety Regulations 2011 and Safe Work Australia 2011.
- Decommissioning of the pond can be undertaken by filling with natural excavated material.
- The concrete from stockpiles 214 and 304 contain levels of arsenic that exceed recovered aggregate guidelines (EPA 2010). Stockpiles 214 and 304 should be kept separate and disposed of in appropriate licensed landfill.
- All other concrete from the saleyards contains analytes within the recovered aggregate guidelines (EPA 2010) and is suitable for road making activities, building, landscaping and construction works.

The requirements of SEPP55 in regard to the consideration of potential site contamination for a development application are provided specifically in clause 7, which require as follows:

7 Contamination and remediation to be considered in determining development application

(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).

The Envirowest Consulting report provides preliminary contamination investigations as required by subclause 2. The report makes recommendations as to necessary remediation works required to be undertaken in order to make the site suitable for the proposed commercial use of the land. The recommendations for remediation works and Remediation Action Plan should form conditions of development consent requiring that such work be undertaken prior to its development. Accordingly, the use of the subject land for the proposed commercial development is consistent with the provisions of SEPP 55.

b) State Environmental Planning Policy No. 64 - Advertising and Signage

The provisions of State Environmental Planning Policy No.64 – Advertising and Signage apply to the proposed commercial signage proposed as part of the development application.

Consent cannot be granted unless it is satisfied that a proposed development is consistent with the aims and objectives of this SEPP, and against the Assessment Criteria provided in Schedule 1.

The Aims and Objectives of SEPP No.64 are as follows:

(1) This Policy Aims:

(a) to ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish, and*

(b) to regulate signage (but not content) under Part 4 of the Act, and

(c) to provide time-limited consents for the display of certain advertisements, and

(d) to regulate the display of advertisements in transport corridors, and

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

In relation to the aims and objectives of SEPP 64 the applicant indicates the proposed commercial signage is:

- Compatible with the desired amenity and visual character of the area, being located within an industrial zone and along a highway frontage in town – the signage is large signage to convey simple messages to the highway relating to the location of businesses;
- Located adjacent to the highway frontage and on the buildings such that it will provide effective communication of the businesses that operate from the site; and
- Of a high quality design and finish which has been designed having regard to the building architecture and standard corporate signage.

Consideration of the “Assessment Criteria” prescribed in SEPP No.64 are detailed as follows:

1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The applicant states that the proposed development is within an urban fringe area along the Newell Highway transport corridor. Other businesses along this corridor incorporate large signage conveying messages about businesses to traffic on the highway. The proposed signage is consistent with this theme for advertising along the highway. The recent planning proposal which provided for this form of development shows that this form of advertising is consistent with the desired character of the area.

2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The proposed commercial signage is not located in close proximity to any environmental sensitive, heritage, natural or conservation area. The proposed signage unlikely to detract from the amenity of any residential properties given the significant distance from residential properties and proximity to the busy transport corridor,.

3 Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

The proposed commercial signage will not dominate the skyline and will not have any impact upon views or vistas. The signage structure is located in a position that, whilst clearly visible from the highway, it is unlikely to dominate the vision of traffic in any street and is not prominent in the context of the long highway frontage. The proposed signage will not impact upon the viewing rights of any other advertisers.

4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The applicant considers that the commercial signage to be installed on the building and along the site frontage to the Newell Highway will be appropriate for the commercial/industrial setting of the site. The building signage is effectively contained within the feature structure at the front of the building and the pylon sign is consistent with a commercial frontage to the Newell Highway. The proposed signage will not unduly interfere with the streetscape in surrounding streets. The proposed layout of the commercial signage will ensure a rational and uncluttered advertising area. The proposed pylon sign is higher than the proposed building and can be seen from the highway. In this area such signs are appropriate and the proposed sign is consistent with the established visual landscape of other similar signs along the highway frontage.

5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The proposed signage is compatible with the scale and characteristics of the proposed development and building design. The proposed signage will maintain a relationship with the building on the site via the business identification component of the signage. The signage will use colouring and letter styles consistent with other signage that is used on the buildings and other stores in the same chain (e.g. Bunnings Corporate signage).

6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

The proposed signage will be internally illuminated and will be controlled from a central location within the development. The signage will include the standard corporate signage of tenants.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The proposed pylon sign will be floodlit by lights mounted on the sign scaffold or the ground. The logos on the building will also be flood lit by pole mounted lights on the front of the building. Given the large separation distance from sensitive land uses, there is not expected to be any impact to residential or other land uses. The illumination will be controlled by a dimmer switch allowing the illumination to be adjusted if concerns arise.

8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposed signage will not obscure any sight lines in any adjacent road and will not create any unsafe conditions for traffic or pedestrians using the local street network or the Newell Highway

Under the provisions of clause 9, Part 3 of the SEPP does not apply to building identification sign or business identification signs. Accordingly the proposed advertising panels comply with relevant criteria introduced by SEPP 65.

c) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy - Infrastructure 2007 as it applies to the proposed development relate to clauses 101 – Development with frontage to classified roads and clause 104 – Traffic generating development. These clauses have been considered as follows:

101 Development with frontage to classified road

(1) *The objectives of this clause are:*

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

104 Traffic-generating development

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

(a) new premises of the relevant size or capacity, or

(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

*(2) In this clause, **relevant size or capacity** means:*

(a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

(3) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to the RMS within 7 days after the application is made, and

(b) take into consideration:

(i) any submission that the RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RMS advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RMS a copy of the determination of the application within 7 days after the determination is made.

Schedule 3 identifies commercial premises with a gross floor area of the building is or exceeds 2,500m². RMS concurrence is required prior to the determination of a development application for traffic generating development.

The proposed development utilises the existing road system and existing accesses via the service road and secondary roads rather than direct access to the Newell Highway.

A Separate Traffic Impact Assessment was prepared by R. Wagg and submitted with the development application. The RMS were consulted in accordance with the provisions of this clause. Their comments are considered in detail later in this report. The RMS do not object to the proposed development and provided recommended conditions of development consent.

d) State Environmental Planning Policy – State and Regional Development 2011

The proposed development is identified in Schedule 4A of the Environmental Planning and Assessment Act as regional development being Council related development with a capital investment value of over 5 million dollars. Hence the provisions of State Environmental Planning Policy – State and Regional Development 2011 apply to the proposed development. The provisions of clause 21 confer certain consent functions to Joint Regional Planning Panels (JRPP). The relevant JRPP is the Western Region which will be transferred the role to consider and determine the subject development application. The majority of administrative and assessment functions are retained by Council with the assessment report presented to the JRPP for determination,

e) Draft State Environmental Planning Policy – Competition 2010 and Draft Centres Policy

Draft State Environmental Planning Policy - (Competition) 2010 has been placed on public exhibition hence is relevant for consideration in respect of the proposed development.

The aims of this policy are:

- (a) To promote economic growth and competition, and
- (b) To remove anti competitive barriers in environmental planning and assessment.

The SEPP applies to “commercial development” which is identified in clause 7 to be retail premises, business premises or office premises. These definitions use those prescribed in the Standard Instrument LEP’s Order 2006.

Clauses 8 and 9 are relevant for consideration in relation to the proposed development which provides:

9 Commercial viability of proposed commercial development

The commercial viability of proposed commercial development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a

development application under Part 4 of the Act to carry out the proposed development.

10 *Loss of trade etc for other commercial development*

- (1) The likely impact of proposed commercial development on the commercial viability of other commercial development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application under Part 4 of the Act to carry out the proposed development.*
- (2) However, any such likely impact may be taken into consideration if the proposed development is likely to have an overall adverse impact in the extent and adequacy of facilities and services available to the local community (having regard to the likely impact on existing facilities and services and the facilities or services to be provided by the proposed development).*
- (3) Likely impacts referred to in this clause include likely loss of trade.*

The SEE identifies that the proposed development may be in competition with other businesses in the area however this is not a matter for consideration in the assessment of the development application. The economic impact assessment prepared by Hill PDA in support of the proposed development indicates that the proposed development would have positive economic impacts

- Improved customer choice and convenience for the residents of Forbes
- Recapture of expenditure which would otherwise leave the township for other centres with these retail facilities
- Attraction of retail trade to Forbes from other areas who would not otherwise shop in Forbes, with flow on to other retail businesses in town
- Creation of employment for both construction and operation of the development
- Multiplier effects of additional income to the town

Having regard to the provisions of SEPP (Competition) 2010 the commercial viability nor potential impact upon existing commercial development are not matters to be considered in the assessment of the subject development application. It is not considered justifiable that the development would have an overall adverse impact upon the extent and adequacy of facilities and services available to the local community and have significant adverse impacts upon the Forbes Central Business District such that the potential trade impacts are warrant refusal of the development application.

2. *Forbes Local Environmental Plan 1986*

The Forbes Local Environmental Plan 1986 is the principal local planning instrument applicable to the proposed development upon the subject site.

The Aims & Objectives of the LEP are identified in clause 2 as follows:

- (2) (1) The general aims of the plan are:
 - (a) to repeal the existing local planning controls which apply to the land shown on the map and to replace those controls with a single local environmental plan;*
 - (b) to simplify the general restrictions on development by keeping to a minimum the number of zones into which the land is divided;*

- (c) *to give the Council the greatest possible flexibility and the maximum responsibility for environmental planning by creating only a broad framework of controls and leaving the more detailed provisions relating to matters of significance only for local environmental planning to be contained in development control plans made by the Councils; and*
 - (d) *to maintain the opportunity for public involvement and participation in environmental planning and assessment by encouraging the use of development control plans to supplement the broad control in this plan.*
- (2) *The particular aims of this plan are:*
- (a) *to divide land into zones referred to in clause 8 and to achieve in respect of land within each of those zones the objectives specified in the Table to clause 9;*
 - (b) *to encourage the Council to make development control plans regulating the carrying out of development permitted in Zone No.4 (a) for example-*
 - (i) *by restricting the carrying out of that development to a specified area within the zone; or*
 - (ii) *by fixing standards or specifying requirements in respect of any aspect of that development;*
 - (c) *to ensure that development is carried out in such a way as to allow the economic and efficient provision of public services and amenities;*
 - (d) *to identify the CBD as the commercial and retail focus and to allow for its expansion and redevelopment as and when it is required;*
 - (e) *to promote Forbes as a tourist base and a centre for sporting and leisure facilities;*
 - (f) *to further develop the road hierarchy to allow for the efficient and safe movement of traffic throughout the urban area;*
 - (g) *to facilitate access to the floodplain of the Lachlan River by the upgrading of rural roads close to the urban area;*
 - (h) *to reduce the incidence of damage on flood liable lands within the urban and fringe areas by restricting development in the flood plain and the floodways, which generally include the 1 in 20 year flood area – especially the Lake Forbes and Lawler/Renfree Street floodways; and*
 - (i) *to encourage the preparation of development control plans to control development in the Lake Forbes and Lawler/Renfree Street floodways and on flood liable land throughout the urban area.*

The proposed development will facilitate the redevelopment of former industrial land for this relatively new style of development (bulky goods) not perceived when the 1986 LEP was introduced. The land has since been identified for this purpose to support the CBD as the retail focus for the Shire with Highway Frontage lands to the north which have naturally become the focus for bulky goods development to be further developed. The site is serviced with all necessary urban services, subject to minor flood affectation and developed in accordance with the road hierarchy. It is therefore considered that the proposed development is consistent with the objectives of the Forbes LEP 1986.

A 'Planning Proposal' in respect of the subject site was prepared and finalised on 9 March, 2012. The planning proposal amended the objectives of the 4(a) – Industrial zone, introduced the definition of "Bulky Goods Premises" and modified the zoning table to the 4(a) zone to permit bulky goods premises and restaurants. The amended Clause 5 – Interpretation identifies the following definition established by the Forbes LEP relevant to the proposed development:

"Bulky Goods Premises" means a building or place the principal purposes of which is the sale, hire or display of bulky goods, being goods that are of such a size or weight as to require:

- (a) a large area for handling, display or storage, and*
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, and including such goods as floor and window supplies, furniture, house hold electrical goods, equestrian supplies and swimming pools, but does not include a place for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.*

It has been raised the proposed development is not consistent with the definition of a bulky goods premises. The Forbes LEP 1986 adopts the Model Provisions 1980 definitions, these which may more accurately define the proposed development include:

commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

The main warehouse area comprises 1998m² of the total 7195m² floor area with the remaining areas being bagged goods, timber trade and building materials and landscape yard. Hence the warehouse represents 28% of the floor space of the development. The development is also specifically designed to enable public access for vehicles for the collection of goods. By the nature of these definitions referring to "building or places elsewhere specifically defined", the nature of retailing proposed including selling as stated in the development application items such as timber, steel, garden and landscape supplies, building supplies (windows, doors, bathroom fittings etc.) outdoor furniture, barbecues and much more the proposed Bunnings warehouse conforms with the definition of bulky goods premises. Whilst smaller items of a retail nature may also be sold the warehouse style of development, floor space and design of the premises is considered consistent with the definition of "bulky goods premises". Three additional sites have been identified for future bulky goods development. At this stage it is envisaged to promote a home makers style centre with additional tenancies to be used for premises such as furniture, whitegoods, electrical goods or floor coverings and will be required to meet the definition of "bulky goods premises".

