

## Assessment Report and Recommendation

### WYONG SHIRE COUNCIL

Hunter and Central Coast Joint Regional Planning Panel

Development and Building  
Department

#### **DA 212/2013 – Proposed Regional Works Depot for AUSGRID at Ourimbah**

DA/212/2013 JRPP - 2013HCC007

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#### **SUMMARY**

A development application has been received for a regional works depot for the electricity infrastructure provider AUSGRID. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP & A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant:</b>	AUSGRID (c/- Doug Sneddon Planning Pty Ltd)
<b>Owner:</b>	Ausgrid
<b>Application No:</b>	DA/212/2013
<b>Description of Land:</b>	Lots 21, 22 & 24 DP 1169877, Lot 7 DP 1154907, Lot 9 DP 229682 & Lot 10 DP 1136364 – 1-17 Ourimbah Creek Road Ourimbah
<b>Proposed Development:</b>	Regional Works Depot
<b>Site Area:</b>	3.91Ha
<b>Zoning:</b>	Part 4(b) – Light Industrial & Part 6(c) – Proposed Open Space and Recreation.
<b>Existing Use:</b>	Truck Depot and Residential Dwelling
<b>Employment Generation:</b>	288 EFT staff comprising 75 Office 212 Field staff
<b>Estimated Value:</b>	Approximately \$16.8m

#### **RECOMMENDATION**

- 1** *That the Joint Regional Planning Panel grant consent to DA 212/2013, subject to the conditions of consent contained in Appendix A.*
- 2** *That the NSW Roads and Maritime Service be advised of the determination.*

#### **INTRODUCTION**

##### The Site

The subject site is known as 7-17 Ourimbah Creek Road and 163 Pacific Highway and is comprised of Lot 7 DP 1154907, Lot 9 DP 229682, Lots 21, 22 & 24 DP 1169877 & Lot 10 DP 1136364. The site has frontages to both the Pacific Highway and Ourimbah Creek Road and is hemmed to the west by the F3 Freeway, the road frontages to the south and east and NSW Roads and Maritime Service land to the north to form a distinct land unit with limited adjoining neighbours. The site boundaries are irregular however; the site tends to be rectangular in shape.

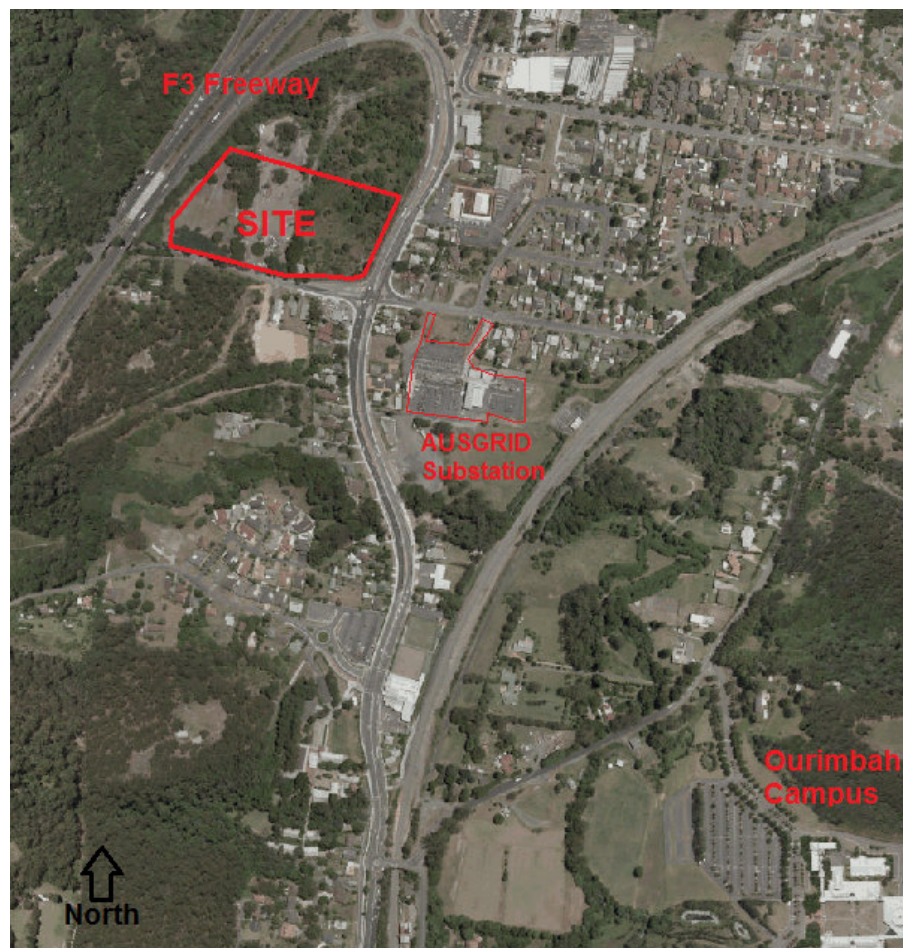
The site contains an existing easement for the transmission of electricity which is 30m wide.

The site is relatively flat however there is some fall across the site from south to north and west to east. There are minor undulations at various locations across the site with elevations ranging between approximately 18.5m AHD and 21.9 AHD. The majority of the site falls between the levels of 20AHD and 19AHD. The surface of the Pacific Highway along the frontage of the site is elevated by approximately 1-1.5m above the natural ground level on the site.

Landscaping to the road frontages is in an established state although has not been maintained and is populated by exotic species and including weeds. Preliminary site works including vegetation clearing, site levelling and filling has been granted development consent pursuant to Development Application DA/115/2013 which will result in the clearing of any vegetation not to be retained as landscaping within perimeter of the site.

Storm water drainage exists along the Pacific Highway frontage in the form of an open swale drain which drains to an existing 675mm pipe draining in an easterly direction underneath the Highway.

The existing use does not include any significant permanent buildings and generally concerns the storage of plant, trucks and other nondescript materials. There is an existing dwelling on the rear portion of the site that is to be demolished which is likely to contain asbestos materials.

