

COUNCIL JRPP ASSESSMENT REPORT COVER SHEET

Panel Reference	2017WES007	
DA Number	73/2017	
LGA	Leeton Shire Council	
Proposed Development	Freight Transport Facility (Railway Freight Terminal)	
Street Address	Irrigation Way, Murrumbidgee - Lot 4 & 7 in DP1231806	
Applicant	Planning Matters Development Service	
Owner	Grain Link Storage Pty Ltd	
Date of DA Lodgement	19 July 2017	
Number of Submissions	Two	
Recommendation	Approval, subject to conditions	
Regional Development Criteria (Schedule 4A of the EP&A Act)	>\$5M - Private infrastructure and community facilities	
List of all relevant s79C(1)(a) matters	• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy (Rural Lands) 2008</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>Leeton Local Environmental Plan 2014</i>	
List all documents submitted with this report for the Panel's consideration	NAME OF DOCUMENT	ANNEXURE No.
	Development Application 73/2017 submitted by Planning Matters on 19 July 2017 for a Railway Freight Terminal on (then) Lots 4 & 5 in DP 1201358 Irrigation Way.	1
	Letter dated 6 April 2017 from Transport for NSW.	2
	State of Environmental Effects dated March 2017 prepared by Planning Matters Development Services for a Railway Freight Terminal at (then) Lots 4 & 5 in DP 1201358 Irrigation Way.	3
	Plans Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14 prepared by MIESTUDIO.	4
	Noise Impact Assessment: Railway Freight Terminal Lots 4 & 5 DP 1201358 The Irrigation Way Wumbulgal, NSW dated February 2017 prepared Reverb Acoustics.	5
	Traffic and Parking Assessment Report: Proposed Establishment of a Railway Freight Terminal Lots 3,4 &5 in DP 1201358 The Irrigation Way,	6

	Wumbulgal dated 8 March 2017 Ref 17129 prepared by Varga Traffic Planning Pty Ltd.	
	Air Quality Assessment – Irrigation Way, Wumbulgal dated 21 April 2017 prepared by Pacific Environment Document control number: AQU-NW-002-21445.	7
	Survey Plan dated 21 June 2017 by Surveyor William John Chapman Surveyor's Ref: 18184 of subdivision of Lots 3, 4 & 5 in DP 1201358 creating new Lots 1, 2, 3, 4, 5, 6 & 7 in DP 1231806.	8
	Copy of public notification advice of DA 73/2017 Proposed Freight Transport Facility Lot 4 in DP 1231806, posted on Council website.	9
	Neighbour notification list and notification letter.	10
	Agency notification list and notification advice.	11
	Response dated 1 August 2017 from Crown Lands Response dated 14 August 2017 from Environmental Protection Authority.	12
	Response dated 14 August 2017 from Environmental Protection Authority.	13
	Response dated 17 August 2017 from Australian Pipeline Authority.	14
	Response dated 9 October 2017 from Australian Pipeline Authority.	15
	Response dated 30 November 2017 from Roads and Maritime Service.	16
	Response dated 14 November 2017 from John Holland Country Regional Network.	17
Report prepared by	Garry Stoll Manager Planning, Building & Health Services	
Report date	30 November 2017	

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / No

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. *Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes / ~~No~~ / ~~Not Applicable~~

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes / ~~No~~ / ~~Not Applicable~~

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Yes / ~~No~~ / ~~Not Applicable~~

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes / ~~No~~

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA) for the establishment of a railway freight terminal to be located at Irrigation Way, Murrumbidgee on Lot 4 in DP1231806. The locality is more commonly referred to as the 'WRIFT (Western Riverina Intermodal Freight Terminal) Agribusiness Centre.'

The applicant seeks the consent for the establishment of a railway freight terminal. The facility is to accommodate for the loading and unloading of containerised freight onto trains, to be transported out of the region generally to major port facilities.

The proposal meets the criterion for regional development under *State Environmental Planning Policy (State and Regional Development) 2011* and Schedule 4A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) in that the development is private infrastructure development with a Capital Investment Value (CIV) over \$5 million. Accordingly, the Western Region Joint Regional Planning Panel will exercise the consent authority functions of Council for the proposed development.

The proposed development has been assessed against applicable Environmental Planning Instruments (EPI's) and their relevant provisions. As detailed within the section 79C assessment found within this report, the proposal is considered to be generally consistent with the applicable provisions. Likely impacts of the proposal have been considered in detail where they have been found to be of minimal consequence and the subject site is seen to be suitable for the proposed development. The public interest assessment has identified that the development will not be prejudicial to the public interest, and in turn will provide for positive outcomes.

Council advertised and notified the proposal to neighbours and relevant agencies. The notification period was 27 July 2017 to 21 August 2017. No public submissions were subsequently received.

Agency replies were received from Crown Lands, Environmental Protection Authority and John Holland who all advised that they had concerns with the development and would not be making submissions. Council was advised by the Australian Pipeline Authority (APA) and Roads Maritime Service (RMS) that they would be making submissions which duly arrived after submissions closed.