Additionally the Environmental Planning and Assessment Model Provisions 1980 include definitions as they relate to the proposed development including:

"Refreshment room" means a restaurant, cafe, tea room, eating house or the like"

The proposed fast food restaurants are defined as refreshments rooms under the definitions adopted by the Forbes LEP1986

“Service Station” means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used any one or more of the following purposes:

- (a) the sale by retail of spare parts and accessories for motor vehicles,*
- (b) washing and greasing of motor vehicles,*
- (c) installation of accessories,*
- (d) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).*

The proposed truck stop is defined as a service station for the purposes of the Forbes LEP1986 and its application of the following zoning table which identifies permissible land uses.

Zoning Table

The subject site is zoned 4(a) – Industrial pursuant to Clause 9 of Forbes LEP 1986. The objectives and zoning table for the 4(a) – Industrial Zone are prescribed as follows:

“1 Objectives of zone:

The objectives of this zone are -

- (a) to encourage the establishment of industries outside areas used or zoned for residential or business purposes by setting aside an area of land to be used for a broad range of industrial purposes;
- (b) to encourage detailed provision to be made, by means of a development control plan, for setting aside different areas within the zone for offensive or hazardous industries, general industries and light industries; and
- (c) to allow commercial or retail development only where it relates to the use of land within the zone for industrial purposes; and
- (d) to encourage development for the purpose of bulky goods premises on appropriate land fronting the Newell Highway.

2 Without development consent

Nil.

3 Only with development consent

Bulky goods premises; any other purpose other than a purpose included in item 4 of the matter relating to this zone.

4 Prohibited

Boarding houses; bowling greens; caravan parks; dwelling-houses (other than those used in conjunction with an industry); hospitals; hotels; institutions; feedlots; poultry farms or pig keeping establishments; professional and commercial chambers; racecourses; residential flat buildings; roadside stalls; shops (including shops listed in Schedule 2); special home activities; taverns; travelling stock reserves.

The components of the proposed development defined as a “bulky goods premises”, “restaurants” and “service station” are identified as category 3 land uses permissible with the development consent of Council upon land zoned 4(a) - Industrial. The only relevant objective of the 4(a) zone applicable to the proposed development seeks to encourage bulky goods development upon appropriate land fronting the Newell Highway. The proposed development is therefore consistent with the objectives and land use table permissible with development consent within the 3(a) business zone.

Special Provisions

A number of special provisions are applicable to the proposed development that require consideration as follows:

Clause 10 – Flood Liable Land

Clause 10 provides:

- 10 (1) *A person shall not erect a building or carryout a work on flood liable land without the prior consent of the Council.*
- (2) *The Council shall not consent to the erection of a building or the carrying out of a work on flood liable land unless -*
- (e) *The development is in accordance with a development control plan prepared by the Council in consultation with the water resources commission; and*
- (f) *The Council is satisfied the development will not unduly restrict the passage of water down the floodway.*
- (3) *A person may, with the consent of the Council, reconstruct an existing dwelling on a parcel of land described in Schedule 3 and a dwelling-house may be erected on any such parcel if the dwelling house is used in conjunction with any activity permitted by item 3 of the matter relating to Zone No.7 in Clause 9.”*

Detailed consideration and assessment has been undertaken in accordance with Forbes Development Control Plan No.6 – Managing Our Flood Risks later in this report.

All work on flood liable land needs prior development consent of Council. Development Control Plan No 6 was developed in conjunction with the then Department of Land and Water Conservation and the current OHE maintains membership on Councils Floodplain committee. Therefore compliance with DCP 6 satisfies subclause (2)(a) and Council must be satisfied that the development will not unduly restrict the passage of water down the floodway.

The southern portion of the site is identified as flood fringe and its development will not result in the restriction of water down the floodway.

Clause 11 – Subdivision generally

Clause 11 requires:

11. A person shall not subdivide land to which this plan applies except with the consent of the Council.

A component of the proposed development seeks Council consent for the resubdivision of the land from 7 existing allotment to create 5 allotments.

Clause 14 - Development on main and arterial roads

14. (1) The Council shall not grant consent to an application to carry out development on land which has frontage to an arterial road, unless, in the opinion of the Council -
- (a) access to that land is provided by a road other than the arterial road, wherever practicable; and
 - (b) the safety and efficiency of the arterial road will not be adversely affected by -
 - (i) the design of the access to the proposed development;
 - (ii) the emission of smoke or dust from the proposed development; and
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

The proposed development utilises the existing service road provided for the former sale yards as will Lamb and Corriedale Streets in lieu of direct access to the Newell Highway

3. Draft Forbes Local Environmental Plan 2012

Draft Forbes Local Environmental Plan 2012 has been publicly exhibited and hence is relevant for consideration in the assessment of the proposed development. The draft Plan has been prepared in accordance with the Standard Instrument (LEP's) Order 2006 identifying black clauses as mandated provisions and red clauses being local provisions.

The objectives of draft LEP2012 are as follows:

- (1) This Plan aims to make local environmental planning provisions for land in Forbes in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to encourage and manage ecologically sustainable development within the Forbes local government area;
 - (b) to reinforce Forbes Town as the urban focus of the local government area;
 - (c) to reinforce the rural character of Forbes whilst promoting sustainable development;
 - (d) to protect Forbes' agricultural land for continued agricultural production whilst allowing for planned expansion at the urban fringe;
 - (e) to encourage the efficient provision of urban services;
 - (f) to promote Forbes as a premier tourist destination building upon its unique heritage and environmental attributes as well as sporting and leisure facilities;
 - (g) to protect, enhance and conserve the natural environment, including the Lachlan River, Lake Forbes, wetlands, native

- vegetation, environmentally sensitive land and other natural features that provide habitat for flora and fauna, provide scenic amenity and that may prevent or mitigate land degradation; and
- (h) to provide a range and variety of housing choice to cater for the different needs and lifestyles of existing and future residents.

The proposed development does not conflict with any of the general objectives of the Draft Plan.

The subject site is proposed to be zoned B5 - Business Development. The land use table for the B5 zone is as follows:

Zone B5 Business Development

1 Objectives of zone

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To maximise exposure of business related developments on the Newell Highway.

2 Permitted without consent

Environmental protection works; Roads; Water reticulation systems.

3 Permitted with consent

Bulky goods premises; Child care centres; Food and drink premises; Funeral homes; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Kiosks; Landscaping material supplies; Markets; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Respite day care centres; Rural supplies; Self storage units; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Water recycling facilities.

Any development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat building and repair facilities; Boat sheds; Business premises; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Heavy industrial storage establishments; Helipads; Home-based child care; Home businesses; Home industries; Home occupations; Home occupation (sex services); Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Moorings; Mooring pens; Office premises; Open cut mining; Port facilities; Recreation facilities (major); Registered clubs; Research stations; Residential accommodation; Roadside stalls; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities.

The proposed development provides a mix of warehouse and bulky goods style development designed to maximise its exposure to the Newell Highway which is

consistent with the objectives of the proposed new zone. The proposed B5 – Business development zone identifies bulky goods premises, restaurants and service stations as permissible land uses with development consent.

Additional local provisions identify Environmentally Sensitive areas, Height and Lot Size upon mapping associated with the LEP however do not identify or specify minimums relative to the B5 Business zone. The subject site is identified as flood affected upon the flood prone land map. Hence the provisions of clause 7.6 apply which require:

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - (a) is compatible with the flood hazard of the land; and
 - (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Given the low hazard flood affectation of the south eastern corner of the site and associated stormwater management the proposed development is unlikely to significantly affect flood behaviour or result in unsustainable impacts and is accordingly considered compatible with the identified flood hazard of the land.

Notwithstanding this consideration of the provisions of Draft Forbes Local Environmental Plan 2012 the savings provisions contained within clause 1.8A apply to the proposed development which indicate:

1.8A Savings provision relating to development applications [local]

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Council Codes and Development Control Plans
--

a) Forbes Shire Council, Off-Street Car Parking Code

The Forbes Shire Council Off-Street Car Parking Code stipulates car parking requirements to be provided in association with new development. There is no reference in the Code to Bulky Goods Style Development, nominated land uses similar to the proposed development include:

Shops: including supermarkets and department stores	-	1 space per 35m ² of customer service area
---	---	---

Industries (other than Motor Vehicle Repair workshops) Warehouses	-	1 space per 2 employees or 1 space per 90m ² of gross floor area, which ever is the greater
Offices, including banks, professional Offices & other similar uses	-	1 space per 65m ² of gross floor area
Drive-In-Take Away Food Premises	-	Minimum 15 spaces
Service Stations	-	Minimum 10 spaces plus additional spaces as determined by Council

The explanatory notes provide as follows:

1. Gross Floor Area means the overall area of the building including all sections
2. Ancillary or incidental uses will be assessed as part of the main use of the building, i.e: the office of a supermarket will be included in the area of the supermarket and will not be treated as a separate office use.
3. A use comprising a combination of two or more uses, such as combined motor sales and repairs, will be assessed as if the two uses existed independently and the required on-site parking provision will be the aggregation of the independently derived requirements

The Code indicates that where a land use is not identified in the Code Council can apply a different rate, in such cases reference is made to the RTA publication – Guide to Traffic Generating Development.

The Traffic Report prepared by R. Wagg, April 2012 considers parking requirements for the proposed development also noting that the RTA Guide does not provide specific parking requirements for Bulky Goods Development, rather suggests that correlations should be made with similarly placed developments in the surrounding area. The traffic report indicated that the vast majority of surrounding Shires seek parking to be provided at a rate of 1 space per 50m² of gross floor area for bulky goods style development.

The development proposes to provide 257 car parking spaces with stage 1 and 285 for stages 1 and 2. Specific details in relation to stage 3 being the proposed service station have not been provided at this stage. Accordingly the provision of parking is as follows:

	Design Provision	Provision/ Requirement
Bulky Goods Premises	257 spaces 5 service spaces	10,910sqm 1/42sqm
Drive In take Away Food Premises	28 Spaces 2 service spaces	2 x 15 spaces Total 30 spaces
Service Station	To be provided in future development	Minimum 10 spaces plus additional spaces as determined by Council

Given that the parking rate for the bulky goods development has been applied to the floor area rather than the customer service area due to the disparity in the application of the parking requirements for shops and consistency with the parking requirements for similarly placed developments in surrounding Shires (as suggested in the RTA Guidelines) the provision of 257 parking spaces is considered adequate for Stage 1 of the development. There is a shortfall of 2 visitor spaces for stage 2 being the takeaway food premises however given the provision of service parking spaces and availability of the central parking design this shortfall is considered sufficient to warrant Council's variation to its parking requirements. Parking to be provided in conjunction with Stage 3 for the proposed service station will be subject to separate assessment at such time as

the application for stage 3 is lodged. Accordingly the proposed parking provision in conjunction with the development is assessed to be satisfactory having regard to the Forbes Off Street Car Parking Code.

a) Forbes DCP No.2 – Industrial Land

Forbes DCP No.2 specifically relates to the development of dwellings upon industrial land. Whilst the land is zoned industrial no dwellings are proposed hence the provisions of this DCP are not relevant to the proposed development.

b) Flooding DCP No. 6 - Managing Our Flood Risks

The proposed development has been assessed against the requirements of DCP 6 – Managing Our Flood Risks. DCP establishes the following considerations for development affected by flooding.

The applicant has provided the following information to support their application:

1. Survey plan incorporating existing proposed levels to HD;
2. Plan of proposed buildings existing ground levels AHD for perimeter and contours of the site;
3. Identification in Statement of Environmental Effects in relation to flood affectation, prepared by Coastal Plan Group;
4. Architectural Plans;
5. Landscaping Plans;
6. Car Parking Plans;
7. Civil Engineering Plans

Council in its assessment must take into consideration Clause 10 of the LEP which states:-

- “(1) A person shall not erect a building or carry out a work on flood liable land without the prior consent of the Council.*
- (2) The Council shall not consent to the erection of a building or the carrying out of a work on flood liable land unless:*
- (a) the development is in accordance with a development control plan prepared by the Council in consultation with the Water Resources Commission, and*
- b) the Council is satisfied that the development will not unduly restrict the passage of water down the floodway.”*

Therefore all work on flood liable land needs prior development consent of Council. Development Control Plan No 6 was developed in conjunction with the then Department of Land and Water Conservation and the current NSW Department of Primary Industries-Office of Water maintains membership on Councils Floodplain committee. Therefore compliance with DCP 6 satisfies subclause (2)(a) and Council must be satisfied that the development will not unduly restrict the passage of water down the floodway.