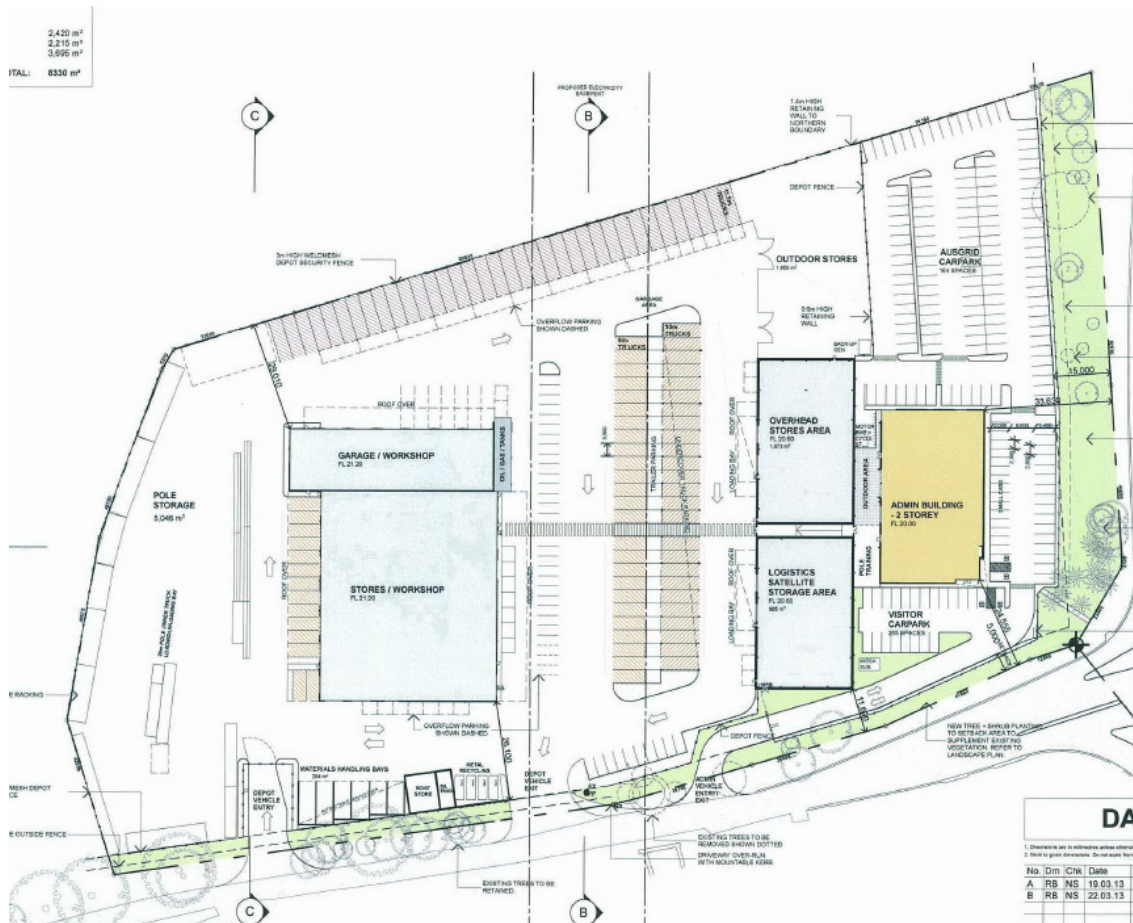


Aerial photo of the locality depicting proximity to transport links and other utility installations.

## The Proposed Development

The development application describes the proposed development as a regional works depot which comprises a building footprint of 6950m<sup>2</sup> and a total floor area of 8,330m<sup>2</sup>. There are four main buildings which will incorporate the following features which are also depicted on the plan included below,

- Administrative facility including office, conference and staff facilities,
- Staff amenities (locker rooms, showers etc) for field staff,
- Vehicle servicing area, wash bay,
- Warehousing and storage of network, stores and communication components, and
- Recycling and waste collection facilities.



Extract of the site plan depicting the layout of the proposed buildings and works

Source: SHA

The proposed buildings range in height from approximately 8m for the office building to approximately 12m for the workshop/stores building. The buildings have been arranged on the site such that the office is located within the most prominent part of the site addressing the corner of Ourimbah Creek Road and the Pacific Highway. The existing and proposed landscaping will generally screen the site when viewed from the Pacific Highway with the exception of the corner where the landscaping reduces in intensity and utilises an existing clump of palm trees to create a vista to the building behind.





Photomontage of the proposed development as viewed from the corner of Ourimbah Ck Rd and the Pacific Hwy.  
Source SHA

The buildings are generally simple in form with variation in roof elements and external finishes intended to provide some visual interest and continuity between the buildings. The office building has been designed with a prominent glass foyer element to provide a legible connection between the building and the public domain. Being the primary visual connection to the passing public the office has additional treatment to the external finishes beyond that offered on the workshop and storage buildings.

The site will also accommodate,

- Outdoor training facilities,
- Secured parking area for service vehicles, trucks and machinery,
- Outdoor storage areas for consumables and poles, and
- Staff and visitor parking including motorbike and bicycle areas.

The site will be secured by a combination of a 3m prison style fence enclosing the depot, service vehicle storage and outdoor storage areas and a 3m palisade style fence enclosing the front portion of the site surrounding the office and associated car parking.

The development will accommodate 288 staff (75 Office Staff & 212 Field Staff).

The proposed hours of operation are,

- 6am – 12am 7 Days per week,
- 24hr operation during times of emergency such as natural disasters.

The new depot facility at Ourimbah will be the central base from which AUSGRID services the Central Coast region. The nature of the AUSGRID work is to respond to outages of the network as is required on a 24 hours a day basis. There will ordinarily be a small network operating team (up to 2 staff) located within a stand-by room in the office building on an on-call 24/7 basis and a fleet maintenance team (up to 5 staff) located within the garage workshop on a Monday - Friday, shift ceasing at 12 midnight. The depot will be required to operate out of regular business hours when responding to emergency power outages and the like.

## Referrals

The application has been referred Council's:

- Development Ecologist,
- Arborist and Landscaping Officer,
- S94 Contributions Officer,
- Development Engineer,
- Trade Waste Officer,
- Transportation Engineer, and
- Water and Sewer Planning Engineer.

The issues raised in the referral process are discussed in the report and where relevant reflected in the conditions of consent.

Pursuant to the relevant provisions of the State Environmental Planning Policy – Infrastructure, the development application was referred to,

- NSW Roads and Maritime Service, and
- AUSGRID.