The matters raised by the APA and RMS have been included in the assessment and proposed conditions of approval.

Subsequently, approval of the proposed development, subject to conditions is recommended.

2. APPLICATION SUMMARY

Applicant:	Planningmatters Development Services
Date Application Received:	19 July 2017
Owner:	Grain Link Storage Pty Ltd & Transport for NSW
Application No:	DA87/2017
Address:	Irrigation Way, Murrumbidgee
Lot & DP:	Lot 4 & 7 in DP1231806
Site Area:	25.544Ha
Zoning:	RU1 – Primary Production (<i>Leeton Local Environmental Plan 2014</i>)
Existing Use:	Rural Industries
Pre-DA Meeting:	No pre-development application meeting was held with the applicant
Designated Development:	The proposal does not trigger designated development under schedule 3A of the EP&A Act.
Integrated Development:	The proposed development is not considered to be integrated development under section 91 of the EP&A Act as it does not trigger the criteria of designated development for Railway Freight Terminals being; 1. More than 250 truck movements per day, 2. Requiring the removal of more than 20ha of native vegetation 3. Located within 40m of a natural water body, wetland or environmentally sensitive area or 4. Less than 500m from a residential zone or dwelling not associated with the site.
Notification period start:	27 July 2017
Notification period end:	21 August 2017
Public Submissions:	Nil
Political Donations:	None declared

3. INTRODUCTION

The applicant seeks the consent for the establishment of a railway freight terminal. The facility is to accommodate for the loading and unloading of containerised freight onto trains, to be transported out of the region generally to major port facilities. The proposal is to take place

upon an allotment of land which forms part of a larger and well established cluster of 'Rural Industries', commonly referred to as the WRIFT Agribusiness Centre, located on the Northern boundary of the Leeton Local Government Area (LGA), bordering the LGA of Griffith City Council.

The development entails the construction of rail infrastructure and associated structures adjacent to the rail line along with an ancillary office building and car parking area. The subject site, along with the development proposed and its use details are described in further detail within this report.

4. SUBJECT SITE AND LOCALITY

The subject sites to be developed are legally described as Lot 4 & 7 in DP 1231806, part of the greater collective of established rural industry developments known as the 'Wumbulgal Intermodal Grain Terminal' located within the locality of Murrumbidgee on the boarder of the Leeton and Griffith local government areas. Lot 4 (upon which the majority of the development is proposed) is an irregular shaped allotment generally free of any significant vegetation having an area of 25.544Ha. The land is generally flat and is bound to the North by an existing rail corridor, the allotment is located in the North-Western corner of the Wumbulgal site. Figures 1, 2, 3, & 4 below detail aerial images of the site with figure 5 detailing the Leeton local government area boundaries in relation to the subject sites.



Figure 1 – Greater Wumbulgal Intermodal Grain Terminal site



Figure 2 – Location of proposed development upon the subject site.