DCP 6 – Managing Our Flood Risks identifies the following objectives:

2.4.1 Objectives

- (a) To ensure the proponents of development and the community in general are fully aware of the potential flood hazard and consequent risk associated with the use and development of land within the floodplain.
- (b) To require developments of high sensitivity to flood risk (eg. critical public utilities) be sited and designed such that they are subject to no or minimal risk from flooding
- (c) Allow development with a lower sensitivity to the flood hazard to be located within the floodplain, subject to appropriate design and siting controls, provided that the potential consequences that could still arise from flooding remain acceptable having regard to the State Government's Flood Policy and the likely expectations of the community.
- (d) To prevent any intensification of the use of floodways, and wherever appropriate and possible, allow for their conversion to natural waterway corridors.
- (e) To ensure that design and siting controls required to address the flood hazard do not result in unreasonable impacts upon the amenity or ecology of an area.

In conjunction with the objectives the DCP identifies Performance criteria as follows:

2.4.2 Performance Criteria

- (a) The proposed development should not result in any increased risk to human life.
- (b) The additional economic and social costs which may arise from damage to property from flooding should not be greater than that which can reasonably be managed by the property owner, property occupants and general community.
- (c) The proposal should only be permitted where effective warning time and reliable access is available for the evacuation of an area potentially affected by floods. Evacuation should be consistent with any relevant flood evacuation strategy where in existence.
- (d) Development should not detrimentally increase the potential flood affectation on other development or properties.
- (e) Development should not result in significant impacts upon the amenity of an area by way of unacceptable overshadowing of adjoining properties, privacy impacts (eg. by unsympathetic house-raising) or by being incompatible with the streetscape or character of the locality.
- (f) Proposed development must be consistent with ESD principles.

2.4.3 Prescriptive Controls

Schedules 3 to 4 outline the controls relevant to each of the floodplains to which this Plan applies.

Any proposal needs to be assessed against the performance criteria identified in part 2.4.2 and prescriptive controls set out in schedule 3 of councils DCP

The proposed development is effected by the following flooding precincts.

- 1) Probable maximum flood
- 2) Low Hazard flood storage
- 3) High Hazard Flood Fringe

Where Council identifies that where a proposal does not comply with the DCP Council may:

- (a) consider alternative methods for the development provided that the objectives of the DCP are met. It is the responsibility that the developer does satisfy Council that these objectives have been met; or
- (b) modify the proposal through the application of conditions so that it is consistent with the provisions of the DCP;
- (c) defer the determination of the application and consult with the applicant to achieve consistency with the requirements of the DCP;
- (d) refer the application to an approved floodplain management consultant for a report – NOTE The applicant will be required to meet any expenses incurred; or
- (e) refuse the application

The Proposal

Prescriptive Controls:

- 1) Outer Residual Floodplain(Probable maximum flood)

The following are considered unsuitable land uses in the precinct:

- Essential community facilities

The prescriptive requirements are”

Floor level-

As close to the adopted level as practical and a plan to be prepared to protect goods from flood damage or premises to be flood proofed below the Adopted Flood level.

The 1% flood level for the site is 239.24 AHD.

The proposed floor levels for the hardware shop and fast food restaurants are 239.25 AHD while the floor levels of the other bulky good tenancies are 239.5 AHD.

To achieve this level, a significant amount of site releveling is required. Achieving higher floor levels is not practical with the constraints of the site and the need to maintain a relationship between the commercial floor levels and surrounding pedestrian car parking levels.

Proposed floor level meets the prescriptive requirements of the DCP.

Building components

All structures to have flood compatible building components below or at the adopted flood level.

The concrete walls of the building and associated concrete floor, car parking structures and landscaping are all considered flood compatible materials. Any lining materials will need to

be flood compatible in accordance with Schedule 1 of DCP Number 6 – Managing Our Flood Risks. Conditions will be placed on the consent requiring compliance with this provision.

Evacuation

The development is to be consistent with any floods evacuation strategy

It is considered appropriate to provide a strategy to clarify personnel evacuation, stock removal and trading resumption.

The applicant will need to provide an evacuation/resumption trading plan for approval and is to be consistent with the local SES Flood Evacuation Strategy.

Management and Design

Applicant to demonstrate area is available to store goods above the adopted Flood Plus 0.5m freeboard and no external storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood.

The hardware proposal incorporates storage system within the warehouse to allow for stock to be relocated and stored 0.5m above the adopted level. This is considered satisfactory due to the lead in time for flooding in the area.

There is an external storage area for bagged goods and an external storage area yard. The stock in these areas is also located on racking shelving allowing the stock to be lifted at least 500mm above the flood level. All external storage is at levels above the adopted flood level. Any hazardous materials sold are stored in sealed containers and would be unlikely to pollute flood waters.

The additional management and design control for subdivision provides that potential development of lots can be undertaken in accordance with this plan.

i) Low Hazard Flood Fringe:

The following are considered unsuitable land uses in the precinct:

- Essential community facilities

The prescriptive requirements are:

Floor level-

As close to the adopted level as practical and a plan to be prepared to protect goods from flood damage or premises to be flood proofed below the Adopted Flood level.

The 1% flood level for the site is 239.24 AHD.

The proposed floor levels for the hardware shop and fast food restaurants are 239.25 AHD while the floor levels of the other bulky good tenancies are 239.5 AHD.

To achieve this level, a significant amount of site releveling is required. Achieving higher floor levels is not practical with the constraints of the site and the need to maintain a relationship between the commercial floor levels and surrounding pedestrian car parking levels.

Proposed floor level meets the prescriptive requirements of the DCP.

Building components

All structures to have flood compatible building components below or at the adopted flood level.

The concrete walls of the building and associated concrete floor, car parking structures and landscaping are all considered flood compatible materials. Any lining materials will need to be flood compatible in accordance with Schedule 1 of DCP Number 6 – Managing Our Flood Risks. Conditions will be placed on the consent requiring compliance with this provision.

Structural soundness

Applicant to demonstrate that any structure can withstand the forces of floodwater debris and buoyancy to and including the adopted flood level

The floor levels are located above the adopted flood level and, as such, the structures will not be subjected to flood forces. The fill areas and cuts will be suitably protected from flood waters to maintain integrity of the structures. A condition will be applied to the consent regarding this standard.

Evacuation

The development is to be consistent with any floods evacuation strategy

It is considered appropriate to provide a strategy to clarify personnel evacuation, stock removal and trading resumption.

The applicant will need to provide an evacuation/resumption trading plan for approval and is to be consistent with the local SES Flood Evacuation Strategy.

Flood affectation

Provided existing drainage is maintained

The subject site does not contain any watercourses or drainage paths and will not affect significant drainage flows from other areas.

Stormwater drainage strategy has been provided that provides for the drainage of water from and through the site and provides for on-site detention for critical storms to ensure additional flows are detained to match existing flows.

Fencing is provided around the storage yards, however they are only subject to minor flooding and would not affect any floodways or storage areas and would not alter flood behaviour.

While the DCP provides additional flood affectation controls for subdivision, the subdivision does not enable development beyond the buildings proposed. No additional physical changes to the land are proposed by the subdivision and it is not considered that additional investigation is necessary.

Management and Design

Applicant to demonstrate area is available to store goods above the adopted Flood Plus 0.5m freeboard and no external storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood..

The hardware proposal incorporates storage system within the warehouse to allow for stock to be relocated and stored 0.5m above the adopted level. This is considered satisfactory due to the lead in time for flooding in the area.

There is an external storage area for bagged goods and an external storage area yard. The stock in these areas is also located on racking shelving allowing the stock to be lifted at least 500mm above the flood level. All external storage is at levels above the adopted flood level. Any hazardous materials sold are stored in sealed containers and would be unlikely to pollute flood waters.

The additional management and design control for subdivision provides that potential development of lots can be undertaken in accordance with this plan.

3) High Hazard Flood Fringe

The following are considered unsuitable land uses in the precinct:

- Essential community facilities

The extent of the development that is located in this precinct is located in the south east corner of the site and will only incorporate a portion of car park entrance and detention basin.

Floor level-

As close to the adopted level as practical and a plan to be prepared to protect goods from flood damage or premises to be flood proofed below the Adopted Flood level.

Not applicable as no building in this area

Building components

All structures to have flood compatible building components below or at the adopted flood level.

All structures are considered to be flood compatible

Structural Soundness

Engineers reports to certify that any structure can withstand the forces of floodwater, debris and buoyancy up to and including the adopted Flood and Geotechnical Engineers report required to specify appropriate filling/earthworks and the means of protecting batters against scouring or erosion

Details of earthworks have been submitted and conditions shall be applied incorporating geotech certification of banks and associated earthworks

Evacuation

The development is to be consistent with any floods evacuation strategy

It is considered appropriate to provide a strategy to clarify personnel evacuation, stock removal and trading resumption.

The applicant will need to provide an evacuation/resumption trading plan for approval and is to be consistent with the local SES Flood Evacuation Strategy.

Flood affectation

Development shall not block the conveyance of flood waters across the floodplain and filling of land up to 0.5m above the adopted Flood level permitted provided this does not result in any significant effect on the conveyance of flood waters or flood levels.

The development of the site within this area is consistent with these controls as detention area adds to the storage in the precinct and will not affect the conveyance of flood water or levels

Management and Design

Applicant to demonstrate area is available to store goods above the adopted Flood Plus 0.5m freeboard and no external storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood..

No goods are to be stored in the area

Taking into account the overall development, the site, its character in relation to flooding and flood impacts and information provided, with specific reference to Councils LEP and provisions of DCP No.6 Managing our Floods Risks, and the imposition of appropriate conditions of consent , it is considered that the development will not unduly restrict the passage of water down the floodway and complies with DCP 6 – Managing Our Flood Risks.

c) DCP 7 – Exempt and Complying Development

The proposal is not an exempt or complying development therefore the provisions of the DCP are not relevant to the proposal.

d) DCP 9 - Landscaping

Forbes DCP 9 provides for flexible landscape solutions for commercial and industrial development and does not specifically address bulky goods style development.. Landscaping should be designed to be appropriate to the site circumstances and fit in with existing landscaping. A landscape plan has been prepared by Woodhead Architects, April, 2012. A significant landscaped area is proposed at the Lamb Street Newell Highway intersection in conjunction with the stormwater detention basin and major Pylon Sign, as well as along the Lamb and Corriedale Street frontages, around the fast food restaurants and within the verge to the existing slip road. A small amount of trees are to be provided within the carparking area. The vast majority of plantings include native species which will reduce watering needs and losses during establishment. The proposed development complies with this landscaping DCP and it is consistent with the landscaping of surrounding commercial premises.

(e) Draft Forbes DCP 2012

Draft Forbes DCP 2012 was exhibited concurrently with the draft Forbes LEP 2012 and updates and consolidates the existing Forbes DCP's into a single document in accordance with the Planning Reform Program. The Draft DCP2012 replicates the provisions currently applied in the abovementioned DCP's and does not contain any additional provisions specifically relevant to the consideration of the subject development application.

Consultation in respect of Development Application

Public Exhibition

The development application was placed on public exhibition for 28 from 12 June, 2012 until 15 July, 2012. In conjunction with Councils Notification Policy, immediately adjoining property owners of the development site were notified of the proposed development, a notice placed on the site and an advertisement placed in the Forbes Advocate for the duration of the exhibition period.

Council received 16 submissions in respect of the application. A summary of concerns raised and an assessment comment on these concerns is provided below:

SUBMISSION 1

- Comment:** Local Builder objects to statement (Pg.8) “No business is comparable in trade area to Bunnings so there will be no impact”. Bunnings will compete with many businesses under one roof and many businesses will be affected by its presence especially in Forbes.
- Assessment response:* In accordance with draft SEPP (Competition) 2010 the potential loss of trade for other competing development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application.
- Comment:** In my work I need a wide range of products from a wide range of specialists and this range will be under threat from Bunnings. Bunnings will not replicate their range only the main items. This will represent a loss of products available for my business.
- Assessment response:* Further in accordance with SEPP (Competition) 2010, the potential impacts upon competitive retailers may only be considered in determining a development application if a proposed development is likely to have an overall adverse impact upon the extent and adequacy of facilities and services available to the local community. As indicated in this submission Bunnings will only replicate main stock items and this will generate increased competition consistent with the Competition Policy on these items and existing retailers will need to compete with the provision of specialised items.
- Comment:** The market is not determining the retail floor space for Forbes rather it is being driven by Council, the land owners for this development, in conflict with State policy. The potential for distortion of the property market is sizable through the potential to offer incentives to major retailers on say peppercorn rental, investment provided in new infrastructure and marketing. The outcome of this distortion is threat to specialist suppliers to my business and consequent reduction in diversity of suppliers.
- Assessment response:* Commercial investment decisions as evidenced in the Hill PDA Economic Impact Assessment have supported the development proposal and are not matters to be assessed in the determination of a development application.
- Comment:** Council should have looked at extensions to or infill of the existing centre before growing a new one. There are numerous examples of different sized Bunnings stores which could have been accommodated within the CBD. Existing bulky goods traders are located in the CBD.
- Assessment response:* The Forbes Growth Management Strategy and Draft Forbes Local Environmental Plan 2012 have identified the area for Bulky Goods Style development consistent with the nature of similarly placed developments and the needs

to accommodate for the potential expansion of such uses. The development philosophy is for a home makers style centre rather than a retail centre to compete with the existing CBD.