## Summary

Subsequent to the preliminary assessment of the proposed development Council conveyed to the applicant a number of recommended civil engineering requirements amongst other draft requirements which Council intended to impose as conditions of consent. Following initial discussions with the applicant a conference was held in the spirit of S89 (1) (b) of the Environmental Planning and Assessment Act 1979, between Council Officers, the Applicant and members of the AUSGRID project team. The following matters were the principle subject of the conference,

- Proposed requirement for the upgrading of Ourimbah Creek Road,
- Options for on-site stormwater detention,
- Proposed water and sewer infrastructure requirements, and subsequently
- S94A Contributions.

## **VARIATIONS TO POLICIES**

The proposed development does not pose any variations to any development standards or other relevant policies.

## **HISTORY**

The subject site has been historically utilised for,

- Agriculture and horticulture,
- School Bus depot,
- Truck depot,
- Residential Dwellings, and
- Development consent was issued in 2007 for an industrial development comprising 9 units and various incidental uses such as a sandwich shop. This consent has since lapsed,

- Preliminary site works including vegetation clearing, site levelling and filling has been granted development consent pursuant to Development Application DA/115/2013 which will result in the clearing of any vegetation not to be retained as landscaped within perimeter of the site.

Council has recently resolved to adopt a new Comprehensive Local Environmental Plan which contains a draft IN2 – Light Industrial Zoning for the land.

## **PERMISSIBILITY**

The provisions of the Infrastructure SEPP (SEPP Infrastructure) apply to the site. Pursuant to Division 5 Electricity transmission or distribution, certain development is either permitted without development consent or is exempt. The proposed development does not involve any of the following items and is not exempt development or permitted without consent under this division of the SEPP Infrastructure;

- (a) above or below ground electricity transmission or distribution lines (and related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, ventilation and access structures),*
- (b) above or below ground electricity kiosks or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings.*

### **Division 14 - Public administration buildings and buildings of the Crown**

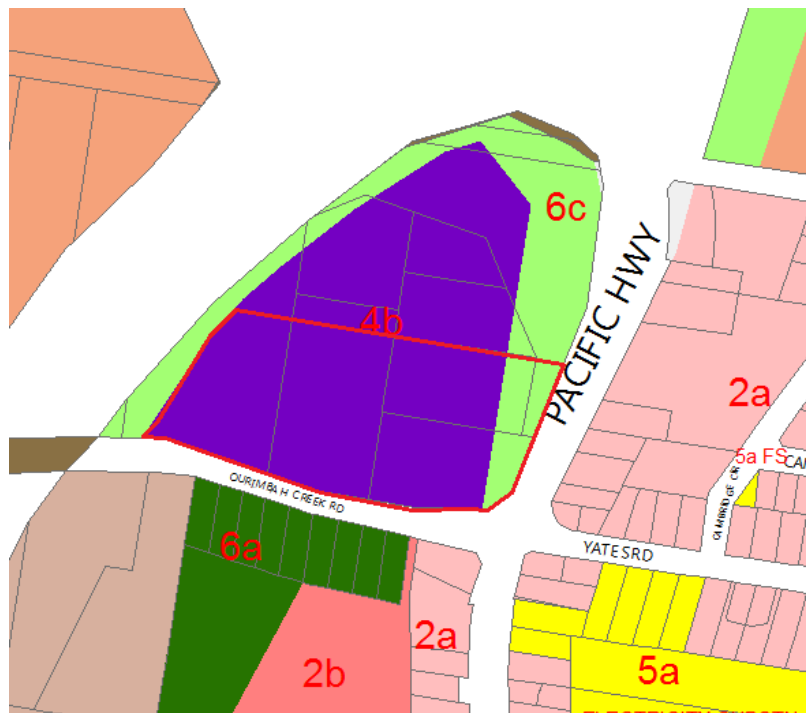
Division 14 - Public administration buildings and buildings of the Crown, SEPP Infrastructure permits development for the purpose of a public administration building with consent within prescribed zones or where the public administration building is to be carried out in association with an infrastructure facility.

The subject site is not within a zone prescribed for the purposes of Division 14 and the proposed development is not ancillary to or located on the same land as an infrastructure facility as defined by the SEPP and therefore is not permitted with consent under the SEPP.

### **Wyang Local Environmental Plan 1991**

Given that the proposal is not permitted without consent or classified as exempt development under the SEPP Infrastructure the consideration of permissibility turns to the Wyong Local Environmental Plan 1991 (WLEP 1991).

The subject site is zoned part 4(b) – Light Industrial and part 6(c) – Proposed Open Space and Recreation under the Wyong Local Environmental Plan 1991 (the WLEP 1991) as depicted on the map extract provided below.



Zone map extract from the WLEP 1991 – The site is depicted in red. Source: Eview

The proposed development is described by the applicant as a regional works depot which is considered to be a reasonable plain English summation of the development however, regional works depot is not a land use definition contained within clause 7 – Definitions, of WLEP 1991. The following definition is relevant to the characterisation of the proposal.

**depot** means a building or place used only for the storage (but not sale) of any plant, machinery, materials or goods used or intended to be used by the owner or occupier of the building or place, but does not include a building or place elsewhere specifically defined in this clause.

In this instance the definition of depot is considered to be the appropriate land use definition. The office use proposed as part of the overall development is considered to be ancillary to the dominant use of the site as a depot.

#### Clause 10 - Zone objectives and development control table

Pursuant to Clause 10(2) of the WLEP 1991 the proposed development is considered to be development permitted with consent in both the 4(b) – Light Industrial and 6(c) – Proposed Open Space zones.

#### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

The Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy 33 – Hazardous and Offensive Development
- State Environmental Planning Policy 64 – Advertising and Signage
- Wyong Local Environmental Plan 1991

- Development Control Plan 2005 - Development Controls for Wyong Shire
  - Chapter 50 - Advertising signs
  - Chapter 61 - Parking and Access
  - Chapter 67 - Engineering Requirements for Developments
  - Chapter 69 - Controls for Site Waste Management
  - Chapter 70 - Notification of Development Proposals
  - Chapter 71 – Industrial Development
- Landscape Policy and Guidelines
- Waste Management Guidelines

## **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

## **Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts.

## **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

## **THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**

### **State Environmental Planning Policy – (Infrastructure) 2007**

SEPP Infrastructure was formulated to, amongst other things; create regulatory efficiency in the delivery of infrastructure by providing consent and consultation requirements where appropriate. The consent provisions of the SEPP Infrastructure have been considered in a previous section of this report. The following is a summary of the consultation and assessment criteria provisions that relate to the proposal.

