



Review of Development Application

DA 10.2015.34157.1

Eleven (11) Lot Torrens Title Subdivision

**NEXUS Industrial Estate
Gerogery Road
ETTAMOGAH**



This Report has been prepared for:

Albury City Council

553 Kiewa Street
ALBURY 2640

This Report has been prepared by:

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DA No:	10. 2015.34157.1
Property Details:	Lots 31-35 DP 1121146 and Lots 7, 11 & 12 DP 247805
Street Address:	Gerogery Rd Ettamogah
Proposal:	Eleven (11) Lot Torrens Title Industrial Subdivision
Applicant:	Albury City Council
Owner	Albury City Council, AP Delany & NSW Dept Primary Industries Lands

1. INTRODUCTION

EDM Group has been engaged by Albury City Council to undertake an independent review and assessment of Development Application 10. 2015.34157.1 in respect of the proposed eleven (11) Lot Torrens Title Subdivision of land situated within the NEXUS Industrial Estate. A Statement of Expertise to prepare such an assessment report is provided at Appendix 1. Documents supplied by Albury City Council to assist in this independent assessment are listed at Appendix 2. Referral Responses on NSW RMS & Office of Water are attached at Appendix 3.

The following assessment is provided in the context of the relevant provisions of the Environmental Planning and Assessment Act 1979 (the “EP&A Act”). In particular it is noted that this application for development consent has been lodged under the provisions of Part 4 of the EP&A Act. The proposal seeks consent for subdivision of land as provided for under Section 2.6 of the Albury LEP 2010 (the “LEP”).

The application was accompanied by a subdivision layout plan prepared by Albury City Council (Appendix 4) and a Statement of Environmental Effects prepared by GHD dated February 2014 and as amended 18 December 2015.

This assessment report subsequently recommends that Development Application 10. 2015.34157.1 be approved subject to the imposition of suitable conditions of consent as noted at Appendix 5.

2. SUBJECT LAND

The subject land, known as the NEXUS Industrial Estate, forms part of an overall area identified as the Albury Industrial Hub. The land comprises freehold land in the name of Albury City Council and AP Delaney and is described as Lots 31-34 DP 1121146 and Lots 7, 11 & 12 DP 247805 (Figure 1). Draining through the subject land is Eight Mile Creek which is contained within Crown Land reserve (Lot 35 DP 112146).

Excluding the Crown Land component the whole of the freehold land that makes up the development site is approximately 123.17ha in area. The Crown parcel Lot 35 is included within the application as there are also works on waterway proposed being future road crossings.

The site has frontage to Gerogery Road on the eastern boundary and Central Reserve Road on the southern boundary. To the north and west the land adjoins vacant land used for agricultural purposes.

As noted within the original GHD Report (Feb 2014) that accompanied the application:

From a regional context the main connecting road is the Hume Freeway, which provides direct access to major cities such as Melbourne, Canberra and Sydney as

well as surrounding regional areas and cities. There are two major points of access to the Hume Freeway. Traffic that is travelling north or coming from the north will gain access at the Hume Freeway interchange that is in proximity to Davey Road. As there is no south bound leg to this interchange the nearest Freeway interchange access point for traffic bound to or from the south is at the Thurgoona Drive interchange. Locally bound traffic will also access Albury via the old Flume Highway which is also referred to as Wagga Road.

The freehold component of the subject land is currently zoned IN1 - General Industrial under the provisions of the Albury Local Environmental Plan 2010 ('the LEP') which reflects the strategic intent that the land be developed for Industrial purposes consistent with other industrial landuses in the vicinity including Norske Skog Paper Mill and Overall Forge Foundry.



Figure 1: Proposed NEXUS Industrial Estate including Crown land hatched (Source Six View)

The Eight Mile Creek corridor (hatched area Figure 1) along the western and southern boundary of the Council owned land is zoned E3 Environmental Management under the provisions of the LEP. This land separates the Council land located to the north of Rockwood Lane from the southern Delaney landholding.

3. PROPOSAL DESCRIPTION

The proposal relates to an eleven (11) lot Torrens Title subdivision of land to be developed across two (2) stages as follows (subject to final survey):

- Stage 1 (Council land) – resubdivision of four (4) lots into three (3) lots ranging in size from 16.29ha to 29.38ha with an average lot size of 21ha approx.

- Stage 2 (AP Delaney land) – subdivision of three (3) lots held in four (4) parcels into eight (8) lots ranging in size from 2.25ha to 8.26ha with an average lot size of 5.09ha approx.

Access to the new lots will be from newly formed local roads that connect with Gerogery Road. The proposal also includes creation of three (3) environmental reserves and construction at two (2) separate locations public road crossings of Eight Mile Creek. This includes providing a point of connection between the two subdivision stages.

4. PUBLIC NOTICE & REFERRAL

The application for review was notified in accordance with Council policy and no objections have been raised in respect of the development proceeding.

The application was also referred to NSW Roads & Maritime Services, NSW DPI Lands and NSW DPI Water who have responded in general support of the current proposal (Appendix 3).

The RMS has however identified an apparent need for a traffic analysis report to be submitted prior to the release of further stages of this Industrial Estate providing an assessment of the impact of the development of the Ettamogah area on the operation of the signals at the intersection of Wagga Road with Thurgoona Road. This issue will be discussed in further detail later within this Assessment Report.

5. ZONING AND PLANNING PROVISIONS

5.1 Regional Development (EP&A Act)

Schedule 4A of the EP&A Act nominates development for which regional panels may be authorised to exercise consent authority functions of councils. This includes provision for Council related development over \$5 million as follows:

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).*

COMMENT: The development is a significant project over \$5 million in value and in which Council has a direct interest. As a consequence the application for development consent is required to be reported to the JRPP for the Southern Region for determination. It is noted that the JRPP Panel Reference No. is 2015STH028 and that at the time of this independent assessment no panel hearing date had been set.

5.2 Designated Development (EP&A Act)

Schedule 3 of the EP&A Regulation sets out categories of development that are "designated" and which require the preparation of an Environmental Impact Statement (EIS).

COMMENT: In this instance it is to be noted that the proposal is related to an industrial subdivision and would therefore be subject to determination under Part 4 of the EP&A Act.

5.3 Integrated Development (EP&A Act)

The proposed subdivision is not regarded as an Integrated Development as defined by s.91 of the Act as it will not require a relevant approval from any of the nominated government agencies.

5.3 SEPP's

The following State Environmental Planning Policies have been considered in respect of this planning proposal.

SEPP No.44 – Koala Habitat Protection

This policy aims to encourage the conservation and management of natural vegetation areas that provide habitat for koalas so as to ensure permanent free-living populations will be maintained over their present area.

The policy applies to 107 local government areas throughout NSW providing that development approval cannot be granted in an area affected by the policy without an investigation of core koala habitat.

The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat.