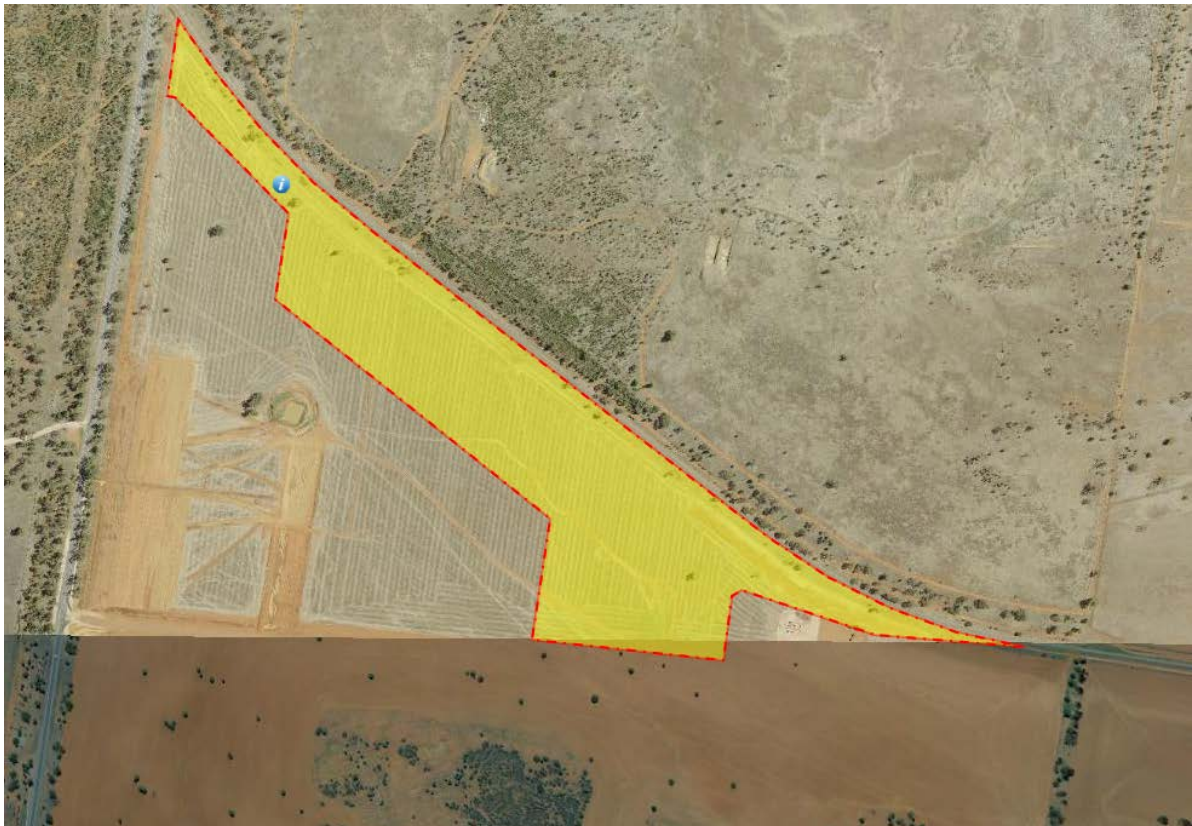


Figure 3 – Configuration of Lot 4

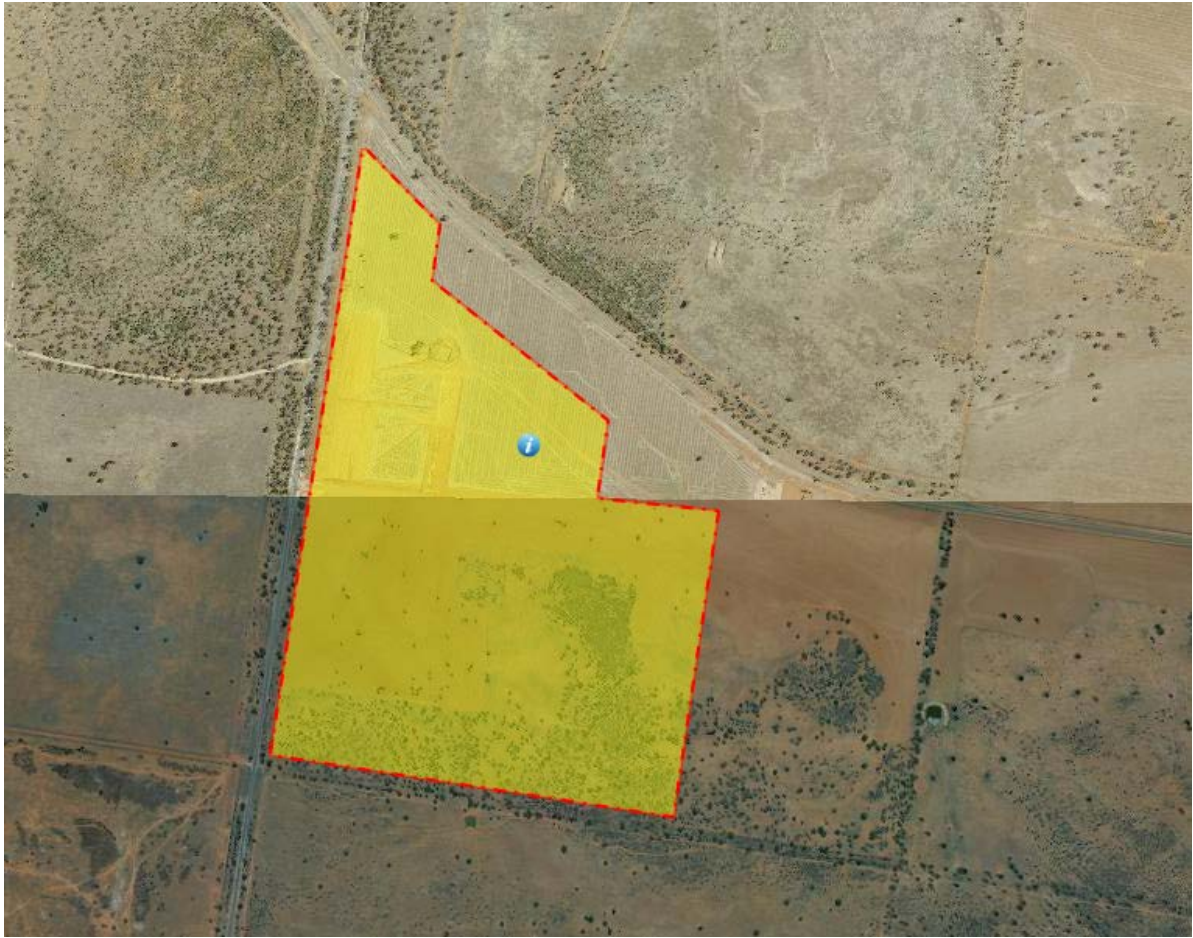


Figure 4 – Configuration of Lot 7



Figure 5 – Leeton LGA boundaries

Lot 7, which adjoins lot 4 to the South, is to only contain a portion of the proposed development, being proposed internal roads/driveways and stormwater disposal/management works.