Comment:

Bunnings is a big box retailer not a bulky goods retailer with a sizeable range not being bulky goods. That Bunnings choose to display in a warehouse fashion is a marketing decision for operating efficiency and means nothing in terms of definitions.

Assessment response:

The main warehouse area comprises 1998m² of the total 7195m² floor area with the remaining areas being bagged goods, timber trade and building materials and landscape yard. Hence the warehouse represents 28% of the floor space of the development. The development is also specifically designed to enable public access for vehicles for the collection of goods. Therefore the design of the development and floor space layout result in the development being more accurately defined as a bulky goods premises rather than a retail premises. Therefore the conclusions relative to a big box retailer rather than a bulky goods retail development are not supported .

Comment:

As a builder I see that something was made of investment potential during the construction period. The reality is that the bulk of the investment will be picked up by larger contractors on a national basis not local contractors as evidenced in the P & I invitation to register capabilities for the design and construction of the Forbes Business Centre.

Assessment response:

Selection of contractors is a commercial decision and not a matter which can be considered in the assessment and determination of a development application in accordance with the provisions of the Environmental Planning and Assessment Act.

Comment:

The same document advises that DA is expected to be available by March 2012 which does not assume much argument in the process. Agreements are signed with anchor tenants before the DA is available.

Assessment response:

Securing of future tenants and contractors are matters of commercial decision making processes and not relevant to an environmental assessment in accordance with the provisions of the Environmental Planning and Assessment Act.

SUBMISSION 2

Comment:

Objection based upon the failure of the DA material to advise of the parlous state of the Forbes retail core and the negative effect the DA will have on it. I am a resident and want a strong retail core. Photos provided of vacant shopfronts some for years and other near major tenants obviously suffering from a

lack of foot traffic and this will get less if the development goes ahead. Dispersing retail trade across the town centre is against State Policy. Bunnings stock clashes with everything from cafe to supermarket, newsagent, discount store, nurseries, whitegoods, BBQ & outdoor furniture, homewares, plumbing, timber supplies, hardware, kitchen shops etc. Please ensure that the Forbes CBD is not further threatened and made unsustainable by passing this DA.

Assessment response:

In accordance with draft SEPP (Competition) 2010 the potential loss of trade for other competing development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application. The Forbes Growth Management Strategy and Draft Forbes Local Environmental Plan 2012 have identified the area for Bulky Goods Style development consistent with the nature of similarly placed developments and the needs to accommodate for the potential expansion of such uses.

SUBMISSION 3

Comment:

DA plans are deficient and poorly developed. Amenity would suffer through unsafe vehicle activity. Concern with access to trade area adjacent to front of building conflicting with parking area and circulating traffic, loading and unloading of vehicles and disabled parking.

Assessment response:

The suggested area will not be the primary vehicular access to the trade area for the loading and unloading of goods. This style of access to the trade area operates in all larger Bunnings stores without unsafe vehicle activity.

SUBMISSION 4

Comment:

Resident contribution to the Forbes Community Strategic Plan 2011-2012 has been ignored seeking support for a strong business centre.

Assessment response:

Council supports the resident contribution to the Forbes Community Strategic Plan in seeking a strong business centre for retail development but has identified the subject area in the Forbes Growth Management Strategy 2009 and Draft LEP 2012 for bulky goods style developments needing large floor spaces and direct vehicular access not suitable for the CBD.

Comment:

Proposal is inconsistent with NSW draft Centres Policy 2009. There are significant vacant shops and opportunity to locate within CBD area. Assumptions of drawing people to shop in Forbes are flawed, calculations of existing floor space are incorrect resulting in erroneous assumptions regarding the

viability of the development and consequent impact upon Forbes.

Assessment response: *In accordance with SEPP (Competition) 2010 the commercial viability of a development is not a matter to be considered by the determining authority in its assessment of a development application.*

Comment: **As stated in Draft SEPP2010 the impact of development will have an adverse impact upon the extent and adequacy of local community services and facilities. With negative job impacts and loss of trade from specialist retailers the DA fails the net community benefit test as paraphrased by the draft SEPP.**

Assessment response: *The Hill PDA Retail Impact Assessment refutes this claim and as stated in an earlier submission Bunning will store the vast majority of general items but no specialised items. In accordance with draft SEPP (Competition) 2010 the potential loss of trade for other competing development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application.*

Comment: **The recently changed zoning is adhoc and inappropriate. The zone is incorrect and definitions inappropriately applied as Bunnings have applied a range of stores across various scenarios.**

Assessment response: *The recent zoning change is supported in the Forbes Growth Management Strategy 2009 and Draft LEP 2012. The chosen style and selected location for the proposed Bunnings store is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application.*

Comment: **Traffic Problems: Concern with access to trade area adjacent to front of building conflicting with parking area and circulating traffic, loading and unloading of vehicles and disabled parking.**

Objection to traffic circulation of two restaurants where drive thru traffic circulates around the building and exits into parking and pedestrian area. Traffic direction is unclear and unsafe in either direction.

Concern with the classification of Lamb Street and unsafe access to premises.

Assessment response: *The suggested area will not be the primary vehicular access to the trade area for the loading and unloading of goods which is located at the rear of the building. This style of access to the trade area operates in all larger Bunnings stores without unsafe vehicle activity.*

This is the case with the vast majority of fast food restaurants providing drive thru facilities. The detailed

design of the restaurants will need to be considered with specific proposals the subject of stage 2 of the proposed development.

Comment: **Contamination:** Concern with management of contaminated soil as evidenced in 2003 contamination assessment and alternative management to that originally proposed. Potential to spread contaminated soil without current test, management plan which is accountable to no-one and for a higher order use than as originally proposed for industrial.

Assessment response: Contamination was addressed in conjunction with DA2011/0084 for the demolition of the site. Further contamination investigations of the disturbed site, materials stockpiled and settling ponds has been undertaken in May and June 2012 with relevant remediation measures to be adopted. Remediation of the site in accordance with the requirements of SEPP55 is being undertaken suitable for its proposed uses.

Comment: **Flooding:** Concern with potential impact upon flood waters and potential contaminated runoff.

Assessment response: The proposed development and its management of surface run off is similar to that which existed for the saleyards facility. The new system will provide the equivalent flood storage to that which exists upon the site and a gross pollutant trap to contain contaminants.

SUBMISSION 5

Comment: **Bunnings** is incorrectly described as a bulky goods store and therefore should not be in the new zone. **Bunnings** is a big box retailer not a bulky goods retailer.

Assessment response: The design of the development and floor space layout do not support the conclusions relative to a big box retailer rather than a Bulky goods retail development. This consideration relates to the definitions established under the Standard Instrument (LEP's) which relate to "Retail Development" and "Bulky Goods Premises". It is assessed that the proposed development is more accurately described as a bulky goods premises.

Comment: **Out of centre developments** are not preferred by the NSW draft Centres Policy 2009. There is no need for this development at this location there is ample location in the Forbes CBD. The aptness of the activity centres policy is especially keen as the Forbes CBD exhibits many (approximately 30) vacant retail spaces approximately 20,000m2 vacant retail space.

Assessment response: Forbes Growth Management Strategy 2009 and Draft LEP 2012 have identified the subject area for bulky goods style

developments needing large floor spaces and direct vehicular access not suitable for the CBD.

Comment: **The economic report over estimates the trade area and underestimates hardware floor space and fails to include recently approved Masters development in Parkes.**

Assessment response: In accordance with SEPP (Competition) 2010 the commercial viability of a development is not a matter to be considered by the determining authority in its assessment of a development application.

Comment: **The traffic report underestimates the extent of traffic on the Newell Highway, unclear whether traffic lights are required and design faults in Lamb Street.**

Assessment response: The RTA were consulted and raise no objection to the proposed development and made no requests for the installation of traffic lights. Additional information was sought in regard to the Lamb Street intersection which confirmed its effective operation for the negotiation of B-double trucks.

Comment: **Toxicity and floods create insufficient information to approve DA.**

Assessment response: Contamination was addressed in conjunction with DA2011/0084 for the demolition of the site. Further contamination investigations of the disturbed site, materials stockpiled and settling ponds has been undertaken in May and June 2012 with relevant remediation measures to be adopted. Remediation of the site in accordance with the requirements of SEPP55 is being undertaken suitable for its proposed uses. A detailed flood assessment concludes that the development is in accordance with the requirements of DCP No.6 – Managing our Flood Risks.

SUBMISSION 6

Comment: **Disagree with economic assessment as it over estimates trade area and under estimates existing related floor space such that the development is not viable not to mention the recently approved Masters development in Parkes.**

Assessment response: In accordance with SEPP (Competition) 2010 the commercial viability of a development is not a matter to be considered by the determining authority in its assessment of a development application.

Comment: **Out of centre developments are not preferred by the NSW draft Centres Policy 2009.**

Assessment response: Forbes Growth Management Strategy 2009 and Draft LEP 2012 have identified the subject area for bulky goods style

developments needing large floor spaces and direct vehicular access not suitable for the CBD.

SUBMISSION 7

Comment: **Concern with management of contaminated soil as evidenced in 2003 contamination assessment and alternative management to that originally proposed. Potential to spread contaminated soil without current test, management plan which is accountable to no-one and for a higher order use than as originally proposed for industrial.**

Assessment response: Contamination was addressed in conjunction with DA2011/0084 for the demolition of the site. Further contamination investigations of the disturbed site, materials stockpiled and settling ponds has been undertaken in May and June 2012 with relevant remediation measures to be adopted. Remediation of the site in accordance with the requirements of SEPP55 is being undertaken suitable for its proposed uses.

SUBMISSION 8

Comment: **Objection to traffic circulation of two restaurants where drive thru traffic circulates around the building and exits into parking and pedestrian area. Traffic direction is unclear and unsafe in either direction. Do not condition that this problem be resolved behind the public eye.**

Assessment response: This is the case with the vast majority of fast food restaurants providing drive thru facilities. The detailed design of the restaurants will need to be considered with specific proposals the subject of stage 2 of the proposed development.

SUBMISSION 9

Comment: **Cannot ignore recent approval of Masters development in Parkes. All economic assessments are invalid and require updating prior to any decision. If Council gets this wrong all rate payers will be paying for the mistake**

Assessment response: In accordance with SEPP (Competition) 2010 the commercial viability of a development is not a matter to be considered by the determining authority in its assessment of a development application.

SUBMISSION 10

Comment: **Objection based upon community benefit being disbenefit due to location out of town resulting in few linked shopping trips missing great opportunity for Forbes. There are already 30 vacant shops and location out of town will further weaken CBD. Have identified 19 business affected by the proposed**

development. 7 Which have the potential of closing and resultant potential loss of 40 – 60 jobs.

Assessment response:

In accordance with draft SEPP (Competition) 2010 the potential loss of trade for other competing development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application. The Forbes Growth Management Strategy and Draft Forbes Local Environmental Plan 2012 have identified the area for Bulky Goods Style development consistent with the nature of similarly placed developments and the needs to accommodate for the potential expansion of such uses.

SUBMISSION 11

Comment:

Objection based upon adverse traffic impacts. Disagree with Traffic report and assimilation to former saleyards which only operated 2-3 days per week and discounting of assumed traffic volumes. Poor intersection design and number of intersections required in this section of main road. Does not meet objectives of SEPP to ensure new development does not impact upon the operation and function of classified roads.

Assessment response:

In accordance with SEPP (Infrastructure) 2007 the RTA were consulted and do not object to the proposed development. The development utilises existing road infrastructure which can accommodate the increased traffic volumes generated by the proposed development.

SUBMISSION 12

Comment:

Objection based upon flooding and contamination concern with the content of the settling ponds entering flood waters. Family restaurant located within 40m of settling ponds. The DA rests on incomplete old testing for a lower order use.

Assessment response:

Contamination was addressed in conjunction with DA2011/0084 for the demolition of the site. Further contamination investigations of the disturbed site, materials stockpiled and settling ponds has been undertaken in May and June 2012 with relevant remediation measures to be adopted. Remediation of the site in accordance with the requirements of SEPP55 is being undertaken suitable for its proposed uses. The proposed development and its management of surface run off is similar to that which existed for the saleyards facility. The new system will provide the equivalent flood storage to that which exists upon the site and a gross pollutant trap to contain contaminants.

SUBMISSION 13

Comment: Resident contribution to the Forbes Community Strategic Plan 2011-2012 has been ignored seeking support for a strong business centre. Considerable Council expenditure upon out of centre retailing.