COMMENT: The site is not regarded as representing 'Potential Koala Habitat' being "an area of native vegetation where the trees of the types listed in Schedule 2 of SEPP 44 constitute at least 15% of the total number of trees in the upper and lower strata of the tree component".

Further it is also noted that there are no significant native trees required to be removed from the subject land as a consequence of the development. As a consequence the planning proposal is seen as complying with SEPP 44.

SEPP No.55 – Remediation of Land

SEPP 55 establishes that a local government council must not grant consent to a development without having considered whether or not the land is contaminated. If it is found to be contaminated, the council must be satisfied that it can be remediated to a level in line with the sensitivity of the proposed use.

COMMENT: It is to be noted that the land is not proposed to be used for a sensitive land use being subdivision for the purposes of facilitating industrial development. As a consequence it is concluded that the proposal is not one that would necessitate a site audit and/or remediation.

5.4 Albury LEP 2010

The Albury LEP 2010 is the principle local planning instrument applicable to Albury City. The LEP comprises a number of Zone Provisions and Special Provisions. Among other thing the general aims of the LEP include:

- (a) to give effect to the desired outcomes, principles and actions contained in the Council's adopted strategies and policy documents;*
- (b) to promote sustainable urban development by providing for efficient management of urban growth and resource utilisation; and*
- (c) to promote a city for the people, with a high level of social and physical amenity and a diversity of activities and uses,".*

As noted at Figure 2 the freehold component of the subject land comprises land that is part zoned IN1 - General Industrial and part E3 - Environmental Management under the provisions of the LEP.

Relevant objectives of the IN1 Zone include:

- To provide a wide range of industrial and warehouse land uses;
- To encourage employment opportunities;
- To minimise any adverse effect of industrial land for industrial uses.
- To provide for industrial uses in close proximity to transport infrastructure.

Relevant objectives of the E3 Zone include:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

The Eight Mile Creek corridor is Crown Land that is affected only by the E3 Environmental Management Zone.

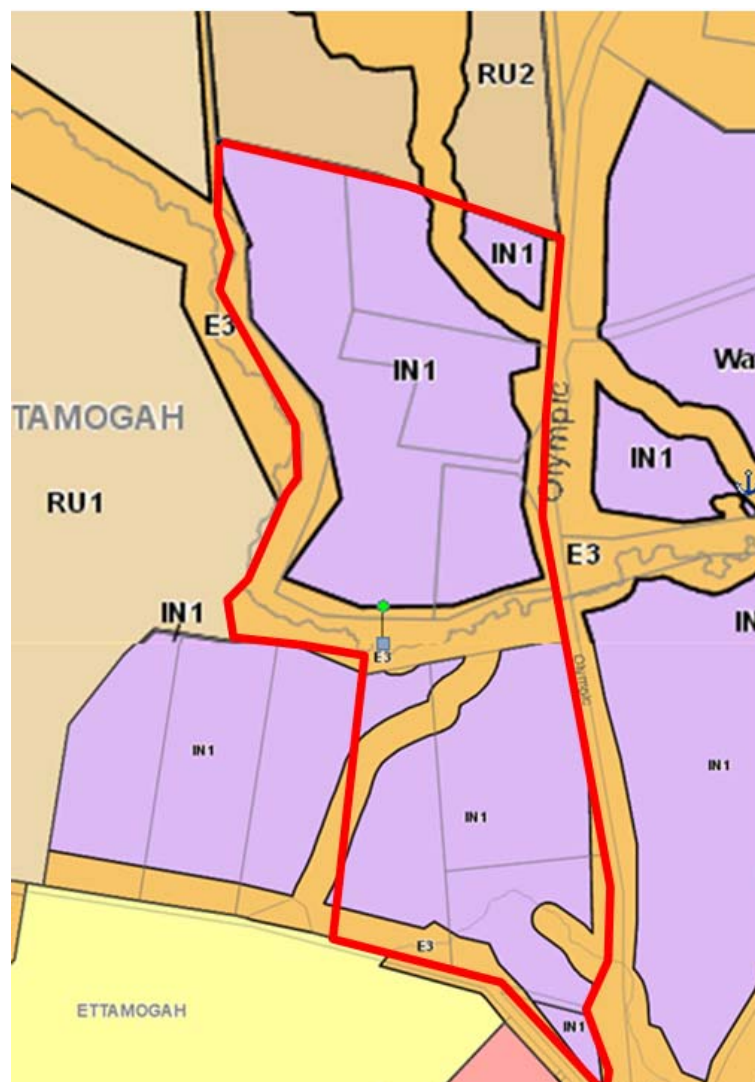


Figure 2: Zone map extract

Clause 2.3 (2) of the LEP provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Clause 2.6 notes that the subject land maybe subdivided but only with the consent of the consent authority.

Clause 4.1 applies to a subdivision of any land shown on the Lot Size Map. The provision requires that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map

Clause 4.1B seeks to clarify the provisions of Clause 4.1 in respect of the minimum subdivision lot sizes for certain split zones. That is any lot created under this clause that is already less than the minimum lot size of the LEP must be contained wholly within one of the newly created lots and cannot be subdivided into its own standalone lot or shared across a number of different lots.

Clause 5.9 provides controls in respect of species or kinds of trees or other vegetation that are prescribed by a development control plan. Section 5.9AA separately provides that removal etc of any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 is permitted without development consent.

Clause 7.1 makes provision for control of any earthworks while Section 7.6 requires development to be capable of connection to relevant essential services.

Clause 7.3 identifies regrowth of native vegetation on all land in Zone E3 Environmental Management as protected regrowth for the purposes of section 10 (1) of the Native Vegetation Act 2003.

5.5 Albury DCP 2010

Relevant also to this application are the following Parts (Chapters) of the Albury DCP 2010 ("the DCP"), namely:

- Part 3 – Development Notification Policy
- Part 4 – Developer Contributions Plans
- Part 5 – Tree Preservation
- Part 6 – Planning for Hazards
- Part 12 – Development in the Industrial Zones
- Appendix K – Albury Industrial Hub

6. GENERAL PROVISIONS OF THE EP&A ACT - S.79C (EVALUATION)

In determining this modification application, the consent authority is required to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any draft environmental planning instrument that is or has been placed on public exhibition, and*
- (iii) any development control plan, and*
- (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, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),
- that apply to the land to which the development application relates.
- (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,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

6.1 Any environmental planning instrument - Sec. 79C(a)(i)

Albury Local Environmental Plan 2010

COMMENT: As previously noted above the area to be subdivided across the subject land is situated partly within the IN1 - General Industrial Zone and partly within E3 - Environmental Management Zone under the provisions of the LEP. This results in a subdivision layout which is required to factor in the E3 Zoned land as it impacts upon the subject land. The proposed design response results in eleven (11) lots to accommodate likely future uses of the land for industrial landuse purposes. In respect of the construction of public road across E3 Environmental Management land it is noted that "Road" is also permissible with consent.