These proposed roads/driveways will connect the development site to an existing internal road network which serves the greater Wumbulgal site. The development is proposed to be accessed via Irrigation Way, which runs north to South and adjoins the Western end of the greater Wumbulgal site. A right of carriageway over lot 7 provides lawful access to Lot 4, connecting the Irrigation Way to the allotment.

Figures 6 & 7 below show a general site plan of the proposal and a deposited plan which demonstrates the configuration of the allotments described.

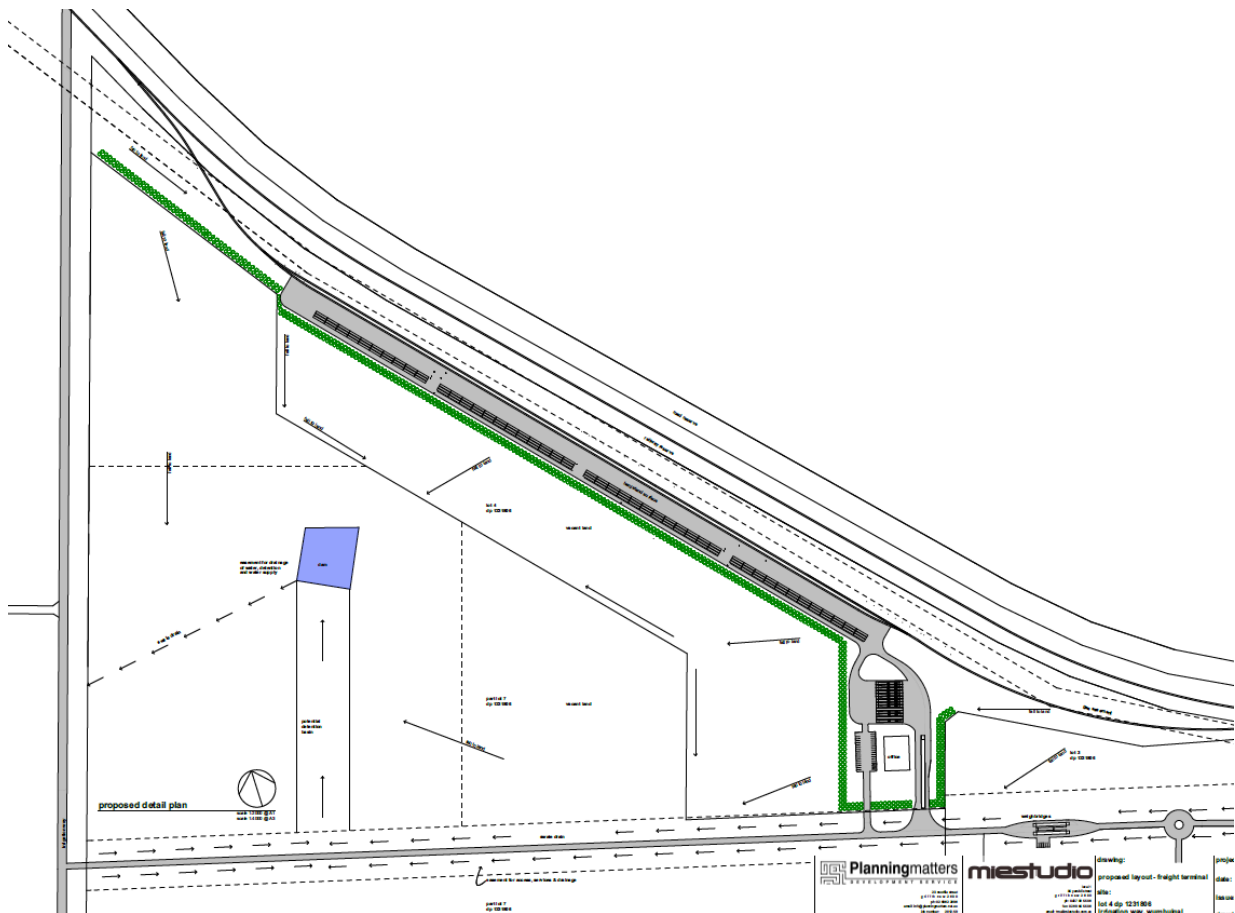


Figure 6— site plan and lot layouts

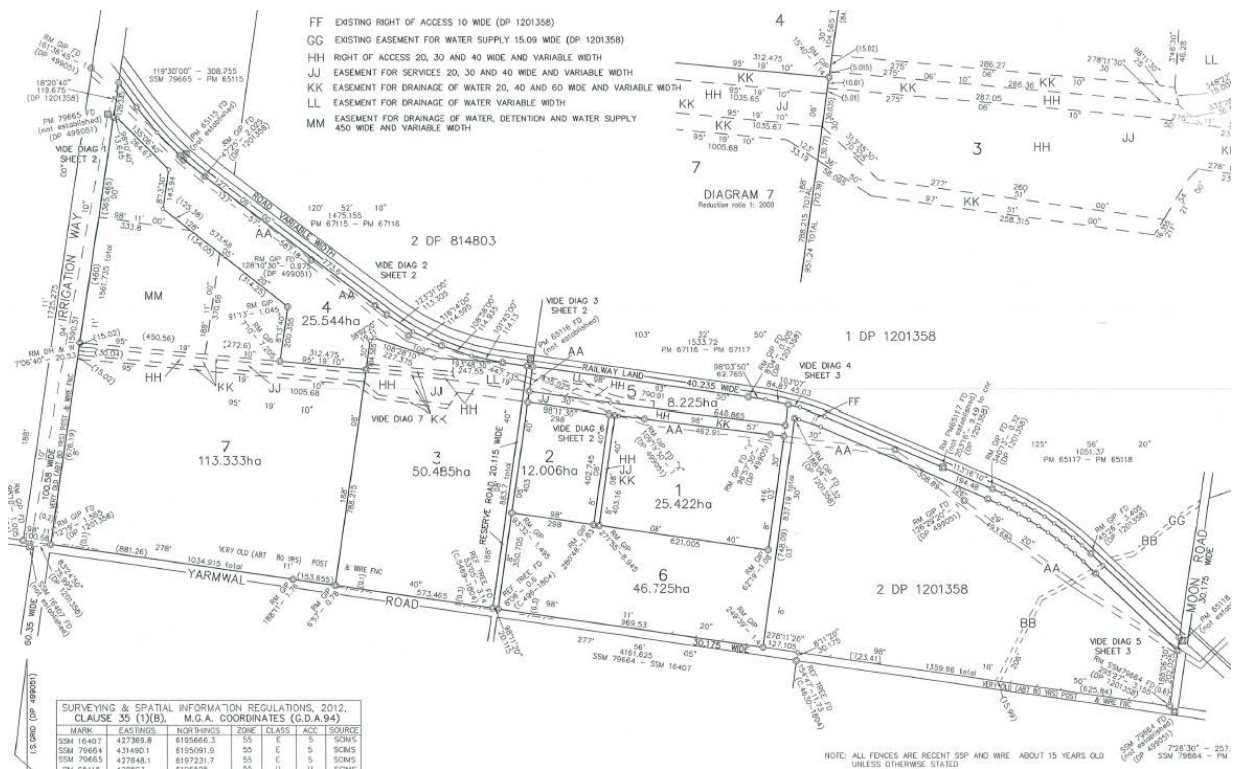


Figure 7 – Deposited plan for DP1231806

Existing on the broader WRIFT Agribusiness Centre site are five major established rural industry developments including Grainlink Grain Storage facility, the Grainlink mainline loading facility which has approval for bulk loading of grain directly onto rail, an oaten hay processing business that sources locally grown oaten hay and repackages it into shipping containers for export directly to China, a cotton business that sources locally grown cotton from the paddock and repackages it into shipping containers for export directly to China and a quarry.

The surrounding locality is dominated by rural agricultural land uses such as cropping and grazing in all directions. Of particular note, a large poultry farm is established 1.5km to the West of the site. The nearest urban area is the City of Griffith, approximately 17km to the North-West of the site. The township of Leeton is located approximately 25km to the South-East.

5. SITE HISTORY