#### 45 Determination of development applications—other development

The proposal involves works adjacent to an easement for electricity purposes therefore before determining the development application, the consent authority must:



- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*

Comment:

AUSGRID is the relevant authority and was given written notice of the proposed development in accordance with this clause.

- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

Comment:

AUSGRID being the beneficiary of the current proposal has elected to yield the right to comment on the proposal.

#### 101 Development with frontage to classified road

The subject site has frontage to a classified road which engages clause 101. The consent authority must not grant consent to the development unless it is satisfied that,

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

Comment:

The proposed development derives access via Ourimbah Creek Road and is therefore consistent with this provision.

- b) the safety, efficiency and on-going 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*

Comment:

The development application includes a traffic impact study that has been reviewed by Council's Development Engineer and the NSW Roads and Maritime Service. The proposed development is not regarded as having the potential to undermine the safety or level of service of the adjoining classified road (refer to the RMS comments in relation to CI 104 below).

The final development scenario involves the sealing of all hard stand and vehicle parking/manoeuvring areas which will limit the on-going emission of dust from the site. There are no expected smoke emissions that will result from the proposed use which would ordinarily adversely affect the operation of the adjoining classified road.

It is likely that during the construction phase of the development there will be dust generated by the works on the site however, this impact may be adequately managed via the conditions of consent.

*(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.*

Comment:

The proposed development is not considered to be sensitive to traffic noise and proposed buildings, distance to the carriageway and landscaping are expected to provide acceptable level of noise attenuation for the occupants of the site.

#### 104 Traffic-generating development

The proposed development is a scheduled development for the purposes of CI 104(1) and therefore before determining a development application, the consent authority must:

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

Comment:

The proposed development was notified to the NSW Roads and Maritime Service in accordance with this clause.

*(b) take into consideration:*

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

Comment:

The RMS provided the following comment in response to the referred application,

*'RMS has reviewed the information provided and has no objections to or requirements for the proposed development as there would be no significant impact on the classified road network or the traffic signals at the Central Coast Highway/Ourimbah Creek Road/Yates Road intersection.'*

The RMS is considered as being expert in the assessment of the likely traffic impact associated with the proposal on the classified road. The likely impact of the development on the classified road network is considered to be acceptable.

*(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*

Comment:

The location of the site and proposed use do not lend themselves readily to multi - purpose trips. The movement of materials to and from the site by virtue of the service provided does not make the utilisation of rail facilities practicable. The site is well serviced by the classified road network with good practical access to the main north south transport link and the subsequent east west distributor roads that radiate from the freeway which makes the site a suitable location for an operational hub.

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

Comment:

The proposed development seeks to accommodate all necessary parking requirements within the site and no off-site impacts are expected in relation to car parking. The development is not expected to prejudice the safe and efficient operation of the classified road as reflected in the RMS comments above. The impact of the proposal on the local road is considered elsewhere in this report.

### **State Environmental Planning Policy 33 - Remediation of Land**

SEPP 33 establishes measures by which development may be characterised as hazardous and or offensive and provides for the consideration of mitigation measures as they relate to development. Where the provisions of this SEPP are engaged there are certain matters required be considered by consent authorities.

A hazardous storage establishment is defined by SEPP 33 as,

***hazardous storage establishment*** means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on the other land in the locality), would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or*
- (b) to the biophysical environment.*

The proposed development involves the storage of various potentially hazardous materials however, these materials are not to be stored in volumes or locations that fall within the above definition and therefore no further consideration of SEPP 33 is required.

### **State Environmental Planning Policy 55 - Remediation of Land**

Under cl 2(1), the object of this Policy is to provide for a State-wide planning approach to the remediation of contaminated land. Clause 2(2) aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The application includes a phase 2 assessment carried out in accordance with SEPP 55 and certification that remediation works were subsequently carried out on the site. It is noted that the certificate was published in 2009 and the site has continued to operate as a depot since that time. The site also contains asbestos materials within and around a dwelling to be demolished pursuant to development consent DA/115/2013.

The phase 2 assessment and certification suggest that the site may be readily rendered fit for the intended use. It is noted that the proposed development includes the importation of fill and the sealing of the site which will further reduce the potential for occupants of the site to be brought into contact with any unknown contaminated land that has not been identified. In this instance compliance with the recommendations of the site clean-up report are considered sufficient to satisfy the provisions of SEPP 55. The following recommendations are included as a condition of consent to supplement the conditions of development consent DA/115/2013.

Asbestos materials should be managed with reference to the GHD Report – Hazardous Materials Assessment. Lot 100 DP 861858, Lot 1 and 7 DP 14377 and Lot 3 DP218361, Ourimbah, November 2009 (Ref: 22/14672/88060) and any relevant legislation, code of practice and or guideline relating to the testing for, collection and disposal of asbestos containing materials.

### **State Environmental Planning Policy 64 – Advertising and Signage**

SEPP 64 provides for the regulation of advertising and signage within NSW. Clause 8 requires the consent authority to be satisfied that signage is consistent with the objectives of clause 3(1)(a) and the matters specified in Schedule 1 before granting consent to the display of signage. The objectives are included below.

*(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*

The proposed business identification sign is considered to be commensurate with the scale of the proposed buildings and the desired character of the area. The signage will suitably identify the occupant of the site from the vista to the development afforded by the landscaping.

The proposed sign is to be externally lit and will not protrude above the building or landscaping and is not likely to pose a threat to the amenity of the area. The matters specified in Schedule 1 have been adequately considered in the design of the signage and the proposal is acceptable in the terms of SEPP 64. The proposal includes the erection of various free standing signs which are considered to be traffic directional signs and are not subject to the provisions of SEPP 64.

### **Wyong Local Environmental Plan 1991**

The proposed development has been assessed in the terms of the WLEP 1991, these considerations are summarised below.

## 6 Adoption of Model Provisions

The WLEP 1991 adopts certain provisions of the EP& A Act Model Provisions as provisions of the LEP. The relevant clause of the Model Provisions is included below.

### 35 Savings

*Nothing in the local environmental plan shall be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:*

*(a) the carrying out of development of any description specified in Schedule 1,*

*Schedule 1– (2)The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings, that is to say:*

*(f) any other development except:*

*(i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings, or*

*(ii) the formation or alteration of any means of access to a road.*

Comment:

The proposed development involves the erection of buildings and therefore the consent authority's ability to restrict or prohibit the proposed development is not curtailed therefore the consent authority retains the ability to place conditions of consent on the proposed development.