2.3 – Zone Objectives:- The proposed development (subdivision) is generally consistent with IN1 Zone objectives, in that it will facilitate outcomes that:-

- will accommodate a range of future industrial and warehouse land uses; and
- supports employment opportunities.

4.1 & 4.1B – Minimum lot sizes The proposed development seeks to ensure that E# zoned land is either contained wholly within a created lot or alternatively is instead to be held as Environmental Reserve in public ownership.

5.9 - Preservation of trees or vegetation In respect of that part of the subject land affected by the IN1 General Industrial Zone it is firstly noted that no native vegetation is required to be removed to facilitate the proposed subdivision.

In respect of the proposed vegetation removal within the E3 Zone it is of some relevance to note that while the LEP has been Bio-certified in relation to those areas of the City affected by the Residential, Business, or Industrial zones, the Native Vegetation Act 2003 (the "NVA") continues to regulate the clearing of native vegetation across the Environmental Zones such as the E3 Zone. As a consequence the works required to facilitate the public road crossing of Eight Mile Creek will be required to be authorised under the NVA.

7.1 – Earthworks In the event of any subsequent DA Approval it is expected that any required earthworks in association with road construction will be able to be appropriately considered as a requirement of any Construction Certificate for civil works.

7.3 – Protected Regrowth. While negotiations between Crown Lands, Murray Local Land Services and Albury City Council have concluded that the proposed location of the creek crossing provides the best outcome from a biodiversity impact perspective it is noted that separate consent under the NVA will still be required before this aspect of the proposed development can proceed.

There are no relevant development standards and decision guidelines contained elsewhere within the LEP.

As a consequence it is considered that there are no matters raised in respect of the proposal that could be considered to be inconsistent with the LEP.

6.2 Any draft environmental planning instrument - Sec. 79C(a)(ii)

COMMENT: There is no relevant draft environmental planning instrument that is or has been placed on public exhibition.

6.3 Any development control plan - Sec 79C(a)(iii)

Part 3 – Notification Policy

COMMENT: The application was notified in accordance with Albury City's Public Notification Policy. As previously indicated while there were no public submissions received referral responses from DPI – Water and NSW RFS were received (see Appendix 3). In summary:

- 1. DPI – Water advise that for the purposes of the Water management Act 2000 that a controlled activity approval is not required on the basis that the development is exempt as the proponent is a public authority. DPI - Water recommend however that works be carried out in accordance with relevant DPI Guidelines.*
- 2. NSW RMS raise the issue of potential impact of the cumulative impacts of traffic generated from the development of the surrounding Ettamogah area on the operation of the signalised intersection located at Wagga Road and Thurgoona Road.*

It is to be noted that the particular intersection referred to by RMS is over 3km to the south of the intersection of Gerogery Road and Wagga Road and as a consequence it is difficult to conclude that there is any direct impact or relationship between the development proposal and this part of the road network. Indeed the RMS response makes reference to development in the Ettamogah area in general including the nearby residential estate to the south. As a consequence it could be concluded that the recommendation of the need for preparation of a traffic analysis report be submitted prior to the release of land within the NEXUS Industrial Estate is of little relevance. That is it is established planning practice that a condition must not be imposed in order to achieve an ulterior or irrelevant planning purpose, however worthy that purpose may seem to be. It must implement a stated policy or specific requirement of an environmental planning instrument, rather than be 'just a good idea' in general planning terms.

In the event that any future landuse was a significant traffic generator the specific impact of that future development proposal would need to be separately considered at that point in time, in the context of the actual development itself.

Part 4 – Developer Contributions Plans

COMMENT: The DCP provides among other things that subdivision that will, in the opinion of Council, result in an increased demand being placed upon its infrastructure and services will generally require (by condition of consent) monetary contributions being paid by developers under Section 94 of the EP&A Act and/or Section 64 of the Local Government Act 1993, to provide Council with funds to provide coordinated infrastructure and services for the City. It is noted that specific Section 94 charges apply to land within the Albury Industrial Hub

Should consent be subsequently granted for the proposed development it is concluded that Stage 1 being a re-subdivision of 4 lots into 3 lots would attract a requirement for

s.94 Contributions only while Stage 2 being a subdivision of 3 lots into 8 lots would attract both s.64 and s.94 Contributions.

Part 5 – Tree Preservation

COMMENT: As noted above the only native vegetation potentially impacted upon is within the area of the proposed creek crossings. The Native Vegetation Act 2003 (the “NVA”) regulates the clearing of native vegetation across the E3 Zone. As a consequence the works required to facilitate the public road crossing of Eight Mile Creek will be required to be subsequently authorised under the NVA. Negotiations to date with Crown Lands have indicated that this matter can be appropriately dealt with once engineering design plans were available for assessment purposes. Mitigation measures including any future vegetation off-sets will also be provided for as an outcome of this future approval process.

Part 6 – Planning for Hazards

COMMENT: Although part of the subject land is identified as being bush fire prone on the Council’s Bush Fire Prone Land Map (BFPLM), a Bushfire Safety Authority from NSW Rural Fire Service is not required in relation to the proposed development, in accordance with Section 100B of the Rural Fires Act 1997. The proposal relates to an industrial subdivision with all lots being of a sufficiently large enough size to ensure more than adequate defendable space can be maintained around any subsequent development on site.

Part 12 – Development in the Industrial Zones

COMMENT: The DCP provides at Section 12.2 that the objectives in respect of subdivision of industrial land include:

- *To ensure subdivision, and subsequent development, of new industrial estates occurs in a planned and coordinated manner.*
- *To ensure that industrial subdivision caters for a variety of needs generated by the industrial sector.*
- *To provide each lot with sufficient area for the siting of the development, the circulation, parking and access of vehicles, as well as, the provision of loading and other service facilities.*
- *To provide for the safe and efficient movement of traffic to and from each proposed lot within the industrial areas to facilitate effective levels of access, safety and convenience for all road users in industrial areas.*

The DCP provides a range of requirements in respect of servicing, lot sizes, lot dimensions and road design. Relevant to the subject land the DCP also specifically states:

“... the Ettamogah Industrial Area (North of Central Reserve Road and west of Wagga Road/Hume Highway) may dispose of sewerage on-site subject to a land assessment report being submitted and endorsed by Council demonstrating that climate, geology, hydrology, topography, soils composition and vegetation renders the land capable of disposing effluent on-site.”

The development proposal is consistent with all relevant aspects of the DCP including all lot sizes being over 1,000m² and all relevant utility services being capable of being connected to the Estate to the satisfaction of service agencies.

Appendix K – Albury Industrial Hub

COMMENT: The DCP provides at Appendix K an Illustrative Masterplan for the Albury Industrial Hub. A range of development scenarios and strategic actions are outlined in

respect of possible future development outcomes. The current NEXUS proposal has been assessed against this Masterplan and is considered to be generally in accordance with the design principals and strategic outcomes envisaged within the report.