The lot upon which the proposed Freight Transport Facility is sited was originally established as Portion 98 of Farm 969 under the Yanco No. 1 Irrigation Area. Portion 98 was subject to broad scale dry land cropping and grazing purposes.

In the early 2000's Portion 98 was purchased by Leeton Shire Council as a possible future site for rural industry developments given its intrinsic site characteristics such as direct access to Irrigation Way and the main Griffith to Junee rail line, lack of adjoining residential development and its physical location within a long wide valley.

During this time Council was active in promoting the site to potential developers, including an approach to a major freight company in Griffith. However none of these marketing strategies were successful and Council eventually sold Portion 98 in the mid 2000's.

The site was eventually purchased by Grainlink, a local grain company, as a site for their grain storage and management facility and given the natural assets with the site contained in a valley that runs east west with no receptors within 3 kms and its built assets including the adjoining Griffith - Junee the railway line along its northern boundary and the Irrigation Way (MR80) along its western boundary, it became apparent that the site was suited to a range of rural industry development.

Grainlink was then able to purchase part of the adjoining farm to add to Portion 98. Since then Council has approved 15 DAs at the site for approximately \$4m worth of development. During this time Grainlink undertook a range of asset development on the site such as internal roads and stormwater management.

The overall WRIFT Agribusiness Centre now comprises of seven (7) separate lots with five separate businesses operating on site many of who purchase locally produced rural products which value adding on site for export.

6. DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development is for the establishment of a railway freight transport facility, located upon Lot 4 in DP1231806 which forms part of a large cluster of rural industries collectively known as the WRIFT Agribusiness Centre. The proposal is best characterised as a 'freight transport facility' in accordance with the *Leeton Local Environmental Plan 2014*, this is discussed in detail further in this report within the '*Leeton Local Environmental Plan 2014*' assessment table within section 11.2.1(vi).

The facility is to accommodate for the loading and unloading of containerised freight onto trains, to be transported out of the region generally to major port facilities such as Sydney and Melbourne.

Proposed works detail:

Works proposed with the development generally entail the following:

- Two (2) connections/off-takes from the main railway line into the proposed terminal area
- Construction of two (2) rail sidings
- Construction of an adjoining hardstand area for the loading and unloading of containers and container storage.
- The installation of a pre-fabricated office building appurtenant to the terminal
- The construction of a car park and associated civil works
- The construction of internal access roads connected to existing internal access road providing vehicular access to the site.
- Associated storm water drainage works
- Outdoor lighting

The proposed rail siding works will entail the need to cross over the existing gas pipeline which traverses the site, generally adjacent to its Northern boundary. The sidings have been specifically located upon the south-western side of the gas pipeline so as that no general activities will occur within the gas pipeline easement. The proposed hardstand area is for the loading and unloading of containers onto and off heavy vehicles and trains and to store the containers for extended periods.

The proposed pre-fabricated office is to be located between the two (2) internal access roads (driveways) and act as a first point of contact location for visitors to the site. The terminal's associated administration functions will operate from this building with approximately 10 full time equivalent staff expected to be employed initially. Adjacent to the office is a new car park which will contain 35 parking spaces, including 2 accessible parking spaces plus a further 14 truck parking bays.

Proposed use and operational detail:

- The terminal is expected to generate up to 250 heavy vehicle movements per day
- The terminal is proposed to operate 24 hours per day, 7 days per week.
- Containers will be delivered to site via heavy vehicles, unloaded by forklift and or container lifting equipment's, be stored on-site if required and subsequently loaded onto freight trains.

- In turn, trains will deliver containers to the site where they will be unloaded, potentially stored for a period of time and then transported by heavy vehicles back to the customer's facility/property.

Further descriptive details of the proposal can be found in the Statement of Environmental Effects (SEE) prepared by Planningmatters, dated March 2017. Please see attached in Appendix 3.

Proposed Operation of the site

- Containers containing freight will be delivered to the site. There will be no loading of the actual containers with product on the site.
- Trucks delivering the containers will enter the site from the existing entrance off Irrigation Way onto the existing internal road on Lot 7. This road is subject to a s.88 Instrument under the Conveyancing Act 1919 which creates an easement over this internal access road on Lot 7, which benefits Lot 4 (amongst others) for the purpose of access. The trucks will turn off this road onto Lot 4.
- The trucks will then access the hard stand off-loading area where the container will be unloaded from the truck with a forklift and placed in an appropriate area or stack on the hardstand.
- The container will then be eventually loaded onto a stationary train parked on one of the two sidings.
- The management and shunting of the trains will be undertaken in accordance with the LINX WUMBULGAL Shunt Plan and Train Operations Version 1 attached Annexure 18 in a manner that does not affect the existing Irrigation Way railway crossing.

7. PLANS & DOCUMENTAION

The following was submitted as part of the Development Application:

- Statement of Environmental Effects (SEE) prepared by Planningmatters, dated March 2017. Please see attached in Appendix 3.
- Plans and Drawings prepared by MIESTUDIO project 112017, dated 13.02.17 & 04.08.17 – drawing no. da 01-14. Please see attached in Appendix 4.
- Noise Impact Assessment prepared by Reverb Acoustics, dated February 2017. Please see attached in Appendix 5.
- Traffic and Parking Assessment Report prepared by Varga Traffic Planning, dated 8 March 2017. Please see attached in Appendix 6.
- Air Quality Assessment prepared by Pacific Environment, dated 21 April 2017. Please see attached in Appendix 7.
- Conceptual stormwater management MIESTUDIO plan da 02 in Appendix 4.
- LINX WUMBULGAL Shunt Plan and Train Operations Version 1 in Appendix 18.

8. REFERRALS UNDERTAKEN

Internal referrals

The application was referred to Council's Health and Building Surveyor for comments and/or conditions. A summary of the comments were received are found below:

Proposed Health & Building Department Conditions of Consent

1. Access for people with disabilities shall be provided to and within the building in accordance with the provisions of the Disability (Access to Premises – Buildings) Standards 2010.
2. This approval does not ensure total compliance with the Disability Discrimination Act 1992. Applicants should investigate their potential for liability under the Act.
3. All building works shall be carried out in accordance with the Building Code of Australia.
4. A separate application is to be submitted to Council and approval obtained prior to the installation of the on-site sewer management system.