### Clause 10(3) - Zone objectives and development control table

The consent authority must not grant consent to the carrying out of development unless in the opinion of Council the proposed development is compatible with the objectives of the relevant zone. It is considered that clause 10(3) operates in spite of clause 10(2) in that if a permitted development is not compatible with the objectives of the zone it must not be granted consent.

In this regard the objectives work in unison with the development control table to specify the intensity, character and nature that proposed development should assume to be acceptable in the respective zone. The apposite meaning of compatible in this sense is that development should be non-deleterious and capable of being in harmony with the zone objectives.

The majority of the development is located within the 4(b) portion of the site

*Zone No 4 (b) (Light Industrial Zone)*

*The objectives are:*



- (a) *to provide opportunities for the development of a wide range of industrial, service and storage activities which do not have a materially detrimental effect on the amenity of adjoining residential areas, and*
- (b) *to restrict commercial, retail or other development except where it is ancillary to the use of land within this zone for light industrial, service and storage purposes, and*
- (c) *to enable the Council to provide more detailed guidelines about industrial development in a development control plan.*

Comment:

The proposed development comprises various uses associated with a utility undertaking which are considered to fit within the intended uses of the zone. Objective (a) includes a test that relates to land use conflict in that uses of the 4 (b) Light Industrial Zone must not have a material detrimental effect on the amenity of adjoining residential areas.

A material detrimental effect would be an impact that results in a significant reduction in the amenity of any nearby residential areas. Amenity being to the ordinary enjoyment of one's home, private spaces and public domain. The question in this instance is whether the development will produce emissions or have such an effect that someone would be no longer able to enjoy the ordinary activities associated with residential living.

The proposed use does not involve activities which would ordinarily involve emission of smoke, dust or odour other than that associated with the operation of roadworthy vehicles within the site. There is sufficient physical separation between the development and adjoining and adjacent development to ensure there are no physical impacts such as overshadowing, overlooking or view loss associated with the proposal. The proposal includes substantive existing and proposed landscaping to the most prominent frontage of the site and is not likely to be visually intrusive in the landscape.

It is considered that the primary source of potential impact on residential amenity associated with the proposed development will relate to noise generated by the use of the site. In this regard the operation of machinery, workshop equipment, vehicles and the movement of materials on the site, may be new elements in the soundscape which is presently dominated by road noise associated with the Pacific Highway and F3 Freeway.

In this regard the tone and frequency of noise in addition to sound power levels has an effect on whether noise is considered to be a nuisance or not, for example, the stacking of metal upon metal or the operation of a reversing warning alarm may be more intrusive than the existing background noise regardless of the sound power level emitted.

The adjacent dwellings that front the Pacific Highway are at a minimum 60m from the proposed administration building and approximately 200m from the proposed workshop and stores building and external pole storage areas. The closest dwelling to the workshop and stores building is located southwest of the site adjacent to the F3 Freeway and is approximately 160m from the building.

The proposed buildings have been configured so that the workshop and stores and outdoor storages are located as far as is practicable from the dwellings located to south and east of the development in order to provide distance attenuation. The distance attenuation will be assisted by the landscape screening provided along the road frontages of the site and

administration building. It is considered that the administration building is not likely to generate any discernible noise impacts.

There are no inherent noise generating activities associated with the proposed use that won't be mitigated through the arrangement of the buildings and activities on the site which are not able to be further managed through appropriate management practices, for example loading and unloading procedures and the maintenance of equipment in a proper working order.

It is considered that the existing residential amenity can be adequately maintained via the conditions of consent which will ensure that the proposal is compatible with its surrounds and therefore is acceptable in the 4(b) zone.

The proposed development does not include any commercial, retail or other like use and is compatible with objective (b) of the 4(b) Light Industrial Zone.

*Zone No 6 (c) (Proposed Open Space and Recreation Zone)*

*The objectives are:*

- (a) to identify land, not in public ownership, that will be acquired by the Council and is proposed to be used principally for the purposes of public open space and recreation, and*
- (b) to allow any other use, with the consent of the Council, provided that the use does not:*
  - (i) adversely affect the usefulness of the land for the purposes for which it is required, or*
  - (ii) prejudice proposals for the acquisition of land as referred to in paragraph (a).*

Comment:

The subject site is split zoned for the purposes of retaining a vegetated buffer to the Pacific Highway frontage of the site to preserve the visual amenity of the locality. There are no plans to acquire the land for public purposes furthermore, Council at its 8 May meeting resolved to zone the site IN2 – Light Industrial in recognition of the relatively degraded state of the existing vegetation on the site. The draft IN2 Light Industrial zoning is recognition that a vegetation buffer can be maintained via the development application process and the application of an environmental protection zones or acquisition zone is not appropriate given the site conditions.

The construction of clause 10(3) requiring development to be compatible with the zone objectives is not as prohibitive as the case would be if the clause required compliance with the zone objectives. In this regard the proposed development does not have to comply with the zone objective but be compatible with the objectives.

The proposed development is considered compatible with the objectives of the 6(c) zone in that firstly, Council as the relevant authority does not intend to pursue acquisition of the land thereby limiting the relevance of objective (a) and secondly, the part of the development to be located within the 6(c) zone portion of the site is largely comprised of landscaping and open car park which is compatible with the intent of the initial application of the zone which was to preserve a vegetative buffer.

The proposed development is compatible with the objectives of the 6(c) zone.

#### 15 - Acid Sulphate Soils

Clause 15 requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The subject site is not identified as being as being actual or potential acid sulphate soil on Council's Acid Sulphate Planning Map.

#### 28 Tree management

The removal of trees from the land and associated stabilisation works have been previously granted consent pursuant to DA/115/2013 and no further tree removal is proposed under the current application. It is considered that subject to a condition of consent requiring compliance with the provisions of development consent DA/115/2013 the proposal is satisfactory in terms of clause 28.

#### Clause 29 - Services

The Council shall not grant its consent to the carrying out of any development on any land unless:

*(a) an adequate water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or*

*(b) arrangements satisfactory to the Council have been made for the provision of that supply and those facilities.*

#### Comment:

The subject site has existing connections to the reticulated water system however, in accordance with the relevant development servicing plan a number of upgrades will be required by Council as the relevant water authority. It is noted that contributions for water and sewer headworks will be levied by the water authority.