6.4 Any planning agreement under section 93F - Sec 79C(a)(iia)

COMMENT: There are no planning agreements in place that affects the evaluation of the subject development application.

6.5 Any matters prescribed by the Regulations - Sec 79C(a)(iv)

COMMENT: Pursuant to Section 92 of the Regulations there are no relevant prescribed matters relating to the subject land.

6.6 Any coastal zone management plan - Sec79C(a)(v)

COMMENT: Not Applicable

6.7 Likely impacts of that development - Sec 79C(b)

COMMENT: It is firstly noted that there has been a thorough consideration of environmental effect by the proponent. Having regard to the report provided it is anticipated that the proposed DA will not have any significant negative impact on the general locality particularly taking into account the strategic intent for the land as expressed by the General Industrial Zone affecting the land. The following additional comments are noted.

- *Context & Setting: Satisfactory. The proposal is wholly consistent with the existing and anticipated context and setting of the Albury Industrial Hub. The site is particularly suited to the proposed subdivision being a logical extension of an existing industrial estate. Further the site's strategic location offers good levels of accessibility for future development that make this an orderly and proper planning outcome.*
- *Streetscape: No detrimental impacts envisaged. From the public realm there will be minimal change in visual amenity as a consequence of the future development of the eleven proposed development lots.*
- *Traffic, access and parking: Although the application has not been supported by a Traffic Impact Assessment report it is to be noted that the site enjoys excellent legal and practical access to Gerogery Road and the broader road network including the Hume Freeway corridor. Gerogery Road is gazetted for B-Double access up to Hub Road. The SoEE states that "for a 100 ha site, an order of magnitude consideration of traffic generation could be in the order of 2,500 car movements per day and 3,000 truck movements per day". It is anticipated that that the road network has more than adequate capacity to accommodate traffic generated by future landuses however Council's traffic engineer has raised the matter that consideration may need to be given to rezoning Gerogery Road to 80km/h speed zone.*

In addition it would be expected that direct vehicular access to Gerogery Rad would be restricted with access instead being relied upon from the proposed internal road layout.

Further to the above it is expected that there would be more than adequate land made available within the respective development lots for future car parking and truck parking on site consistent with code requirements.

- *Public Domain: Satisfactory. The proposal relates to subdivision of land zoned for industrial purposes. Negotiations are ongoing with the Crown in respect of*

interface issues with public land. There are however no issues identified in respect of the public realm so as to preclude the development.

- *Utilities: The site is capable of being adequately serviced to allow the development to proceed. Future development will need to rely upon approved on-site effluent disposal systems as allowed for within the Albury DCP.*
- *Heritage: N/A*
- *Aboriginal Cultural Heritage: It is understood that the applicant has previously undertaken the necessary Due Diligence consistent with NSW Office of Heritage and Environment – “Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW”.*
- *Water Quality & Stormwater: Satisfactory. A soil and water management plan should be prepared prior to any construction commencing so as to mitigate any possible impacts from Stormwater runoff.*
- *Soils, soil erosion: The SoEE notes the potential for erosion during excavation and other construction activities. Appropriate erosion and sediment controls can be taken into account when supervising construction to ensure erosion risks are minimised. The proposal site is not classed as having Potential Acid Sulphate Soils.*
- *Air and microclimate: The main sources of emissions during construction are expected to be caused by the operation of heavy machinery moving material around the site and possible dust emissions from exposed areas. Impacts from the construction of the Project are not expected to degrade the existing environment nor detract from the existing local ambient air quality of any receptors.*
- *Flora and Fauna: Satisfactory. No areas of critical habitat are affected by the modified proposal. The analysis and recommendations as outlined with the SoEE provides a summary of the impacted vegetation and concludes that the proposal will be unlikely to have a significant impact on threatened species given the disturbed nature of the area selected for creek crossings.*
- *Waste: Satisfactory. The development can easily accommodate any waste material associated with construction and ongoing operations.*
- *Demolition and Construction. It is expected that any noise and dust pollution from construction activities will not be operations will remain unchanged from that previously identified. It is expected that impacts will be minimal occurring primarily during site construction works. Any impact is otherwise minimised by the nature of the works within a broader non-urban landscape setting.*
- *Noise & vibration: The SoEE notes that during construction, the only recognisable impact that the proposal would have on noise would be the increase in truck, vehicle movements in and out of the site and general construction activities. These movements and activities would not generate significant noise impacts to the surrounding area. As the nature of the future land development is unknown, it is not practical at this stage of subdivision approval to determine likely future noise levels generated as part of subdivision development. Identified potential impacts during construction can be mitigated through establishment of a satisfactory noise protocol.*
- *Natural hazards (Flooding): Satisfactory*
- *Safety, security and crime prevention: No detrimental impacts.*
- *Social impact in locality: Satisfactory. The on-going use and improvement of the Albury Industrial Hub is a positive outcome from a social perspective.*

- *Economic impact in locality: Positive economic impacts are envisaged. The subdivision will facilitate further industrial development within the City commensurate with employment gains and economic multiplier outcomes.*
- *Site design and internal design: Satisfactory*
- *Cumulative Impacts: The SoEE identifies key cumulative impacts associated with the proposal as relating to air quality, water quality, visual amenity and traffic generation. No detrimental impacts are identified however so as to preclude the development subject to appropriate conditions.*

6.8 The suitability of the site for the development - Sec 79C(c)

COMMENT: Having regard to site context and characteristics the subject land is considered to be suitable for the proposed subdivision. The development is appropriately accommodated for within the Albury LEP. Further there are no issues of non-compliance with relevant DCP provisions that would warrant refusal of this application.

6.9 Submissions - Sec 79C(d)

COMMENT: No objections were received in relation to the Public Notification of the proposal.

The referral responses of the NSW RMS and DPI Water have been duly taken into account and relevant conditions are included within the subsequent recommendations of this assessment report.

6.10 The public interest - Sec 79C(e)

COMMENT: It is contended that the public interest is well served by this proposed modifications and that there is nothing identified that would preclude the Determining Authority making a favourable determination in this matter.

7. CONCLUDING COMMENTS

As a consequence of the above discussion, together with an assessment of the heads of consideration under Section 79C of the EP&A Act, as well as the planning merits of the proposal in this particular location it is felt that on balance the proposed DA for Industrial Subdivision is both appropriate and satisfactory as a result of this assessment.

Having regard to the nature of the proposal it is considered that the proposed development is consistent with relevant planning provisions including the Albury LEP 2010 and is consequently worthy of support.

Accordingly, Development Application 10.2015.34157.1 is recommended for APPROVAL subject to the imposition of suitable conditions of consent.

7.1 Recommendations

That the report be received and noted and that the relevant consent authority grant consent for DA 10.2015.34157.1 for the subdivision of Lots 31-35 DP 1121146 and Lots 7, 11 & 12 DP 247805 Gerogery Road, Ettamogah into 11 industrial lots subject to the conditions attached.