Prior to the issue of any Construction Certificate

5. Should Council be appointed as the Principal Certifying Authority, an application for Construction Certificate shall be submitted to and approved prior to the commencement of any building work.
6. No activity is to be carried out on site until the Construction Certificate has been issued, other than:
 - a) Site investigation for the preparation of the construction, and/or
 - b) Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
7. The Construction Certificate for the building work is to be issued and the person having the benefit of the development consent shall appoint a Principal Certifying Authority prior to the commencement of any building works.

The Principal Certifying Authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.

Prior to the commencement of works

8. A copy of the stamped approved plans shall be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
9. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures shall be in accordance with the NSW WorkCover publication titled, 'Site Security and Public Access onto Housing Construction Sites' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

10. A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place, a separate application made under the Roads Act 1993 will need to be lodged with Council together with the associated fee.

11. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
- a) The name, address and telephone number of the Principal Certifying Authority for the work; and
 - b) The name of the Principal Contractor and a telephone number at which that person may be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.

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

12. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

During works

13. The following Critical Stage Inspections are required to be carried out by the Principal Certifying Authority to enable the issue of an Occupation Certificate:
- a) After excavation for, and prior to the placement of, any footings.
 - b) Prior to pouring any in-situ reinforced concrete building element.
 - c) Prior to covering of the framework for any floor, wall, roof or other building element.
 - d) Prior to covering waterproofing in any wet areas.
 - e) Prior to covering any stormwater drainage connections.
 - f) After the building work has been completed and prior to any occupation certificate being issued in relation to the building work.

48 hours prior notice for all of the above inspections (where applicable) shall be given.

14. Erosion and sediment control measures shall be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out.
15. Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.
16. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm
Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

- a) No work is permitted on Sundays and Public Holidays
- b) No work is permitted on:
 - Saturdays when a public holiday is adjacent to that weekend.
 - Construction industry awarded rostered days off.
 - Construction industry shutdown long weekends.

Prior to the Issue of an Occupation Certificate

- 17. Application for any Occupation Certificate shall be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 18. The premises not being occupied until the Occupation Certificate has been issued.
- 19. Prior to occupation of the building, a Fire Safety Certificate issued by an appropriately qualified person shall be obtained for all the Essential Fire Safety Measures forming part of this consent. A copy of the Fire Safety Certificate shall be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

Each year thereafter, within 12 months, the owner of the building shall ensure these Essential Fire Safety Measures are inspected and Annual Fire Safety Statement issued. A copy shall again be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

Proposed Engineering Department Conditions of Consent

General Conditions

All works undertaken in carrying out the development shall comply with Work Health and Safety Act 2011 and Regulations and Safe Work NSW Guidelines codes of practice as well as Safe Work Australia.

{Reason: to ensure the safety of the people working on the development and the safety of the community.}

Prior to the Issue of a Construction Certificate

Detailed Civil Engineering plans are required for any proposed civil works including earthworks, stormwater drainage, landscaping and roadworks prior to issue of any Construction Certificate.

Hydraulic design details prepared by a suitably qualified and practicing hydraulic engineer for the proposed stormwater disposal and drainage from the development, including any system of on-site stormwater detention must be submitted to and approved by Council. The drainage design shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event and any stormwater detention system shall be designed in accordance with Australian Rainfall and Runoff guidelines.

An Operational Plan of Management (OPM) for the development is to be submitted to Council for approval. The OPM is to include at minimum the following:

- *Methods and measures to ensure the number of truck movements to the development do not exceed 250 per day and what action will be taken should this number be exceeded.*
- *Details on methods and frequency of unsealed road watering for dust control.*

The internal access road shall be sealed from the intersection of Irrigation Way to the limit of turning vehicles using the heavy vehicle driveway and extend into both internal access driveways incorporating turning movements of design vehicles. The access road pavement and seal is to be designed using Austroads guides or similar to cater for the proposed vehicle loadings and to a width adequate for passing of the largest design vehicle. Design details are to be submitted to Council.

Prior to the commencement of the Works

A Construction Certificate for the building and civil work is to be issued and the person having the benefit of the development consent shall appoint a Principal Certifying Authority prior to the commencement of any building or civil works.

*Car parking for visitors and staff and truck parking is to be accommodated fully on site in a safe location and designated accordingly. Twelve (12) B-Triple parking spaces, Thirty Five (35) car parking spaces minimum and heavy vehicles stacking areas upon entry and exit are to be catered for as identified in the submitted documents.
{Reason: to ensure adequate parking areas are designated.}*

During Works

Any damage to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of public infrastructure. Any damage to Council's infrastructure which is obvious before construction is to be immediately notified to Council to avoid later conflict.

{Reason: To ensure that any damage to Council's property is at the full cost to the developer. Environmental Planning & Assessment Act 1979 Section 80A (6) (a)}

Prior to the Issue of any Occupation Certificate

Speed restriction signs are to be erected at regular intervals along all internal access roads displaying a speed limit of 40km/hr.

Civil works required by this consent are to be complete prior to the issue of any Occupation Certificate.

Ongoing Use

All access roads should be kept in good condition.