Assessment response: Council supports the resident contribution to the Forbes Community Strategic Plan in seeking a strong business centre for retail development but has identified the subject area in the Forbes Growth Management Strategy 2009 and Draft LEP 2012 for bulky goods style developments needing large floor spaces and direct vehicular access not suitable for the CBD.

Comment: Proposal is inconsistent with NSW draft Centres Policy 2009 which mitigates out of town retailing.

Assessment response: Forbes Growth Management Strategy 2009 and Draft LEP 2012 have identified the subject area for bulky goods style developments needing large floor spaces and direct vehicular access not suitable for the CBD.

SUBMISSION 14

Comment: Bunnings is incorrectly described as a bulky goods store and therefore should not be in the new zone. Bunnings is a big box retailer not a bulky goods retailer. The zone is incorrect and definitions have been incorrectly applied. Bunnings is simply a shop and hence located in the wrong zone.

Assessment response: The design of the development and floor space layout do not support the conclusions relative to a big box retailer rather than a Bulky goods retail development. This consideration relates to the definitions established under the Standard Instrument (LEP's) which relate to "Retail Development" and "Bulky Goods Premises". It is assessed that the proposed development is more accurately described as a bulky goods premises.

SUBMISSION 15

Comment: Location outside of the town is a negative for the development of the town and its sustainability as a functional regional centre. Fragmentation diminishes retail offer with no linked shopping opportunities.

Assessment response: Forbes Growth Management Strategy 2009 and Draft LEP 2012 have identified the subject area for bulky goods style developments needing large floor spaces and direct vehicular access not suitable for the CBD.

Comment: Unacceptable treatment of Lamb Street. Identification as a minor road does not align with any RTA definitions. Design does not contain sweep paths for access to and from Lamb Street which is identified incorrectly as Corriedale Street which indicates traffic will be "self regulating" with no regard to queuing of

large vehicles likely to be choosing this as a primary access point.

Assessment response: The RTA were consulted and raise no objection to the proposed development. Additional information was sought in regard to the Lamb Street intersection which confirmed its effective operation for the negotiation of B-double trucks.

SUBMISSION 16

Comment: **Objection based upon environmental issues. Concern with soil movement based upon out of date environmental assessment for lower order industrial use. No mention of treatment of existing settling ponds. Current thorough testing and audit is required before any development is allowed.**

Assessment response: Contamination was addressed in conjunction with DA2011/0084 for the demolition of the site. Further contamination investigations of the disturbed site, materials stockpiled and settling ponds has been undertaken in May and June 2012 with relevant remediation measures to be adopted. Remediation of the site in accordance with the requirements of SEPP55 is being undertaken suitable for its proposed uses.

Internal Assessment

BCA Assessment

The proposal is required to comply with the Building Code of Australia. Applicants are not required to indicate compliance at the Development Application stage however full compliance must be shown at Construction Certificate stage prior to the issue of a Construction Certificate by the Principal Certifying Authority. Conditions of consent could be placed on any consent as a guide for the applicant in obtaining compliance with the BCA with specific reference to fire compartment size, fire doors and services. Should Council be appointed the PCA the proposal may require an alternate solution for BCA compliance and as such Council may require peer review of the proposal prior to the issue of the Construction Certificate. An assessment has been undertaken by Council's Building Control Officer and conditions recommended by this officer have been included in the list of conditions.

Engineering Assessment

Councils Engineering Department have assessed the proposed development and recommended that the following conditions be applied to the proposed development.
Recommended Conditions

1. EROSION & SEDIMENT CONTROL MEASURES (Prior to commencement of works)

Details of the proposed sediment control measures are to be detailed in the site management plan which shall be submitted to and approved by the principal certifying authority prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details shall be maintained on-site and be made available to Council officers upon request.

Procedures shall be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited anywhere onto the public road reserve from trucks and associated equipment, and the proposed method of cleaning the roadway from such deposits.

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

REASON: Because of the requirement to comply with appropriate standards for environmental control. Section 79C(1)(a), (b) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

2. IMPACT ASSESSMENT ON PUBLIC UTILITIES (Prior to commencement of works)

The subject site contains underground sewer pipe work and associated infrastructure. The applicant shall obtain advice, with sufficient notice, from Council regarding the location of these services.

A public utility impact assessment must be carried out on all public utility services located on the site & road reserve. The assessment should include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of services, to ensure there are no conflicts.

REASON: Because it is in the public interest that public assets are not damaged. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

3. STORMWATER DRAINAGE/DETENTION

The stormwater drainage system must be designed by a suitably qualified and experienced Civil Engineer/Hydraulic consultant.

Detailed plans and calculations of the stormwater drainage system with levels reduced to Australian Height Datum (AHD) must be submitted and approved by the certifying authority. The plan shall indicated method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.

The design of the stormwater drainage system must be certified by the Civil Engineer/Hydraulic Consultant and a copy of the design certification, detailed plans and calculations are to be forwarded to Council.

An onsite stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a 1:10yr worst case storm event for existing site conditions. The detention basin should be at least as large as the existing concrete lined stormwater detention pond.

An overland escape route or overflow system must be provided for storms having an average recurrence interval of 100 yrs, or alternatively the stormwater detention system is to be provided to accommodate the 1 in 100yr storm.

Prior to the issuing of an occupation certificate, a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be registered on the title of the subject property, to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) of Council.

This development is stage 1 of a potentially multistaged development. The developer should consider sizing the detention system to cater for the future full developed condition as it may be more economical than trying to add additional capacity in future.

REASON: Because the character of the development is such that storm water will be increased and must be safely conveyed to the storm water drainage system. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

4. INTERNAL WATER SERVICE

A water service shall be connected to the development prior to any construction work on site. The water service shall be of adequate size and of a design adequate to serve the development in accordance with the requirements of AS/NZS 3500 and NSW Code of Practice, Plumbing and Drainage. Any necessary upgrading of the existing service shall be at full cost to the applicant.

Application forms for water connections or upgrades can be obtained from Council's Engineering Department. The cost of the water connection is at the cost of the applicant, as per Council's Management Plan.

Note: Separate additional water services to the tradewaste generating restaurants would be preferred by Council so that sewerage and tradewaste discharge fees can be calculated based on their actual water use.

REASON: So that the development will have an adequate water service having regard to the character of the development. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

5. SEWER CONNECTION – Existing Gravity Main

The applicant is to connect to the existing sewer main at an existing junction if possible. Where no existing junction is available, the applicant is to arrange with Council the installation of a junction, to the live sewer. The work will be undertaken by Council at cost to the applicant.

Council will permit two sewer connections from this development to existing sewer mains. It should be noted that the Services Co-ordination Plan does not show all council mains on site, and shows some disconnected lines as being live. The develop needs to confirm location of existing sewer services and redesign the internal sewer connection locations.

REASON: Because these utilities are necessary to serve the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

6. TRADE WASTE APPROVAL

Trade waste material is not to be discharged into Council's sewerage system and or stormwater system, without first obtaining written approval under Section 68 of the Local Government Act 1993 from Council.

The completion of the approval must be obtained prior to the issuing of any construction certificates, and completed approval obtained prior to the occupation of the building(s).

The conditions of approval are to be complied with in all respects.

REASON: To prevent damage to the Forbes Sewage Treatment System, minimize risks to sewerage workers, and subsequent pollution of the Lachlan River and comply with the Local Government (General) Regulation 2005 and Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

7. CAR PARKING - RETAIL/COMMERCIAL/INDUSTRIAL (Use of the site)

The provision of at least 257 car parking spaces for stage 1 and 285 car parking spaces for stage 2 on the subject land in a manner that is in accordance with Australian Standard AS 2890.1 - 2004 Car Parking and Council's Off Street Car Parking Code.

REASON: To adequately provide for the parking of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

8. CARPARK LIGHTING (Use of the Site)

The installation of exterior lighting to all vehicular manoeuvring and parking areas. The exterior lighting shall be designed and installed so that no obtrusive light will be cast onto any adjoining property.

NOTE: Compliance with Australian Standard AS4282 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.

REASON: To provide opportunities for natural surveillance and reduce the likelihood of crime on the subject land. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

9. VEHICLES ACCESS, EXITS & MANOEUVRING AREAS – DEFERRED (Prior to issue of Construction Certificate)

The footway crossings, driveways, loading and unloading areas, manoeuvring areas and parking areas, are to be designed so that the maximum expected vehicle may perform a left turn into the site, turn around, and exit the site in a forward direction without crossing the road centreline. A plan drawn to scale showing all parking and manoeuvring areas shall be submitted to demonstrate this has been achieved.

NOTE: All vehicle turning movements are to be determined in accordance with Austroads Design Vehicles and Turning Path Templates (2005).

The access shall be constructed from concrete or other hard standing, dust free and weather proof surfaces. Profiles of accesses shall be designed to ensure that all vehicles can enter and exit with a minimum 50mm clearance or greater.

NOTE: The ongoing maintenance of access crossings are the responsibility of the property owner.

REASON: So that the means of entrance to and exit from the subject land are adequate and so that adequate provision has been made for the manoeuvring of those types of vehicles likely to serve the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

10. DRAINAGE OF ACCESSES (During construction)

Access designs shall incorporate drainage structures to maintain exiting drainage along the road reserve. The drainage structures shall be designed to accommodate the worst storm event from the upstream catchment for a 1 in 5 yr recurrence interval.

The drainage structure must be designed by a suitably qualified and experienced Civil Engineer/Hydraulic consultant. Detailed plans and calculations of the stormwater drainage structures with levels reduced to Australian Height Datum (AHD) must be submitted and approved by the certifying authority.

REASON: To provide for the drainage of storm water and minimise the risk of flood damage to adjoining properties and/or road reserve. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

11. WORKS WITHIN A ROAD RESERVE

All drainage and access works within the public road reserve shall be:

- a) Undertaken following consultation with and under the direction of Council's engineering staff.
- b) Constructed in accordance with Council's development guidelines.
- c) Covered by \$20M public liability insurance, with the policy noting Council as an interested party.
- d) Covered by a Traffic Control Plan which has been prepared by an authorised person. Traffic shall be controlled by an authorised Traffic Controller, in accordance with the traffic control plan.
- e) At no cost to Council.

REASON: Because it is in the public interest that public assets are not damaged, are maintained in a tidy condition, are constructed to recognised standards and the local environment is protected. Section 79C(1)(b), (c) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

12. WORKS WITHIN A PUBLIC ROAD RESERVE – ROAD OR FOOTPATH CLOSURE

All works requiring full or partial road or footpath closure shall be:

- a) Subject to an application for the occupation of public roadway or footway (Section 138, Local Govt. Act 1993).
- b) Covered by \$20M public liability insurance, with the policy noting Council as an interested party.
- c) Covered by a Council approved Pedestrian Movement Plan and/or Traffic Control Plan which has been prepared by an authorised person. Traffic shall be controlled by an authorised Traffic Controller, in accordance with the traffic control plan.
- d) At no cost to Council.

REASON: To ensure public safety & Council indemnity. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

The recommended conditions have been included in the draft conditions attached to the recommendations of this report.

Roads and Maritime Services (RMS)

The former Roads and Traffic Authority now Roads and Maritime Services (RMS) were notified of the development proposal in accordance with the SEPP Infrastructure 2007. The comments and recommendation of RMS are as follows:

RMS will not object to the proposed bulky goods development and provides the following comments for consideration by Council.

- Adequate turning circles and storage room should be provided at the access for the largest type of vehicle that would visit the site during construction or operation and suitable lateral clearance for the sweep path's of those vehicles.
- All access from the highway to the proposed site should be as identified in the site plans;
- All activities including loading and unloading of goods associated with the development are to be carried out on site;
- Landscaping, signage and fencing are not to impede sight lines of traffic within or when passing, entering or departing the site.
- Advertising signage is to be contained within the site so that it does not create a hazard or nuisance to road users on public roads. Luminosity is to be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines. Advertising signage is not to replicate any regulatory signage or give direction to traffic.
- All works associated with the development are to be at no cost to RMS.

Please forward a copy of Council's determination on the development application to RMS at the same time it is sent to the applicant.

The applicant was requested to provide clarification in regard to B-double access as indicated in the traffic report. Sweep paths have been provided and are considered appropriate.

ENVIRONMENTAL ASSESSMENT

Section 79C(1) of the Environmental Planning and Assessment Act, 1979 outlines the statutory requirements to be considered in the determination of a development application. Based on the findings of the Section 79C assessment, site inspection(s) and comments from consultation, the following matters are highlighted as being particularly relevant in the assessment of the proposed development.

79C (1)(a) (i) any Environmental Planning Instrument

Applicable State Environmental Planning Policies require consideration of the site relative to potential contamination, SEPP No.55, assessment of proposed advertising under the requirements of SEPP No.64 – Advertising and Signage and referral and concurrence of the RMS, SEPP Infrastructure, 2007 and draft DSEPP (Competition) 2010. The requirements of applicable State Environmental Planning Policies have been considered as they relate to the proposed development. The RMS have provided concurrence subject to appropriate conditions of development consent. Consideration of SEPP No.55 and the site, existing and further site testing satisfies consideration in relation to potential for the land to contain contaminants and its remediation prior to the use of the land. Proposed advertising satisfies relevant considerations of SEPP No.64 – Advertising and Signage and SEPP (Competition) 2010 limits assessment and consideration in regard to the competition among retailers and economic feasibility considerations.