ASSESSING OFFICER
PETER O'DWYER FPIA CPP
EDM Group
Manager Planning & Environment
05/02/2016
EDM Group Ref: 09003710

APPENDIX 1

Statement of Expertise & Report Declaration

Town Planning assessment report prepared on behalf of Albury City Council

The report has been prepared by Peter O'Dwyer FPIA CPP Manager Environment and Planning EDM Group 99 Hume Street Wodonga.

Professional qualifications

- Bachelor of Arts (Geography) - University of New England, 1979.
- Graduate Diploma in Urban and Regional Planning - University of New England, 1981.
- Graduate Diploma in Environmental Management (Catchment Management) - La Trobe University, 1999.
- Master of Environmental Management & Restoration - Charles Sturt University, 2004.
- Certificate of Qualification (No.668) as Town and Country Planner, Ordinance 4 - NSW Local Government Act.

Professional experience

- 2005 - Partner – EDM Group. Consultant Town Planners, Surveyors & Engineers
- 2004 - 2005 Manager Environment & Development Services – Indigo Shire Council
- 2002 - 2004 Manager IWS Development Services – Indigo Shire Council
- 1995 - 2002 Shire Planner Indigo Shire Council / Manager IWS Planning Services – Indigo Way Services
- 1995 - 1995 Senior Environmental Planning Officer (Town Planner / Specialist) - NSW Dept. Urban Affairs & Planning
- 1991 - 1994 Senior Strategic Planner - Albury City Council
- 1989 - 1991 Senior Planner (2 year secondment) – Albury Wodonga Region Planning Committee
- 1985 - 1989 Strategic Planner - Albury City Council
- 1984 - 1985 Strategic Planner - Randwick Municipal Council
- 1981 - 1983 Strategic Planner - Lake Macquarie City Council

Relevant areas of expertise

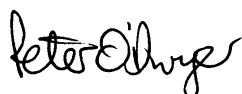
- Statutory and strategic planning
- Advice and assessment of land use and development proposals to planning authorities, government agencies, residents and developers.
- Preparation and presentation of submissions before VCAT, NSW Land & Environment Court, Independent Panels and various government appointed panels and advisory committees.

Facts, matters and assumptions relied upon

- Scope of Work supplied by Albury City Council
- Albury Local Environmental Plan 2010
- Albury Development Control Plan 2010
- Environmental Planning & Assessment Act 1979
- Documents supplied by Albury City Council (see Appendix 2)

Declaration

I have made all the inquiries that I believe are desirable and appropriate and I declare that no matters of significance, which I regard as relevant, have to my knowledge been withheld from Council within this Assessment Report.



Peter O'Dwyer FPIA – CPP
EDM Group

APPENDIX 2

Documents Considered

GENERAL

1. Development Application Form received 02 November 2015
2. Crown Land Owners Consent to Lodge DA – DPI letter 24 August 2015

CORRESPONDENCE

3. External Referral Responses from:
 - NSW RMS – 4 December 2015
 - NSW DPI Lands – 2 November 2015
 - NSW DPI Water – 17 November 2015
4. Internal Referral Responses from:
 - Traffic Engineering – 3 November 2015
 - Engineering – 26 November 2015
5. Addendum to Statement of Environmental Effects – GHD Letter 18 December 2016

REPORTS

6. Nexus Statement of Environmental Effects – GHD February 2014

PLANS

7. Overall Land Ownership Plan - – Albury City Council Drawing No. 2716 Sheet 1 (undated)
8. Subdivision Layout Plan – Albury City Council Drawing No. 2716 (undated)
9. Revised Subdivision Layout Plan – Environmental Boundary Adjustments Drawing No. 2716 Sheets 1 & 2 (undated)

APPENDIX 3

Referral Responses

APPENDIX 4

Subdivision Layout Plan

APPENDIX 5

Draft Conditions

A. General

(A1) Subdivision - approved plans

The subdivision of Lots 31-35 DP 1121146 and Lots 7, 11 & 12 DP 247805 Gerogery Road, Ettamogah being carried out in accordance with the attached approved plans and the particulars and statements submitted with the Development Application receipted on 02/10/2015 and as amended 18 December 2015 including mitigation measures as outlined with the NEXUS Statement of Environmental Effects prepared by GHD dated February 2014 and subject to the following conditions. (A003)

(A2) Development Application – General approval conditions of other authorities (DPI –Water)

The development is to be carried in accordance with the following conditions of DPI – Water

- (a) Any proposed works on waterfront land and in particular watercourse crossings, be undertaken in accordance with DPI – Water Guidelines.

(A3) Development Application – General approval conditions of other authorities (DPI – Lands) –

- (1) This consent does not imply the concurrence of the Minister for Primary Industries and the Minister for lands and Water for the proposed development.
- (2) The development is to be carried in accordance with the following conditions of DPI –Lands
 - (a) Any further development or works proposed on Crown land including the extension of utilities to service the development will require a separate development application to be lodged. Such application will require an Application for landowner's Consent to the lodgement of a Development Application with respect to Crown land.
 - (b) The Minister for Primary Industries and the Minister for lands and Water reserves the right to make comments, lodge an objection and / or require conditions with respect to any further development proposed on Crown land.
 - (c) Irrespective of any development consent or approval given by other public authorities, any work or occupation of Crown land cannot commence without a current tenure from the NSW Department of Primary Industries, lands authorising such work or occupation.
 - (d) No development drainage, overflow or contaminated waste (contaminated runoff or septic) shall impact negatively on the Crown land.
 - (e) No materials are permitted to be dumped or stored on Crown land.
 - (f) The development shall be conducted with minimal environmental disturbance to the Crown land and is to avoid the removal or damage of any native trees located within the subject Crown lands.
 - (g) Public access on the Crown land is retained and not restricted on and along the Crown land.
 - (h) Appropriate pollution control measures shall be provided for the duration of the works. Such measures are not to be located on Crown land.
 - (i) Measures should be taken by the applicant to ensure that the work does not contribute to the spread of noxious weeds.

(A3) Development Application – Specific approval conditions of other authorities (DPI – Lands)

- (a) Council is required to make application under the Land Acquisition (just Terms Compensation) Act 1991 to acquire identified land for road purposes.
- (b) Offsets in the form of suitable land or compensation for the land acquired. (NOTE: The Deed of Transfer of Albury Environmental lands from Albury Wodonga Corporation to the Department requires that any proceeds from the sale “*must be used to purchase, manage and improve land having similar biological values to the Land sold*”.)
- (c) Offsets are to be provided for the loss of vegetation as a result of the construction of the road crossings.

(A4) Construction Certificate - subdivision works

Works on the subdivision and or civil work construction is not to commence until:

- A Construction Certificate has been issued. Works are to be in accordance with Albury City Council's *Engineering Guidelines for Subdivisions and Developments Standards* and applicable conditions of this consent, a copy of which must accompany the Construction Certificate application.
- A Principal Certifying Authority has been employed for the project, and
- Any other matters prescribed in the Development Consent for the subdivision and the *Environmental Planning and Assessment Act and Regulation* have been complied with.