At present there is no reticulated sewerage to the site. Council's Development Engineer has indicated that subject to the installation of an on-site pump station and connection to the reticulated system via a private sewer main the proposal is considered acceptable in terms of services. The private sewer main may be accommodated within Council owned land and deferral of the proposal pending the registration of an easement is not warranted in this instance.

Stormwater collection including provision for on-site stormwater detention and water quality treatment is provided. Subsequent to costing the proposed on-site detention system the applicant has sought to reduce the amount of subterranean storage which is a capital intensive form of drainage by augmenting the system with above ground storages. The use of above ground storages which operate with gravity is considered to be a more sustainable outcome than sole reliance on pumps and underground tanks. The recommended conditions of consent have been constructed in a performance manner to allow for the exploration of different drainage options during the detailed design phase of the development. Alteration to the stormwater drainage system is not likely to materially alter the scale, nature or character of the proposed development.

#### 34 Development of known or potential archaeological sites

There are no known archaeological sites or evidence that gives rise to suspect the potential for the existing of archaeological sites on the land to be developed.

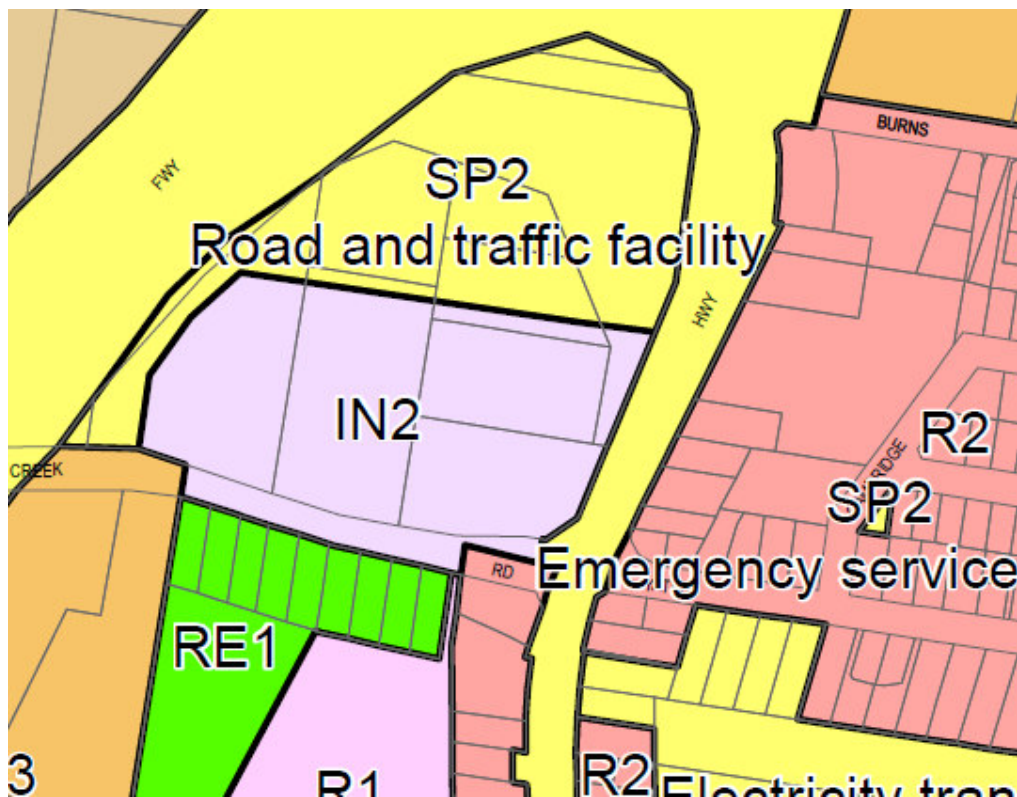
### 35 Development in the vicinity of heritage items, archaeological sites or potential archaeological sites

There is a locally listed heritage item located approximately 300m north east of the site. The item is an example of an early workers cottage which is considered to be of historic significance. The proposed development will not be perceived within the same streetscape and has otherwise a very limited relationship to the heritage item. The proposed development is considered to be acceptable in terms of the likely impact on heritage items, archaeological sites and potential archaeological sites.

### **Draft Wyong Local Environmental Plan 2012**

The Draft Wyong Local Environmental Plan 2012 (draft LEP) was recently exhibited in accordance with Section 66 - Public exhibition of draft local environmental plan. A Section 68 report has been considered by Council who passed a resolution to endorse the Draft LEP and forward the draft instrument to the Minister. In accordance with the provisions of S79C (1)(a)(ii) this draft instrument is to be considered in the assessment of any development application to which S79C applies.

The Draft LEP was exhibited with draft zoning of the site as part IN2 – Light Industrial and part E2 – Environmental Conservation. The subsequent Section 68 report recommended that the draft zoning be adjusted to wholly IN2 which was adopted by a resolution of Council. The amended draft zoning is depicted on the map extract below.



Draft LEP zone map extract depicting the subject site as draft IN2 zone.

Source: WSC

The proposal is defined under the Draft LEP as a depot and ancillary public administration building. The proposed development is a permitted use with consent in the IN2 zone. The draft zone objectives are not dissimilar from those of the current Light Industrial zoning and

proposal would not be adverse to the draft zoning. The draft IN2 zone objectives have been included below for reference.

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

There are no specific height of building, heritage or floor space ratio restrictions within the Draft LEP that are applicable to the subject site or development.

### **Wyong Council Development Control Plan 2005**

Council has provisions that relate to industrial development with the Development Control Plan (DCP) 2005 - Development Controls for Wyong Shire which is considered in more detail below.

### **Development Control Plan – Chapter 14 Tree Management**

The removal of trees from the land and associated stabilisation works have been previously granted consent pursuant to DA/115/2013 and no further tree removal is proposed under the current application. Council's Arborist has recommended that tree protection measures be included as conditions of consent to preserve the integrity of trees to be retained on the site. These conditions have been included in the schedule of recommended conditions.

### **Landscape Policy and Guidelines**

Council's Landscape Policy and Guidelines requires the landscape design for the development to be a Category 3 development that requires the expertise of an approved Landscape consultant. A landscape plan has been submitted as part of the development application and this has been further augmented by the submittal of a schedule of proposed plants to be utilised in the landscaping of the site. It is considered that the detail submitted is sufficient to demonstrate compliance with the Landscaping Policy however, a condition of consent has been included requiring the preparation of a detailed landscaping plan that adopts the revised schedule of plants.