Under the provisions of Forbes Local Environmental Plan 1986 the land is zoned 4(a) Industrial. A recent planning proposal and LEP amendment permits bulky goods premises and restaurants within the 4(a) zone as well as introduces applicable definition to promote such development up[on land fronting the Newell Highway. The proposed development is assessed to comply with the definition of bulky goods premises in its design and majority of floor space attributable to such uses.

The Special Provisions of Forbes LEP 1986 applicable to the proposed development relate only to the development of flood liable land, subdivision and development upon main and arterial roads. The development will not restrict the flow of flood waters down the flood was, contains information relative to approval for the subdivision of the land and consultation with the RTA has been made satisfying these statutory requirements.

S79C(1)(a) (ii) any Draft Environmental Planning Instrument that has been publicly exhibited.

Draft SEPP (Competition) 2010 and Draft Forbes LEP2012 have been publicly exhibited and hence require consideration. The draft Forbes LEP 2012 propose to zone the subject land and other similarly placed lands fronting the Newell Highway B5 – Business Development. This zone seeks to accommodate bulky goods premises and also permits restaurants and service stations. The competition SEPP seeks to encourage market competition and does not enable the commercial viability nor impact upon existing retailers to be considered by a determining authority unless it can be demonstrated to impact upon the extent and adequacy of facilities and services available to the local community. Whilst the development may be in competition with a number of existing commercial premises impact upon the extent and adequacy of services available to the local community are not considered to warrant refusal of the proposed development

S79C(1)(a) (iii) any Development Control Plan (DCP)

Detailed consideration of relevant Council Codes and Development Control Plans was provided earlier in this report. The following matters are identified as being particularly relevant to the assessment of the proposed development.

Car Parking Code

Councils car parking code does not provide requirements for bulky goods premises and in such cases refers to consideration of the RMS Guidelines. The only relevant requirement is 1 parking space per 35m² for shops including supermarkets and discount department stores. This requirement is considered onerous having regard to the larger floor space requirements for bulky goods. The RMS guidelines also do not identify suitable parking requirements rather refer to consideration of provisions for surrounding developments and surrounding Council areas. Surrounding Shires generally require the provision of parking for bulky goods premises at a rate of 1 space per 50m² of gross floor area. The development proposes to provide parking at a rate of 1 space per 42m² resulting in 257 parking spaces which is considered satisfactory.

Councils car parking code provides requirements for takeaway food premises and service stations being 15 and 10 spaces respectively. The proposal for stage 2 identifies 28 customer and 2 service vehicle parking spaces for the proposed restaurants which satisfies Councils requirements. Detailed design of stage 3 for the service station has not been provided. Details to be provided at stage 3 will need to provide a minimum of 10 parking spaces.

DCP No 6 - Managing Our Flood Risks

Consideration of DCP No.6 identifies the proposed development is located within the low hazard flood fringe. The proposed floor levels are above the 1% flood level, any construction below this level including the concrete walls of the building and associated concrete floor, car parking structures and landscaping are all considered flood compatible materials. Any lining materials will need to be flood compatible in accordance with Schedule 1 of DCP Number 6 – Managing Our Flood Risks. Conditions will be placed on the consent requiring compliance with this provision. The applicant will need to provide an evacuation/resumption trading plan for approval and is to be consistent with the local SES Flood Evacuation Strategy. Appropriate engineering conditions have been imposed requiring the management of stormwater hence it is considered that the proposal complies with the prescriptive controls and objectives of the DCP and conditions will be applied regarding these compliance issues.

DCP 9 - Landscaping

The provisions of DCP No.9 as they relate to commercial development provide for flexible landscape solutions to meet site location, requirements and compatibility with surrounding properties. The amount of landscaping and predominant use of native species is considered satisfactory with the requirements of the Landscaping DCP.

S79C(1)(a) (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

The applicant has not offered, nor is it necessary for the applicant to enter into any form of planning agreement to accommodate the proposed development.

S79C(1)(a) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Consideration has been given to the Environmental Planning and Assessment Regulations including Model Provisions. Nothing in the Regulations or Model Provisions prevents assessment and approval of the subject application.

All essential services, water, sewer, drainage can be provided to the proposed development at the cost to the developer. Satisfactory loading/unloading facilities are proposed. Sufficient engineering detail has been provided to adequately assess the development application. Detailed engineering designs will be required prior to the release of the construction certificate. An assessment has been undertaken of the application relative to its location upon flood prone land.

S79C(1)(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

The potential environmental impacts of the proposed development upon the both the natural and built environment and social and economic impacts warrant specific detailed consideration. These matters have been specifically considered below.

Environmental Impacts – Natural

The subject site has a long history of development for the Forbes sale yards. The site is in the process of being demolished, cleared and remediated for the proposed development in accordance with Development consent 2011/0084. A long history of occupation and use of the land minimises the potential impacts of the proposed development upon the natural environment. Recent site testing is being conducted with the demolition process and remediation is being undertaken in accordance with the requirements of SEPP55 – Contaminated Land. The site has been cleared of significant vegetation and slopes at less than 1% to the south west. Appropriate urban drainage can be provided within the upgrade of the existing stormwater detention system proposed in a similar location to that of the existing system. Site measures will be required to be installed during construction to protect soil movement and water quality.

The subject site is affected by flooding. Consideration of the proposed development in accordance with the requirements of Council's Development Control Plan indicates that the proposed development will result in minimal flooding impacts and not adversely affect the flow of floodwaters down the floodway.

With remediation of the site, the installation of urban controls and appropriate site measures during construction, the proposed development has been assessed to have minimal impacts upon the natural environment.

Environmental Impacts – Built Environment

The development site is located on the northern fringe of the Forbes township area fronting the Newell Highway. Sites with Highway frontage in this area have developed from traditional industrial to bulky goods premises maximising the use of this exposure. The development philosophy is to create a home makers style facility. This areas has been strategically identified to accommodate this form of development.

The proposed development will replicate the existing focus of commercial and industrial development to the Newell Highway. Simply by the size of the proposed development and its new modern appearance, the proposed development will have an impact upon the streetscape. The proposed development will enhance the appearance of this area and its overall contribution to the streetscape.

Similarly the scale of the proposed development will impact upon surrounding properties. However the distance from prevailing residential properties, physical separation by roads and TSR land and the nature of the adjoining uses being predominantly commercial and industrial land the development is not considered to have significant adverse impact upon adjoining properties.

No items of environmental heritage are located upon the subject site nor will be impacted by the development.

A traffic impact assessment has been prepared in support of the proposed development. The application has been referred to the RMS in accordance with the SEPP – Infrastructure 2007. Their comments can be managed as conditions of development.

The proposed development utilises the existing slip road as the main entry and exit to the front of the development and the existing road infrastructure of Lamb and Corriedale Streets to access the side and rear loading/unloading areas hence no new accesses are required to the Newell Highway. The RMS have not required any intersection upgrades as necessary to accommodate the proposed development. Additional consideration of heavy vehicle access to the proposed loading facility has been provided to address local submissions.

Car parking has been proposed for a total of 257 vehicles in conjunction with stage 1 and increased to 286 for stage 2. Neither Councils Car Parking Code nor the RMS Guidelines identify appropriate parking requirements for bulky goods premises. Councils requirements of 1 space per 35m² for shops is considered onerous and the RMS recommendation is to consider surrounding development requirements being 1 space per 50m². The proposed provision of 1 space per 42 m² of gross floor area is considered satisfactory. The parking requirements for the fast food premises of 15 spaces each has been satisfied and the service station parking needs to be considered at such time as the detailed proposal is submitted.

The proposed development will require the relocation of a small amount of small of local service infrastructure. The applicant has been aware of these implications and the requirement to bear all associated costs. Relevant engineering requirements have been outlined in the engineering assessment and applied in relevant conditions of development consent. Ultimately the development can be provided with all necessary service infrastructure which can be catered for within the existing services network.

Social and Economic Impacts

Without doubt during both construction and operation stages there will be economic benefits to the Shire in terms of employment and the provision of a major trading company with benefits of a large commercial support giving the local community greater selection and quality of product. In addition the larger store will assist in reducing the loss to out of town trade.

While the developments impact upon existing commercial premises cannot be underestimated the provisions of draft SEPP (Competition) 2010 identify that the commercial viability and competition among retailers is not a matter to be considered by a determining authority. It is not considered that this impact goes beyond commercial competitions such that it will impact upon the extent and adequacy of facilities and services available to the local community such that it would warrant refusal of the proposed development.

The proposed bulky goods premises will expand local hardware and related retail offer as well as providing sites for expansion for related bulky goods premises, fast food premises and truck stop with Newell Highway frontage not currently available which is considered to have positive flow on effects to the community both socially and economically.

S79C(1)(c) the Suitability of the Site for the Development

The subject development site seeks to provide for the redevelopment of the former Mid-state Sale Yards site which was relatively recently relocated away from the edge of town. The Forbes Growth Management Strategy 2009 identifies that this area has emerged as a bulky goods retail strip along the Newell Highway and seeks to build upon this style of development in providing large site not available within the CBD area. The Draft Forbes LEP2012 zones this area B5 – Business Development as appropriate for this style of development and also permits restaurants and service stations as proposed in the later stages of development. Such uses have been strategically identified as not being catered for in the long term development of Forbes as the predominant centre for the Shire. It is therefore concluded that the subject site is considered suitable for the proposed development.

S79C(1)(d) any Submissions Made in Accordance with this Act or the Regulations

Sixteen (16) submissions were received as a result of the exhibition of the proposed development. All submissions received by Council in respect of this application have been considered and are addressed in the consultation section of this report. The vast majority of issues raised in submissions relate to similar issues due to the potential commercial impacts, traffic, and potential contamination. The issues raised in submissions do not warrant refusal of the proposed development.

Concurrence requirements of the RMS have been complied with in the consideration and assessment of the proposed development.

S79C(1)(e) the Public Interest

The proposed development in the order of \$9 million will have significant local benefits both during construction as well operation and provision of local jobs. The development will seek to reduce the amount of escape expenditure in hardware and related trade estimated to be in the order of \$12 million. Overall the development philosophy seeks to create a home makers based centre as well as provide additional opportunities for fast food retailers with highway frontage not currently available. The subject site has been identified for this style of development within the Forbes Growth Management Strategy 2009 and recently exhibited Forbes Local Environmental Plan 2012. While the competition with existing business is obvious it is not a matter for which the determining authority can base its decision. The development will provide greater choice for shoppers and sound competition to other developments in town. Accordingly the proposed development is considered to be consistent with the broader public interest.

CONCLUSION

This development application represents a major development within the Shire of Forbes such that the application is to be reported to and determined by the Western Region Joint Regional Planning Panel in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and Regulations and SEPP(State and Regional Development)2011

The application seeks consent for a three (3) stage development to create a home makers style centre including two (2) fast food premises and large truck stop sited to make best use of the frontage to the Newell Highway and accommodate potential businesses which are not presently catered for in the Shire. The proposal provides for the redevelopment of the former mid-state saleyards site which has been relocated from the edge of town in 2010

A planning proposal in respect of the development approved in 2011 maintained the prevailing 4(a) – Industrial zone of Forbes LEP 1986 however introduced bulky goods premises, restaurants and service stations permissible including appropriate objectives to promote such development having highway frontage. The proposed development is

permissible with development consent. The Forbes Growth Management Strategy 2009 and draft Forbes Local Environmental Plan 2012 identify the site for this style of development.

The application has been referred to the RMS in accordance with the SEPP – Infrastructure 2007 and their comments considered during the assessment process and recommended conditions applied. The site is in the process of being remediated in accordance with SEPP55 – Contaminated Land. The proposed development has been assessed to comply with the requirements of DCP 6 according to relevant flooding considerations and will therefore not restrict the passage of waters down the floodway. Assessment under Councils Car Parking Code concludes that the proposed 257 car parking spaces for stage 1 and 286 for stage 2 is considered satisfactory.

While the developments impact upon existing commercial premises cannot be underestimated the provisions of draft SEPP (Competition) 2010 identify that the commercial viability and competition among retailers is not a matter to be considered by a determining authority. It is not considered that this impact goes beyond commercial competitions such that it will impact upon the extent and adequacy of facilities and services available to the local community such that it would warrant refusal of the proposed development.