Albury City Council is to be notified 48 hours prior to commencement of civil engineering works or clearing associated with the subdivision or civil construction works. (A061)

(A5) Stormwater Management

Each lot is responsible to collect stormwater and retain pre development flows. (A996)

(A6) Construction Traffic

Construction environmental plan will be required and approved prior to the issue of a construction certificate (A997)

(A7) Sewer

Each allotment within the subdivision will be responsible for the onsite treatment of sewage in accordance with Council requirements and depending on the nature of the system and the extent of waste generated. This will need to be a proprietary system that is monitored and controlled in accordance with regulatory requirements. (A998)

(A8) Water Supply

Associated roof water harvesting and onsite storage of water by each lot is needed for the purposes of fire water, industrial water, toilet facilities and external requirements such as irrigation. Restricted portable water supply made available to each lot.

Add to 88b (A999 Modified)

(A9) Compliance - Tree Preservation Order

The development must not remove any tree unless prior approval of the AlburyCity Council has been obtained. (Tree's less than 4.5 metres in height or having a branch spread under 3 metres

are exempt.) Any existing street tree within Council's road reserve shall not be removed or damaged during construction. . (C015)

(A10) Archaeology

If any Aboriginal artefacts are discovered on the subject land during the disturbance of the land work is to cease immediately and no further work shall; be undertaken until further directed by NSW Office of Environment & Heritage in relation to the protection of such artefact.

B. Prior to the Issue of a Construction Certificate

(B1) Development – Stormwater drainage design

A stormwater drainage design is to be prepared showing stormwater from the site area and development being collected and disposed of to a lawful point of adequate capacity so as to prevent contamination of receiving waters. The design shall:

- (a) Be in accordance with *Australian Standard 3500.3*
- (b) Provide for drainage discharge to an existing Council drainage system.
- (c) Maintain where relevant existing stormwater overland flowpaths.
- (d) Ensure that the development either during construction or upon completion, does not impede or direct natural surface water runoff so as to cause a nuisance to adjoining properties.

Details including easements to be created are to be included with the plans and specifications to accompany any Construction Certificate. (B538)

(B2) Construction Certificate - Long Service Levy

Prior to the issue of a Construction Certificate, the Building Industry Long Service Levy is to be paid in accordance with the provisions of Section 34 of the *Building and Construction Industry Payments Act 1986*. This fee is payable on all projects in excess of \$25,000 in value and is calculated at the rate of 0.35% of the current value of works. (B105)

(B3) Subdivision - provision of services

The applicant must consult with the relevant electricity, gas, water and telecommunications carrier regarding their requirements for the provision of services to building sites and the location of existing services that may be affected by proposed works, either on-site or on the adjacent public roads. Services are to be located to minimise environmental damage. (B069)

(B4) Predicted Infrastructure

Stormwater drainage and water reticulation and services being designed and provided in accordance with Council's *Engineering Guidelines for Subdivision and Development* to cater for predicted infrastructure demand in the locality, and impact of development on Council's assets. The design must be approved by Council under the *Local Government Act* prior to construction and, on completion, the submission to Council of transparencies of work-as-executed drawings indicating the location of those facilities. Details to be provided to Council for approval. (B532)

(B5) Access - emergency service vehicles accommodated

Evidence being produced with the construction plans, from operators of emergency services, i.e. Fire Brigade and Ambulance, as to the adequacy of access to building sites, for emergency services. (B001)

(B6) Access - turning area in cul-de-sac

Sufficient area should be provided at the head of cul-de-sac streets to enable a standard vehicle (i.e. garbage truck) to turn. Details are to be provided with the construction certificate. (B003)

(B7) Construction certificate - Landscape Plan

Prior to issue of construction certificate a Detailed Landscape Plan that includes the following will be required:

- (a) Identification and accurate mapping of all trees within the subdivision in health and condition suitable for retention.
- (b) Report detailing species, health, condition and hazard rating of trees identified as suitable for retention.
- (c) Trees identified for retention to be clearly tagged on site to allow for assessment by Council officers.
- (d) A street tree planting plan detailing species and location.
- (e) Methods of tree protection during engineering works for trees identified to be retained.

(B018)

(B8) Environmental - dust control

Effective dust control measures shall be introduced and maintained at all times. Full details of proposed method of dust control shall be submitted to and approved with the construction certificate. (B027)

(B9) Kerb and gutter - "rollover" kerbing

Where road pavement widths of less than eight metres are proposed, kerbing shall be of a "rollover" semi-mountable type and shown, on the construction plans. (B045)

(B10) Site levels and catchment

Site levels to AHD and full calculations for all drainage design shall be submitted with the construction plans, for checking and approval, together with catchment plan, showing the total catchment and the sub-areas used in the calculations. (B051)

(B11) Soil and water management - soil erosion and sediment control plan

- (a) A soil erosion and sediment control plan being designed in accordance with Council's *Soil and Water Management Guidelines for Subdivisions*. Details are to be included with the plans for a Construction Certificate. (B054)
- (b) All measures specified in and approved soil erosion and sediment control plan to minimise the effects of soil erosion and pollution are to be installed then maintained until disturbed areas are rehabilitated and landscaped. Council may issue infringement notices incurring a monetary penalty where measures are not provided or maintained.

(B12) Subdivision – Stormwater drainage detention

A stormwater drainage detention system is to be provided to the subdivision. The system is to be designed to reduce developed discharges to pre-development discharges for all storms up to and including the 1:100 year event. The weir and wall of the basin are to be designed to withstand the effects of a 1:500 year event. (B542)

(B13) Limited Water Pressure

The applicant is advised that Council can provide town water at a limited pressure to within a reasonable distance from this development. It is the applicant's responsibility to demonstrate that each lot has an adequate water supply system for industrial water, fire fighting requirements, toilet facilities and external requirements such as irrigation. The proposed system to provide this adequate water supply shall be designed and submitted to Council for approval prior to issue of the Construction or Subdivision Certificate, whichever is the first. The minimum water supply requirements for each allotment are: -

- (a) A break pressure tank constructed at the frontage of each allotment for the purpose of obtaining water from the main by a low flow line;
- (b) A preferred pressure at the dwelling sites of 30 metres head with a minimum of 20 metres head at peak instantaneous demand;
- (c) The provision of a minimum 10,000 litres of water at all times for fire fighting purposes fitted with an outlet capable of being coupled to Fire Brigade fire fighting equipment so as to assist during an emergency.
- (d) On land within Council's Bush Fire Prone Map, water supply provision shall comply with "Planning for Bush Fire Protection 2006".