### **Development Control Plan – Chapter 61 Parking and Access**

Clause 3.2 – calculation of car parking spaces indicates that parking for the proposed development should be provided at the following rates based on gross floor area (GFA).

<b><i>Component</i></b>	<b><i>Required Rate</i></b>	<b><i>Required Amount</i></b>	<b><i>Provided</i></b>
Office	1 Space / 40m <sup>2</sup> GFA plus service vehicles 1 Space/ 2000m <sup>2</sup>	63	
Workshop	6 Spaces per Bay	30	



Warehouse	1 Space / 300m <sup>2</sup> plus service vehicles 1 Space/ 800m <sup>2</sup>	28	
Total		<b>121</b>	<b>188</b> General car parking spaces  <b>215</b> Service Vehicle parking spaces

The proposed development also incorporates motorbike parking for up to 16 vehicles and a lockable bicycle storage area accommodating 20 bicycles.

The car parking is provided in two separate areas which are physically separated. The main car parking area is adjacent to the administration building and provides parking for staff and visitors at a rate which exceeds the numerical requirements of the DCP. The additional parking provided on the site is for the AUSGRID service vehicles and trucks and has not been utilised in the calculation of compliance with the parking requirements. Council's Development Engineer has reviewed the proposed car parking and access and has found the proposed parking and manoeuvring areas commensurate with the likely usage.

The proposal includes providing a pedestrian link to the existing crossing and footpath within the Ourimbah Creek Rd frontage. The requirement for constructing additional footpaths within the road frontages is not being pursued by Council as it is undesirable to direct pedestrians into these locations.

The applicant was requested to investigate the provision of shade trees throughout the car parking areas. In this instance the applicant has not amended the proposal citing the physical lack of manoeuvring area within the main staff car park and the location of the on-site storm water detention system beneath the car park as limiting factors in the provision of treed landscaping areas.

Approximately 54 service vehicle car parking spaces are located under covered areas and a large number of staff parking spaces directly abut the landscaped frontage of the site. The provision of additional landscaping within the parking areas is considered to be desirable however, modification of the car parking and manoeuvring areas was not considered warranted.

#### **Development Control Plan – Chapter 67 Engineering Requirements**

Wyong Council DCP 2005 Chapter 67-Engineering Requirements outlines the minimum standards and guidelines for the engineering works required for developments. Council's Development Engineer has reviewed the application in relation to compliance with relevant aspects of DCP Chapter 67 – Engineering Requirements and found the proposal to be generally acceptable subject to the conditions of consent.

#### **Development Control Plan – Chapter 69 Controls For Site Waste Management**

In accordance with the requirements of DCP Chapter 69, a Waste Management Plan was submitted with the application which is considered to be satisfactory in terms of Chapter 69.

#### **Development Control Plan – Chapter 75 Industrial Development**

The following table summarises the relevant provisions of Chapter 75 of the DCP in relation to the original assessment for the building and the current use.



Assessment table – DCP 75 – Industrial

Issue	Required	Proposed	Complies
Site coverage	0.5:1	Site area = 39,188 m <sup>2</sup> Building footprint = 6,950 m <sup>2</sup> Site Coverage = 0.177:1	YES
Floor space	0.8:1	Site area = 39,188 m <sup>2</sup> Building area = 8,330 m <sup>2</sup> FSR = 0.021:1	YES
Front setback	10m	The front setback is a distance of 15.0 meters	YES
Side & Rear setbacks	5m (nil to one side)	The proposed development proposes a minimum side setback of approx. 11.6m with the majority of side and rear setbacks being in excess of 20m	YES
Design and Appearance	Attractive and functional building, with respect to surrounding estate.	The subject site is not located within an industrial estate and will be a stand-alone site in terms of its relationship to the surrounding area. It is considered that the proposal presents as a coherent collection of buildings with consistent forms, materials and colours. The street address is desirably limited by the existing and proposed landscaping	YES
Thematic links	Compatibility with remainder of estate		
Building height	Height based on function and appearance	As per typical industrial building.	YES
Customer entry	One door per unit	The proposed administration building has a relatively strong visual element for the entrance to the building which provides a good street address and legibility to the function of the building and site.	YES
Car parking	Refer to DCP No 61	DCP Chapter 61 been considered above and the proposal has been found to be acceptable in terms of the proposed vehicle access and parking.	YES

<b>Energy and water efficiency</b>	Encourage efficient use of water and power	The proposal involves the installation of an onsite storm water detention system and water retention tanks for onsite use. The proposed buildings will comply with the relevant building controls of NSW including Section J of the Building Code which addresses energy efficiency.	YES
<b>Air, Noise and odour control</b>	Promote efficient and healthy environment	The potential for noise generation was considered above in relation to the objectives of the zone and subject to the conditions of consent the proposal was found to be acceptable.	YES
<b>Site contamination</b>	Ensure suitable site constraints	Potential site contamination was considered above in relation to SEPP 55 and the proposal was found to be acceptable subject to the conditions of consent.	YES
<b>Site excavation/fill</b>	Limit site works to avoid excessive excavation	The preliminary site works includes filling of the site to achieve suitable levels to accommodate drainage and vehicle manoeuvring within the site. At the maximum depth this fill may be 1400mm which is considered to be commensurate with the constraints of the site and the type of development. The conditions of consent will require appropriate compaction and retaining walls to be carried out.	YES

### **THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b) ):**

#### **The relationship to the regional and local context and setting.**

The proposal is considered to be satisfactory in terms of its integration into the streetscape, the scale of the buildings is not likely to be an overbearing influence on the streetscape. The proposed development will not result in any undue overshadowing, view loss or privacy impacts in the locality.

#### **The access, transport and traffic management measures.**

Council's Development Engineer has reviewed this aspect of the proposal and provided the following comments.