There could be little argument that a development of this size would have an impact upon adjoining properties. A development of the size and scale proposed will have localised impacts however the nature of surrounding development and separation from residential areas conclude that the site is suitable for the proposed development. Appropriate conditions have been developed in order to minimise potential impacts in order to control such matters as noise, vibration and light spillage. The management of stormwater and control of flood impacts have been addressed relative to the sites location within the low hazard flood fringe and it is assessed that the development will not restrict the flow of flood waters down the floodway. Accordingly the following recommendation is made:

RECOMMENDATION:

That Development Application 2012/0051 for the Forbes Business Centre incorporating the staged development of Bunnings, three (3) separate bulky goods retail premises, two (2) fast food outlets and truck stop including associated signage, car parking and resubdivision of the land be approved subject to the following conditions:

- 1. Stage 1**
 - i) Stage 1 – Concept approval and detailed consent for Bunnings warehouse and three separate bulky goods tenancies;**
 - i) Construction of surface-level carpark comprising 285 parking spaces;**
 - ii) Construction of driveway and access to the carpark and loading/unloading areas from the existing service road adjacent to the Newell Highway and Corriedale Street;**
 - iii) Erection of commercial signage upon the proposed buildings;**
 - iv) Erection of pylon sign adjacent to the Newell Highway and Corriedale Street intersection;**
 - v) Landscaping**

- vi) Civil works including stormwater detention basin located at the south eastern corner of the site;
- vii) Sub-division of the development lot into 5 allotments.

The applicant is advised that separate development applications will be required to be submitted for:

Stage 2 – Fast Food Restaurants; and

Stage 3 – Truck Stop and Associated Facilities.

REASON: The proposal has been lodged as a staged development under the provisions of Section 83B of the Environmental Planning and Assessment Act

- 2. Adequate turning circles and storage room should be provided at the access for the largest type of vehicle that would visit the site during construction or operation and suitable lateral clearance for the sweep path\ls of those vehicles;

REASON: To ensure safe movement of vehicles and pedestrians.

- 3. All access from the highway to the proposed site should be as identified in the site plans;

REASON: To ensure safe movement of vehicles and pedestrians.

- 4. All activities including loading and unloading of goods associated with the development are to be carried out on site;

REASON: To ensure safe movement of vehicles and pedestrians.

- 5. Landscaping, signage and fencing are not to impeded sight lines of traffic within or when passing, entering or departing the site;

REASON: To ensure safe movement of vehicles and pedestrians.

- 6. Advertising signage is to be contained within the site so that it does not create a hazard or nuisance to road users on public roads. Luminosity is to be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines. Advertising signage is not to replicate any regulatory signage or give direction to traffic;

REASON: To ensure safe movement of vehicles and pedestrians.

- 7. All works associated with the development are to be at no cost to RMS.

REASON: To ensure safe movement of vehicles and pedestrians.

- 8. A current copy of the development approval/consent and stamped plans is to be maintained on site for constructional and reference purposes.

REASON: To ensure that the approved plans are readily available at the site.

9. Surveillance equipment can enhance the physical security of businesses and assist in the identification of people involved in anti-social or criminal behaviour.

Cameras should be installed both within and around the business to maximise surveillance opportunities.

Cameras should monitor the cashier's area, high cost merchandise areas and those areas with poor natural supervision.

TV monitors should enable staff to monitor activities on the camera but not allow potential offenders to become aware of where cameras are positioned and the area they can cover.

Recording equipment should be installed away from the counter to avoid tampering.

REASON: To assist with safety and security of the site.

10. Fire exits where possible should be set flush against the exterior wall to remove any alcoves which a potential offender could hide in.

REASON: To assist with safety and security of the site.

11. Consideration shall be given to the installation of CCTV for increased surveillance inside and out of the premises.

REASON: To assist with safety and security of the site.

12. Security lighting shall be installed in and around the loading dock, grease arrestor and emergency exits, particularly over entry/exit points to create an even distribution of light with no glare, e.g. sensor lighting, floodlighting.

REASON: To assist with safety and security of the site.

NB: Consider installing sensor lighting, which is cost effective as it only activates when movement is detected within the zone.

13. Vandal proof lighting shall be installed to reduce maintenance costs.

REASON: To assist with safety and security of the site.

14. The applicant shall provide information in regards to the use of lighting, both internally and externally to ensure lighting meets required standards to enhance surveillance opportunities during hours of darkness and the safety of staff and customer/s

REASON: To assist with safety and security of the site.

15. Consideration be given to the restriction of the use of low-pressure sodium lighting (yellow lighting) as it reduces colour retention and stimulates fear for pedestrians.
- REASON:** To assist with safety and security of the site.
16. A separate development application is required to be lodged if the developers are considering installing an ATM. The placement of an ATM and its security features are crucial in avoiding 'ram-raid' style break-ins.
- REASON:** To assist with safety and security of the site.
17. Counters should be designed to reduce the opportunity for assault of staff and unauthorised access to behind counter areas.
- REASON:** To assist with safety and security of the site.
18. A safe designed and installed to the Australian Standards can provide additional security to money and other valuables.
- REASON:** To assist with safety and security of the site.
19. To enhance the security of the shopping centre, a monitored intruder alarm system is recommended.
- Consider incorporating a duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery.
- REASON:** To assist with safety and security of the site.
20. Access controlled main customer entry/exit points are required to be installed so that staff can control customer entry within later hours of trading.
- REASON:** To assist with safety and security of the site.
21. Access to the loading dock needs to be controlled and restricted to all unauthorised persons. As there is minimal surveillance to this area from the shopping centre, proper security needs to be considered.
- REASON:** To assist with safety and security of the site.
22. All lighting associated with the development shall not cast any light onto any adjoining property and shall be focused away from adjoining roads so as not to cause a nuisance to passing traffic. All lighting associated with the development shall comply with Australian Standard AS4282 – "Control of Intrusive Effects of Outdoor Lighting".
- REASON:** To assist with safety and security of the site.
23. The following conditions are applied to ensure that adequate provisions are made for the management of waste from the development:

The location and facilities for the collection, storage and removal of wastes generated within the premises must be submitted to Council for concurrence prior to issuing a construction certificate. All trade/commercial waste materials must be collected by Council's Waste Contractor or an appropriately licensed waste contractor and details of the proposed waste collection and removal service are to be submitted to Council prior to occupation of the building.

REASON: To ensure that adequate provisions are made for the management of waste from the development.

24. The storage of all waste, recyclables, pallets, goods or any other material relating to the operation of the must be wholly contained within the premises

REASON: To ensure the suitable storage of waste.

25. All loading and unloading associated with the use or operation of the premises shall be carried out within either the building or the designated loading dock and contained wholly within the property boundaries. At no time shall forklift manoeuvring for the purposes of unloading utilise the public roadway, driveway entry or nature strip:

REASON: To maintain reasonable levels of environmental amenity and pedestrian safety.

26. No goods or machinery or advertising signs are to be placed on Council's footway at any time without the prior written approval of Council.

REASON: To maintain reasonable levels of environmental amenity.

27. All site works shall comply with the occupational health and safety requirements of WorkCover NSW.

REASON: To ensure the development satisfies relevant standards of construction and maintain adequate levels of health, safety and amenity during construction.

28. Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

REASON: To ensure adequate facilities are located on the site.

29. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road,

footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

REASON: To maintain the public safety.

30. A Construction Site Management Plan is to be developed and implemented prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to the type of development:

- i) location and construction of protective fencing/hoardings to the perimeter of the site;
- ii) location of site storage areas/sheds/equipment;
- iii) location of building materials for construction;
- iv) provisions for public safety;
- v) dust control measures;
- vi) site access location and construction;
- vii) details of methods of disposal of demolition materials;
- viii) protective measures for tree preservation;
- ix) provisions for temporary sanitary facilities;
- x) location and size of waste containers/bulk bins;
- xi) details of proposed sediment and erosion control measures;
- xii) construction noise and vibration management;
- xiii) construction traffic management details

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

REASON: To ensure the implementation of a site management plan.

31. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

Details of the proposed sediment control measures are to be detailed in the site management plan which shall be submitted to and approved by the principal certifying authority prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion

controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

REASON: To minimise the impact on the environment.

32. All building and associated site works must only be carried out between the hours of 7.00 am to 6.00 pm on Monday to Friday inclusive, between 8.00 am to 1.00 pm on Saturday and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Councils Director, Environmental Services and Planning.

REASON: To ensure the development satisfies relevant standards of construction and maintain adequate levels of health, safety and amenity during construction.

33. A public utility impact assessment must be carried out on all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works. The assessment should include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of services.

Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the principal certifying authority prior to the commencement of any demolition, excavation or building works.

REASON: To minimise the impact on public utilities.

34. The position of sewer, water, electricity, telephone and any other services are to be checked before building work commences and before the excavation of pier or strip footings.

REASON: To avoid unnecessary damage to any service lines.

35. All plumbing and drainage works to be carried out by Licensed Tradesmen.

REASON: To ensure that plumbing and drainage work is carried out in accordance with the requirements of the Local Government (Water, Sewer and Drainage) Regulations.

36. All redundant plumbing and drainage is to be capped off to Council's Plumbing and Drainage Inspectors satisfaction.

REASON: To protect the plumbing and drainage systems and to prevent unhealthy conditions on site.

37. A plumbing and drainage design plan is to be submitted to Council with the Local Government Section 68 application.

REASON: To ensure that all plumbing and drainage work is carried out in accordance with the requirements of the Local Government (Water, Sewerage and Drainage) Regulations.

38. All new hot water installations shall deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 43.5 degrees Celsius for childhood centres, primary and secondary schools, nursing homes or similar facilities for aged, sick or disabled persons and 50 degrees Celsius in all other classes of buildings.

REASON: To comply with the NSW Code of Practice, Plumbing and Drainage Addition No 2 and Australian Standard 3500 Part 4 Hot Water Systems 1994.

39. The door to a fully enclosed sanitary compartment must:-
- a). open outwards; or
 - b). slide; or
 - c). be readily removable from the outside of the compartment unless there is a clear space of at least 1.2 m between the closet pan within the sanitary compartment and the nearest part of the doorway.

REASON: To ensure compliance with the Building Code of Australia (BCA) and to comply with the requirements of the Environmental Planning and Assessment Act 1979.

40. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA, including:

- | | | | |
|-----|------------------|---|--|
| a). | Part B1 | - | Structural provisions |
| b). | Part C1 | - | Fire resistance and stability |
| c). | Clause C3.2&C3.4 | - | Protection of openings in external walls |
| d). | Part D1 | - | Provisions for escape |
| e). | Clause D1.2 | - | Number of exits required |
| f). | Clause D1.4 | - | Exit travel distances |
| g). | Clause D1.5 | - | Distance between alternative exits |
| h). | Part D2 | - | Construction of exits |
| i). | Part D3 | - | Access for people with disabilities |
| j). | Part E1 | - | Fire fighting equipment |
| k). | Part E2 | - | Smoke Hazard Management |
| l). | Part E4 | - | Emergency lighting, exit signs & warning systems |
| m). | Part F1 | - | Damp and weatherproofing |
| n). | Part F2 | - | Sanitary and other facilities |
| o). | Part F3 | - | Room sizes |
| p). | Part F4 | - | Light and ventilation |

- | | | | |
|-----|-----------|---|-----------------------------------|
| q). | Part F5 | - | Sound Transmission and Insulation |
| r). | Section J | - | Energy efficiency |

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

REASON: To ensure compliance with the BCA.

41. The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area.

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

REASON: To ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area.

42. The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

The use and operation of the premises shall not give rise to an environmental health or public nuisance.

There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.

REASON: To satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality.

- 43. The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:**

The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

Prior to the commencement of any building works, the person having the benefit of the development consent must:

- i). appoint a Principal Certifying Authority for the building work, and**
- iii). unless the person having the benefit of the consent is the principal contractor notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and**
- iv). give at least two days notice to the Council, in writing, of the persons intention to commence building works.**

The building works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with Sections 109E (3) of the Environmental Planning and Assessment Act 1979 and Clause 162A of the Environmental Planning and Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with Section 81A(2)(b1)(ii) of the Environmental Planning and Assessment Regulation 2000 and a satisfactory inspection must be carried out,

to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

A sign must be erected and maintained in a prominent position on the site, which contains the following details:

- 1 name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
2. name, address and telephone number of the Principal Certifying Authority,
3. a statement stating that "unauthorised entry to the work site is prohibited".

An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning and Assessment Act, 1979 and conditions of development consent must be satisfied prior to the issuing of an Occupation Certificate.

REASON: To ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations.

44. A Registered Surveyor's check survey certificate or compliance certificate is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority), detailing compliance with Council's approval at the following stage/s of construction:

- a). Prior to construction of the floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being construction at the approved levels.
- b). on completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks.

REASON: To certify the height of the floor levels and the location of the building in relation to the site boundaries.

45. The following conditions are applied to provide access and facilities for people with disabilities:

Access and facilities for people with disabilities must be provided in accordance with the relevant provisions of the Building Code of Australia.

REASON: To provide access and facilities for people with disabilities.

46. Development shall at all times be undertaken in accordance with the Floodplain Development Manual.

REASON: The allotment is within a designated flood zone and development in accordance with the Flood Manual is required to reduce the adverse impacts of flooding.