C. Prior to any work commencing on the site area

(C1) Prior to commencement of Construction Works

Two days before any site works, building or demolition begins, the applicant must:

- (a) Provide *Notice of commencement of work and appointment of Principal Certifying Authority*, to the Council.
- (b) Notify the adjoining owners that work will commence.
- (c) Notify *the Council* of the name, address, phone number and licence number of the builder.
- (d) Erect a sign at the front of the property stating that unauthorised entry is prohibited and showing the builder's name, licence number and site address.
- (e) Provide a temporary on-site toilet.
- (f) Protect and support any neighbouring buildings.
- (g) Protect any public place from damage, obstruction or inconvenience from the carrying out of the consent.
- (h) Implement measures to protect existing trees.
- (i) Implement controls to prevent soil erosion and pollution.
- (j) Prevent any substance from falling onto a public place.
- (k) Follow any other conditions prescribed in the *Environmental Planning and Assessment Regulation 2000*. (C426)

(C2) Compliance - protection for retained vegetation

Protective measure for vegetation to be retained shall be installed before commencement of work and maintained to post construction stage. (C025)

D. During Construction or Works

(D1) Construction - mode of work

During construction work must be conducted in a manner so as not to be injurious to health and amenity by reason of noise, vibrations, smells, dust, stormwater runoff, sediment loss, placement of building materials and wastes, rubbish, footway interference, traffic generated, hours of operation and the like. (D033)

(D2) Construction - Hours of work

Demolition, subdivision or construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- (a) Mondays to Fridays, 7.00am to 6.00pm
- (b) Saturdays, 8.00am to 1.00pm
- (c) No work is permitted on Sundays and Public Holidays.

Construction works that are carried out in the open that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties is to be restricted to the above hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines.

Note: The provisions of the Protection of the *Environment Operations Act, 1997* in regulating offensive noise also apply to all construction works. (D422)

(D3) Maintenance of soil erosion and pollution controls

All measures specified in Council's *Soil and Water Management Policy* to minimise the effects of soil erosion and pollution are to be installed then maintained until disturbed areas are rehabilitated and landscaped. Council may issue infringement notices incurring a monetary penalty where measures are not provided or maintained. (D522)

(D4) Subdivision – service supply

During construction each lot shall be provided with independent services i.e. electricity, gas, telecommunications, sewer and water, and if necessary, inter-allotment drainage, all in accordance with the requirements of the relevant authority. Works shall be carried out to meet Council's *Soil and Water Management Guidelines for Subdivisions*. (D546)

(D5) Construction - landscaping and planting open space and all reserves

All open space, road and watercourse reserves must be landscaped and planted to the satisfaction of Council. (D018)

(D6) Subdivision – No water passing over another allotment

During construction a piped interlot drainage system shall be installed to serve all allotments that cannot be drained to a drainage reserve or road table drain without water passing over another allotment. Installation shall be in accordance with the approved construction plan, with easements not less than 3.0 metres wide being created over the system. (D486)

(D7) Subdivision – New road construction

All new roads being constructed with concrete kerb and gutter, road pavement, sealed kerb to kerb and footpaths formed in earth and filled with topsoil, all in accordance with the Construction Certificate. (D502)

(D8) Subdivision – street lighting

During construction lighting is to be installed to illuminate accessways at head of cul-de-sacs and connecting pathways within any reserve. (D552)

(D9) Subdivision – fire hydrants

Locations of fire hydrants are to comply with AS2419 and be delineated by blue pavement markers in the centre of the road. (D554)

(D10) Stormwater - drainage

All stormwater runoff from the proposed development is to be collected on-site and conveyed to a lawful point of adequate capacity in a manner that is consistent with the latest version of *Australian Standard 3500.3.2*, and does not impede or direct natural surface water runoff so as to cause nuisance to adjoining properties. (B528)

(D11) Subdivision – Water meter locations

All water services to be located square off the water main and terminating at the meter located as close as possible (no more than 350mm) from the side boundary so as not to be subject to damage. (D484)

(D12) Subdivision – runoff and sediment control

During construction runoff detention and sediment interception measures are to be applied to the site area so as to reduce flow velocities and prevent sediment escaping from the site or entering any downstream drainage easement or natural or artificial water bodies. (D524)

E. Prior to the Issue of a Subdivision Certificate

(E1) Compliance with Conditions

Prior to the issue of the Subdivision Certificate the applicant must submit to Council, a letter outlining relevant conditions of consent and how each of the conditions have been implemented and/or satisfactorily addressed, so as to confirm compliance with all conditions of the subject consent.

Note: Council will not issue a Subdivision Certificate unless all work has been completed or agreement reached in accordance with s109J(2) of the Environmental Planning and Assessment Act. (G001)

(E2) Subdivision - S94 and S64 contributions table

Prior to the issue of a Subdivision Certificate the following monetary contributions pursuant to Section 94 of the *Environmental Planning and Assessment Act* and Section 64 of the *Local Government Act*, are to be paid. The contribution has been assessed as \$247,513.64 (Stage 1) and \$209,054.88 (Stage 2) if paid before the adoption of any subsequent plans, and is made up as indicated on the attached Tables 1 & 2 -

SERVICE/FACILITY	AMOUNT PAYABLE	ACCOUNT NO	HOTKEY
s.94			
Nexus Area (72ha)	\$247,513.64	0072.0849.800	225
TOTAL	\$247,513.64		

Table 1 – Stage 1

SERVICE / FACILITY	AMOUNT CALCULATED	SITE CREDIT	AMOUNT PAYABLE	ACCOUNT No.	HOT KEY
s .64					
Water	\$24,408	\$9153	\$15,255	00044.0820.800	270
Sewer	\$32,544	\$12,204	\$20,340	00225.0822.800	271
s.94					
Nexus Area (50ha)			\$173,459.88	0072.0849.800	225
TOTAL			\$209,054.88		

Table 2 – Stage 2

Contributions are due prior to the release of the Subdivision Certificate, and will be calculated or recalculated at the rate applicable under the plans current at the time of payment. (G300)

(E3) Subdivision Certificate inspection fee

Prior to issue of a Subdivision Certificate the applicant shall pay to Council an Inspection Fee equivalent to 2.2% (includes GST) of the contract price of the subdivision works but not less than One Hundred and Sixty Dollars (\$160) for the cost of providing Council Inspection of Works. **(For office use only - HK 63)** (G306)

(E4) Subdivision - submit value of civil works and any maintenance bonds

Prior to issue of a Subdivision Certificate, the applicant shall submit an itemised monetary value of civil works for the inclusion in Council's Asset Management System and any necessary maintenance bonds. (G310)

(E5) Subdivision - maintenance bond

Prior to issue of a Subdivision Certificate, the applicant lodge with Council a maintenance bond equivalent to five percent (5%) of the contract price of the subdivision works but not less than Five Thousand Dollars (\$5000). Such bond monies will be held for a minimum period of twelve (12) months at which time an assessment will be made as to the extent of outstanding or substandard works. Those works deemed to be outstanding or of a substandard nature at that time by Council, might be repaired by Council at the applicant's expense by drawing on the bond monies held by Council. Note: Maintenance Bonds are only applicable for projects with a value greater than \$50,000. **(For office use only, Hot Key 64)** (G316)