*The proposed development is located on the corner of Ourimbah Creek Road and the Pacific Highway. Ourimbah Creek Road connects to the Pacific Highway by traffic signals and was constructed with the RMS upgrade of the Pacific Highway. Ourimbah Creek Road is a local road with a posted speed limit of 60km/h providing access to rural properties to the west. GHD Consulting Engineers have prepared a "Traffic Study" supporting the proposed development. For assessment of this study refer to Council's Transportation Engineers report.*

*To accommodate the heavy vehicle traffic generation and continued use along this section of Ourimbah Creek Road it is recommended that the carriageway be widened to a minimum of 8.0 metres. The 8.0 metre width would provide sufficient width to ensure a safe vehicle passing along this section of the carriageway and improve sight distances for all road users.*

*The required roadwork will include transitional works from the western truck entry access extending along Ourimbah Creek Road to join the existing pavement. These works may include clearing of vegetation, footway grading, pavement formation, sealing, line marking and signage.*

*Minor road widening will be required across the frontage of the site in between the "Entry Road 1" and the "Exit Road" (Depot truck access) to maintain a minimum of 4.0 metres footway width for service utility allocations. Service utility adjustments and relocations will be necessary to meet the relevant service provider requirements. The roadwork will include the provision of line marking and road signage requiring the approval of the Local Traffic Committee prior to the issue of a Construction Certificate for the roadwork's.*

In addition to Council's Development Engineer the NSW RMS has considered the impact of the proposal on the classified road network and provided the following comment.

*'RMS has reviewed the information provided and has no objections to or requirements for the proposed development as there would be no significant impact on the classified road network or the traffic signals at the Central Coast Highway/Ourimbah Creek Road/Yates Road intersection.'*

It is considered that subject to conditions of consent addressing the construction of a suitably wide carriageway being formed to ensure the safe operation of the local road and at a level of construction which ensures a reasonable life of the asset, the proposal is considered to be satisfactory in terms of the likely traffic related impacts.

#### **The impact on utilities supply.**

There is no adverse impact upon utilities supply as a consequence of the proposal.

#### **The effect on heritage significance.**

The site is not heritage listed and the locally listed heritage item located nearby will not be adversely impacted upon by the development.

#### **Any effect on other land resources.**

There are no unreasonable or significant adverse impacts on other land resources associated with the proposal. The development will not have any adverse impact upon conserving and using valuable land resources such as mineral and extractive resources, agricultural land or any water supply catchment.

#### **Any impact on the conservation of water.**

The proposal includes measures to treat storm water runoff quality and retain and reuse water and is acceptable in terms of the conservation of water.



**Any effect on the conservation of soils or acid sulphate soils.**

Acid Sulphate Soils

The issue of acid sulphate soils has been discussed earlier in the report.

Contamination

The issue of contaminated soils has been discussed earlier in the report.

**Any effect on quality of air and microclimate conditions.**

There are no unreasonable or significant adverse impacts upon the air quality and microclimate conditions associated with the completed development. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the completed development on the site. During construction potential air quality impacts would be addressed by the conditions of consent.

**Any effect on the flora and fauna.**

The effects on flora and fauna were initially considered in the assessment of Development Application DA/115/2013 and found to be acceptable subject to the conditions of that consent. A further flora and fauna assessment has been submitted detailing the likely impacts of the current proposal which has been reviewed by Council's Development Ecologist and found to be acceptable.

**Whether the development will be energy efficient.**

The proposal is expected to comply with the relevant part of the Building Code, Section J and the waste management plan which is considered to satisfactory in terms of energy efficiency.

**Whether the development will cause noise and vibration.**

It is not anticipated that there will be any significant or unreasonable noise and vibration associated with the completed development. If nuisance noise is encountered it is likely to be associated with the operation of the site and not through any inherent quality of the use therefore a condition of consent will require the achievement of performance criteria in relation to noise generation. Noise generated during construction and any unforeseen noise impacts can be controlled by suitable conditions of consent.

**Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).**

The subject site is located approximately 1.0m above Council's adopted flood level for the site. The site is mapped as being bushfire prone land. There are no applicable requirements of Australian Standard AS3959 which relate to the development. The proposal is considered to be consistent with the objectives of Planning for Bushfire Protection by the provision of defendable spaces around all buildings, the on-site storage of water, the use of non-combustible building materials, back-up power supplies and internal essential fire services.

**Any risks from technological hazards.**

The storage and use of materials on site are not expected to result in any undue risks or hazards.

**Whether the development provides safety, security and crime prevention.**

The proposal includes the erection of security fencing and associated cctv monitoring equipment which is considered to be satisfactory crime prevention measures.

**Any social impact in the locality.**

There are no matters related to social impact associated with the development of the site that require further consideration or discussion.

**Any economic impact in the locality.**

There are no matters related to economic impact associated with the development of the site that require further consideration or discussion.

**Any impact of site design and internal design.**

Details submitted with the application indicate that the proposed building and site layouts are fit for purpose. The administration building houses the proposed office area on the second floor however, a lift and all access toilet facilities have been provided such that the building facilitates equitable employment.

**Any impacts of construction activities (construction site management, protection measures).**

A condition requiring the preparation of a construction environmental management plan has been recommended to address the environmental impacts associated with the construction phase of the development.

**Any cumulative impacts.**

There are no matters related to cumulative impact associated with the development of the site that require further consideration or discussion.

**THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):**

**Whether the proposal fits in the locality. Whether the site attributes are conducive to development.**

There are a number of elements that make the site desirable for the proposed use. The location of the site affords AUSGRID the ability to gain efficient access to its transmission through good transport linkages to classified roads in addition to the site being geographically central to the transmission network. These desirable attributes do not come with significant negative externalities. The site by virtue of the existing road networks, topography and land use zoning is relatively isolated from adjoining and adjacent development. There are no physical constraints to development on the site that are considered prohibitive in terms of achieving a quadruple bottom line and the proposal is considered to be a sustainable use of the site.

**ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**

**Any submission from the public.**

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with no submissions being received.

**Any submission from public authorities.**

Responses provided by the NSW RMS and AUSGRID have been previously addressed in this report.

**THE PUBLIC INTEREST (s79C(1)(e)):**

The public interest is served in this instance by granting consent to a development that is compatible with the objectives of the relevant zones, the applicable development controls and an acceptable impact on the surrounding locality therefore the proposal is in keeping with the public interest.

**OTHER MATTERS FOR CONSIDERATION**

The subject development is subject to Council's Section 94A plan and a levy is payable equivalent to 1% of the value of the development being a contribution of \$168,000.00. A suitable condition of consent has been included to this effect.

**CONCLUSION**

The proposed development has been considered in accordance with matters for consideration under Section 79 of the EP & A Act and was found to be acceptable. The proposal is compatible with the objectives of the 4(b) and 6(c) zones and the objectives of Development Control Plan 2005, and the principles of ecological sustainable development. Therefore, subject to conditions of consent, the proposed development is recommended for approval.

***Appendix A  
Appendix B***

***Recommended Conditions of Consent  
Development Plans***