47. All electrical services below the design flood level of 237.95 AHD being designed and installed so as they are flood compatible.

REASON: Location of the utility services below the designated flood level has the ability to cause hazards during the time of flooding.

48. A certificate from a practising structural engineer certifying that the building is capable of withstanding flood waters and impact loads from debris shall be submitted to Principle Certifying Authority with the Construction Certificate.

REASON: Buildings on flood prone land are required to be erected in a manner which will minimise the impact of flooding on the building. Building on the floodplain is regulated by Development Control Plan 6 Managing Our Flood Risks.

49. All plant and goods which could cause danger or pollution in the time of flood are to be stored above flood level.

REASON: Development on the floodplain is regulated by Development Control Plan 6 Managing Our Flood Risks. Plant and goods with the potential to pollute floodwater may produce hazards in time of flood.

50. The owner or occupier of the premises is to take reasonable action to minimise damage to goods or equipment, or other property in the premises in the event of flood waters entering the premises.

REASON: Development on the floodplain is regulated by Development Control Plan 6 Managing Our Flood Risks. Reasonable actions have the potential to reduce losses produced by Floodwater inundation.

51. The applicant shall provide a Flood Evacuation/Resumption of Trading Plan in accordance with the Local SES Flood Evacuation Strategy prepared to the prior to the release of the Occupation Certificate.

REASON: To ensure public safety in time of flood.

52. All building components below the design flood height to be constructed in flood compatible materials.

REASON: To minimise the damage to the building by floodwaters and to comply with the requirements of DCP6 – Managing Our Flood Risks.

53. Kerb ramps complying with the current RMS Technical Directions and Policies should be installed to promote pedestrian access to and from the development.

REASON: To ensure safe movement of vehicles and pedestrians.

54. All signage that regulates, warns, or guides traffic including pedestrians, must be manufactured and installed to the relevant RMS Technical Direction or Standard.

REASON: To ensure safe movement of vehicles and pedestrians.

55. Kerb ramps should be installed where pedestrians are expected to cross the kerb, and be constructed in accordance with current RMS Technical Directions.

REASON: To ensure safe movement of vehicles and pedestrians.

56. Landscaping should be of a type that does not create a hazard in itself through the dropping of slippery berries, nuts, or leaves, and be planted and maintained to prevent restricting driver and pedestrian sight lines.

REASON: To ensure safe movement of vehicles and pedestrians.

57. Advertising signage should be contained wholly within the site and not be a distraction to motorists or replicate a traffic sign through design or colour.

REASON: To ensure safe movement of vehicles and pedestrians.

58. The parking and pedestrian areas should be lit to Australian Standard AS 1158.

REASON: To ensure safe movement of vehicles and pedestrians.

59. Lighting of the site and/or signage should not be a distraction to drivers on public roads or attempting to negotiate the parking areas.

REASON: To ensure safe movement of vehicles and pedestrians.

60. Any areas of the proposed development constructed adjacent but not over the sewer main would need to have the foundations founded below the zone of influence of the sewer, and be designed to be supported on those piers for the case where the sewer main needs to be excavated.

REASON: To maintain the integrity of Councils sewerage system.

61. Submission of a plan satisfactory to the Land Titles Office within five (5) years of the date of this development consent;

REASON: To comply with the requirements of the Environmental Planning and assessment act 1979.

62. Where the applicant appoints a private contractor to undertake construction of any or all of the proposed infrastructure and occupation certificate or linen plans will not be endorsed and released until the following has been completed:

- a). Full infrastructure plans being submitted for concurrence by Council;
- b). Council provided with details of proposed contractor and the associated works that will be undertaken;
- c). A Bank Guarantee or Bank cheque in favour of Council to the value of 10% of the infrastructure work is to be provided prior to the release of the linen plans. This guarantee shall be used in case of inadequate work being constructed to cover costs of Council's rectification. This guarantee shall be held for a period of twelve months (or as otherwise agreed) at which time Council shall inspect the works and should the works be to Council's satisfaction the guarantee shall be released.
- d). On completion of the works the applicant shall provide to Council a works as executed plan and certification that all works have been carried out in accordance with the approved plans and specifications.

REASON: To ensure all service works are designed and installed in accordance with Councils requirements and appropriate Australian Standards.

63. **EROSION & SEDIMENT CONTROL MEASURES** (Prior to commencement of works)

Details of the proposed sediment control measures are to be detailed in the site management plan which shall be submitted to and approved by the principal certifying authority prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout

construction. A copy of the approved details shall be maintained on-site and be made available to Council officers upon request.

Procedures shall be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited anywhere onto the public road reserve from trucks and associated equipment, and the proposed method of cleaning the roadway from such deposits.

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

REASON: Because of the requirement to comply with appropriate standards for environmental control. Section 79C(1)(a), (b) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

64. IMPACT ASSESSMENT ON PUBLIC UTILITIES (Prior to commencement of works)

The subject site contains underground sewer pipe work and associated infrastructure. The applicant shall obtain advice, with sufficient notice, from Council regarding the location of these services.

A public utility impact assessment must be carried out on all public utility services located on the site & road reserve. The assessment should include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of services, to ensure there are no conflicts.

REASON: Because it is in the public interest that public assets are not damaged. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

65. Stormwater drainage/detention

The stormwater drainage system must be designed by a suitably qualified and experienced Civil Engineer/Hydraulic consultant.

Detailed plans and calculations of the stormwater drainage system with levels reduced to Australian Height Datum (AHD) must be submitted and approved by the certifying authority. The plan shall indicated method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.

The design of the stormwater drainage system must be certified by the Civil Engineer/Hydraulic Consultant and a copy of the design certification, detailed plans and calculations are to be forwarded to Council.

An onsite stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a 1:10yr worst case storm event for existing site conditions. The detention basin should be at least as large as the existing concrete lined stormwater detention pond.

An overland escape route or overflow system must be provided for storms having an average recurrence interval of 100 yrs, or alternatively the stormwater detention system is to be provided to accommodate the 1 in 100yr storm.

Prior to the issuing of an occupation certificate, a “restriction on the use of land” and “positive covenant” (under section 88E of the Conveyancing Act 1919) shall be registered on the title of the subject property, to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) of Council.

This development is stage 1 of a potentially multi-staged development. The developer should consider sizing the detention system to cater for the future full developed condition as it may be more economical than trying to add additional capacity in future.

REASON: Because the character of the development is such that storm water will be increased and must be safely conveyed to the storm water drainage system. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

66. Internal Water Service

A water service shall be connected to the development prior to any construction work on site. The water service shall be of adequate size and of a design adequate to serve the development in accordance with the requirements of AS/NZS 3500 and NSW Code of Practice, Plumbing and Drainage. Any necessary upgrading of the existing service shall be at full cost to the applicant.

Application forms for water connections or upgrades can be obtained from Council’s Engineering Department. The cost of the water connection is at the cost of the applicant, as per Council’s Management Plan.

Note: Separate additional water services to the tradewaste generating restaurants would be preferred by Council so that sewerage and tradewaste discharge fees can be calculated based on their actual water use.

REASON: So that the development will have an adequate water service having regard to the character of the development. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

67. SEWER CONNECTION – Existing Gravity Main

The applicant is to connect to the existing sewer main at an existing junction if possible. Where no existing junction is available, the applicant is to arrange with Council the installation of a junction, to the live sewer. The work will be undertaken by Council at cost to the applicant.

Council will permit two sewer connections from this development to existing sewer mains. It should be noted that the Services Co-ordination Plan does not show all council mains on site, and shows some disconnected lines as being live. The develop needs to confirm location of existing sewer services and redesign the internal sewer connection locations.

REASON: Because these utilities are necessary to serve the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

68. TRADE WASTE APPROVAL

Trade waste material is not to be discharged into Council's sewerage system and or stormwater system, without first obtaining written approval under Section 68 of the Local Government Act 1993 from Council.

The completion of the approval must be obtained prior to the issuing of any construction certificates, and completed approval obtained prior to the occupation of the building(s).

The conditions of approval are to be complied with in all respects.

REASON: To prevent damage to the Forbes Sewage Treatment System, minimize risks to sewerage workers, and subsequent pollution of the Lachlan River and comply with the Local Government (General) Regulation 2005 and Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

69. CAR PARKING - RETAIL/COMMERCIAL/INDUSTRIAL (Use of the site)

The provision of at least 257 car parking spaces for stage 1 and 285 car parking spaces for stage 2 on the subject land in a manner that is in accordance with Australian Standard AS 2890.1 - 2004 Car Parking and Council's Off Street Car Parking Code.

REASON: To adequately provide for the parking of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

70. CARPARK LIGHTING (Use of the Site)

The installation of exterior lighting to all vehicular manoeuvring and parking areas. The exterior lighting shall be designed and installed so that no obtrusive light will be cast onto any adjoining property.

NOTE: Compliance with Australian Standard AS4282 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.

REASON: To provide opportunities for natural surveillance and reduce the likelihood of crime on the subject land. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

71. VEHICLES ACCESS, EXITS & MANOEUVRING AREAS – DEFERRED (Prior to issue of Construction Certificate)

The footway crossings, driveways, loading and unloading areas, manoeuvring areas and parking areas, are to be designed so that the maximum expected vehicle may perform a left turn into the site, turn around, and exit the site in a forward direction without crossing the road centreline. A plan drawn to scale showing all parking and manoeuvring areas shall be submitted to demonstrate this has been achieved.

NOTE: All vehicle turning movements are to be determined in accordance with Austroads Design Vehicles and Turning Path Templates (2005).

The access shall be constructed from concrete or other hard standing, dust free and weather proof surfaces. Profiles of accesses shall be designed to ensure that all vehicles can enter and exit with a minimum 50mm clearance or greater.

NOTE: The ongoing maintenance of access crossings are the responsibility of the property owner.

REASON: So that the means of entrance to and exit from the subject land are adequate and so that adequate provision has been made for the manoeuvring of those types of vehicles likely to serve the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

72. DRAINAGE OF ACCESSES (During construction)

Access designs shall incorporate drainage structures to maintain exiting drainage along the road reserve. The drainage structures shall be designed to accommodate the worst storm event from the upstream catchment for a 1 in 5 yr recurrence interval.

The drainage structure must be designed by a suitably qualified and experienced Civil Engineer/Hydraulic consultant. Detailed plans and calculations of the stormwater drainage structures with levels reduced to Australian Height Datum (AHD) must be submitted and approved by the certifying authority.

REASON: To provide for the drainage of storm water and minimise the risk of flood damage to adjoining properties and/or road reserve. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

- 73. Works within a public road reserve**
All drainage and access works within the public road reserve shall be:
- a) Undertaken following consultation with and under the direction of Council's engineering staff.
 - b) Constructed in accordance with Council's development guidelines.
 - c) Covered by \$20M public liability insurance, with the policy noting Council as an interested party.
 - d) Covered by a Traffic Control Plan which has been prepared by an authorised person. Traffic shall be controlled by an authorised Traffic Controller, in accordance with the traffic control plan.
 - e) At no cost to Council.
- REASON:** Because it is in the public interest that public assets are not damaged, are maintained in a tidy condition, are constructed to recognised standards and the local environment is protected. Section 79C(1)(b), (c) & (e) of the Environmental Planning and Assessment Act 1979, as amended.
- 74. Works within a public road reserve – ROAD OR footpath closure**
All works requiring full or partial road or footpath closure shall be:
- a) Subject to an application for the occupation of public roadway or footway (Section 138, Local Govt. Act 1993).
 - b) Covered by \$20M public liability insurance, with the policy noting Council as an interested party.
 - c) Covered by a Council approved Pedestrian Movement Plan and/or Traffic Control Plan which has been prepared by an authorised person. Traffic shall be controlled by an authorised Traffic Controller, in accordance with the traffic control plan.
 - d) At no cost to Council.
- REASON:** To ensure public safety & Council indemnity. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.
- 75. A remediation action plan shall be prepared describing the following works.**
Remediation of the soil contaminated with E. coli is required before the site is suitable for the proposed commercial land-use. The recommended remediation method is cultivation to 300mm and the addition of lime. An environmental management plan (EMP) shall be prepared to manage disturbances of the asbestos cement pipes.

The EMP will provide procedures to be implemented for disturbance of asbestos cement pipes in excavations. Any work on asbestos should be undertaken in accordance with Work Health and Safety Regulations 2011 and Safe Work Australia 2011.

Decommissioning of the pond can be undertaken by filling with natural excavated material.

The concrete from stockpiles 214 and 304 contain levels of arsenic that exceed recovered aggregate guidelines (EPA 2010). Stockpiles 214 and 304 shall be kept separate and disposed of in appropriate licensed landfill. All other concrete from the saleyards contains analytes within the recovered aggregate guidelines (EPA 2010) and is suitable for road making activities, building, landscaping and construction works.

A validation report shall be prepared to confirm the effective remediation of the development site prior to the issue of the construction certificate.

REASON: To ensure public safety & Council indemnity. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.