(E6) Subdivision - provision of works-as-executed plans

"Works-as-executed" transparency plans duly certified by an Engineer or Registered Surveyor being provided, together with a statement certifying that all works have been completed in accordance with the Construction Certificate. Where applicable, a Registered Surveyor's Certificate certifying location of all pipes is to be attached. (G406)

(E7) Subdivision - evidence of service supply

Prior to the release of the Subdivision Certificate the following documentary evidence is to be obtained and forwarded to the Principal Certifying Authority: -

- (a) A Notification of Arrangement issued by the relevant electricity supplier;
- (b) A letter of compliance from the relevant telecommunications carrier.
- (c) A letter of compliance from the relevant gas supplier. (G408)

(E8) Subdivision - easement creation

Drainage, water, sewer and service easements not less than three (3) metres wide being created where required and/or as directed by council so that adequate access to, and protection of, services will be ensured. (G414)

(E9) Subdivision - final plan

A final plan of subdivision, together with five exact copies, shall be submitted with the Application for the Subdivision Certificate. The issue of a Subdivision certificate is not to occur until all conditions of this consent have been satisfactorily addressed. (G012)

(E10) Subdivision - future retention of suitable trees

An instrument setting out Memorandum on the use of Land intended to be created pursuant to Section 88B of the *Conveyancing Act, 1919* shall be submitted in a form acceptable to Council indicating that no building shall be permitted without adequate consideration given to sensitive design for the retention of suitable trees on each individual allotment. Pre-purchase consultation with AlburyCity staff is recommended. (G039)

(E11) Subdivision – Geotechnical report

Prior to the issue of a Subdivision Certificate, the subdivider creating more than five (5) lots shall provide two (2) copies of a Geotechnical Report detailing:

- (a) The classification of soil types and stability of the total subdivision area;
- (b) Classification for each lot within the subdivision in accordance with AS 2870 "Residential Slabs & Footings". (G400)

(E12) Subdivision - establishment of works on public property

Stabilisation and establishment of all erosion prone areas, table drains and open channels prior to Council formally accepting any works to be contained in public property. (G412)

(E13) Subdivision - street signs

During construction, the applicant shall install such street name signs, regulatory signs and advisory signs as may be reasonably required for such development. Appropriate names for the

streets are to be selected from AlburyCity Council's approved street names list. If you do not agree to any of those listed a separate application shall be lodged with Council seeking approval for street names. The regulations imposed under the Roads Act require that these street names are advertised on two occasions; firstly as a proposal, and secondly as an official naming. This process means that you must pay the required advertising fee to Council before the Council can commence the process to name the street. (G428)

(E14) Subdivision – Proof of supply underground electricity

Prior to the release of the Subdivision Certificate, Council shall be given documented evidence to the effect that satisfactory arrangements have been made with the relevant electricity supplier for the provision of underground electricity to all lots, the provision of any necessary street lighting and the creation of any necessary easements. (G462)

(E15) Subdivision – Proof of supply telecommunications

The submission with the application for a Subdivision Certificate of a letter of compliance from a telecommunications carrier that suitable arrangements have been made, for underground telephone services to each lot. (G464)

(E16) Landscaping plan - Subdivisions

A detailed Landscape Plan must be submitted that includes:

- (a) Identification and accurate mapping of all trees within the subdivision/block in health and condition suitable for retention, regardless of location;
- (b) Report detailing species, health, condition and hazard rating of trees identified as suitable for retention;
- (c) Trees identified for retention to be clearly tagged on-site to allow for assessment by Council officers;
- (d) A street tree planting plan detailing species and location; and
- (e) Methods of tree protection during engineering works for trees identified to be retained.

(G050)

F. Reasons for Conditions

The above conditions have been imposed: -

- (a) To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*
- (b) Having regard to Council's duties of consideration under Section 79C and 80A of the Act
- (c) To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites
- (d) To improve the amenity, safety and environmental quality of the locality
- (e) Having regard to environmental quality, the circumstances of the case and the public interest
- (f) Having regard to the *Albury Development Control Plan 2010*
- (g) To help retain and enhance streetscape quality
- (h) Ensure compatibility with adjoining and neighbouring land uses and built form
- (i) To protect public interest, the environment and existing amenity of the locality
- (j) To minimise health risk to neighbouring residents and workers. (H001)

G. Advisory and Ancillary Matters

NSW DPI Lands advise as follows

1. Both road crossings will be on land zoned E3 and it is understood that under the order conferring Biodiversity Certification of Albury IEP 2010, there will be a requirement to provide offsets in the form of an equivalent area of land as well as offsets for the loss of vegetation.

This is may be matter for Council and the Office of Environment and Heritage.

2. The location of Knowles Road North should be considered in detail to ensure that its future extension to the west across Crown land (lot 35 DP1121146) and private land (lot 1 DP10S4721) will be such that the loss of vegetation will be minimised and the loss of large hollow bearing trees in particular will be avoided.

The creek within Lot 1 DP10S4721 and the adjoining Crown land were identified as habitat for threatened species in the Thurgoona Threatened Species Conservation Strategy and accordingly have been zoned E3 Environmental Management under the Albury IEP 2010.

Further, the part zoned E3 on lot 1 DP10S4721 is subject to a Restriction as to Use for environmental protection. The beneficiaries of this restriction are Albury City Council and the (then) Department of land and Water Conservation.

3. The fill batter on the Eastern side of Maclaurin Road at approximate chainage 750 appears to impact on a mature tree. Because of the tree's proximity to another tree on the western side of the proposed road, its loss would be detrimental to the safe movement of Squirrel gliders through the landscape.

It is recommended that the tree be protected to ensure that there is no disturbance within the drip line. This may require the construction of a retaining wall to restrict the fill batter.

4. Notwithstanding that an easement to drain water exists over the whole of the Crown land in the vicinity of the proposed road crossing, it would be preferred that the outlet from the retarding basin at headwall 2-1 be located within the proposed road reserve. The outlet should be designed and constructed to minimise disturbance of vegetation and erosion particularly where the discharge enters the creek within Crown land.

5. Similarly the outlet from the retarding basin at headwall 3-1 should be designed and constructed to minimise disturbance of vegetation and erosion in particular where the discharge enters the depression within Crown land.

6. The Department is particularly concerned with the proposed open channel discharge from lot 7.

The proposed road intersects a significant natural water course resulting in the need for the diversion. However this diversion appears to be a short term solution which does not address possible future site works on lot 7 to enable development for industrial use. These site works are likely to involve filling of the water course and thus necessitating a diversion further to the west.

It is recommended that site works on lot 7 be carried out either wholly or in part in conjunction with the estate development so that a diversion of the water course can be created to the west of lot 7 within the proposed wildlife corridor.