A maximum 250 truck movements per day are permitted in association with the development.

External referrals

The application was referred to the following external agencies who were considered to have an interest in the determination of the application, and/or who Council were legislatively required to refer the application to:

- Australian Pipeline Authority
- Roads and Maritime Services
- Environmental Protection Authority
- John Holland Group (Rail Authority)
- Griffith City Council
- Department of Industry – Lands & Forestry
- Port of Melbourne

A summary of the comments received from the list of agencies above can be found below. Copies of their correspondence can be found in the relevant Appendices.

Department of Industry – Lands & Forestry

The Department confirmed that there is no Crown Land or Road within or adjacent to the proposed works site. The nearby Crown reserve (Lot 106 DP 751679 and Lot 94 DP 751704) was not considered to be at risk of any site impacts during either the development or ongoing operation of the proposed site. No objections or recommended conditions of any subsequent consent were therefore raised. (Appendix 12)

Environmental Protection Authority (EPA):

The EPA raised the point that the development is not a scheduled activity under the *Protection of the Environment and Operations Act 1997* and therefore does not require a licence. On that basis the EPA had no further comments. (Appendix 13)

Australian Pipeline Authority (APA)

The APA has raised no objection to the proposal subject to the imposition of conditions on any subsequent development consent as detailed below, please also refer to comments within the *State Environmental Planning Policy (Infrastructure) 2007* assessment table further in this report:

1. No improvements within Easement

Buildings, structures, roadway, pavement, pipeline, cable, fence, change in ground level, or any other improvement on or under the land within the gas transmission pipeline easement must not be constructed without prior consent in writing from APA. No structure or vegetation will be permitted on the easement that prohibits maintenance of line of sight along the pipeline easement.

2. Detailed design

Prior to development commencing, detailed engineering designs must be submitted to APA for review, and amendment as required, to comply with APA requirements. Any application for a Construction Certificate must not be accepted by the consent authority unless accompanied by a letter from APA stating that the detailed engineering designs meet APA's requirements. At a minimum the detailed engineering design must:

- *Include slab protection of the pipeline at the rail spur crossings to ensure the pipeline is not subject to unacceptable loads or vibration*
- *Demonstrate adequate drainage of stormwater from the easement*
- *Ensure any filling over the easement does not place unacceptable load on the pipeline*
- *Allow for crossing of the rail spur by light and heavy vehicles required to access the gas pipeline easement for future works by the gas pipeline owner /operator*
- *Allow for appropriate vegetation having regard to the pipeline and pipeline operations*
- *Location of any lighting infrastructure and proposed services.*
- *The cost of all works included in the detailed engineering designs must be borne by the applicant.*

3. Pipeline Coating Assessment

Prior to the installation of pipeline protection (slabbing or bridging), the condition of the pipeline must be assessed, and the pipeline provided with additional protection if required by APA. A Pipeline Coating Assessment (DCVG Survey) must be commissioned to inform the need for any required protection. The cost of the assessment and any required pipeline protection will be borne by the applicant.

4. Third Party Works Authorisation

Prior to the commencement of any works, including earthworks, vegetation clearing or plantings within the gas pipeline easement, the proponent must obtain a third party works authorisation from APA. Any authorised works must comply with any conditions attached to the third party works approval.

5. Recoverable Works Agreement

Prior to the commencement of works, the applicant must enter into a recoverable works agreement with APA, on terms acceptable to APA (at APA's absolute discretion). The recoverable works agreement will allow APA to recover costs incurred by APA, from the applicant, in proceeding with the permitted works.

6. Co-use agreement

Prior to the commencement of works the applicant must enter into a co-use agreement with APA for the infrastructure crossing the gas pipeline easement, on terms acceptable to APA (at APA's absolute discretion).

7. Delineation of Easement

Prior to commencement and during the course of any construction activities the southern edge of the gas pipeline easement is to be clearly delineated (e.g. bunting supported by star pickets), with signage at intervals of no more than 50m warning of the presence of a high pressure gas transmission pipeline. This must be provided and paid for by the applicant.

8. Construction Management Plan

Prior to the commencement of any works, a construction management plan must be submitted to and approved by the approving authority. The plan must:

- *Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the operator of the gas transmission pipeline.*

- Avoid significant vibration and heavy loadings stored over the pipeline, and heavy vehicle / plant crossings of the pipeline.
- Be endorsed by the operator of the gas transmission pipeline.
- Avoid construction access from the gas pipeline easement, except where necessary and approved by APA.
- Require a gas pipeline awareness induction (delivered by APA) for all construction workers on site.
- Include any other relevant matter to the satisfaction of the assessment manager.

The assessment manager must be satisfied that the pipeline licensee has reviewed and approved the Construction Management Plan. The construction management plan must be implemented to the satisfaction of the responsible authority. The construction management plan may be amended to the satisfaction of the responsible authority. (Appendix 14 & 15)

Roads and Maritime Services

DA73-2017 - PROPOSED RAILWAY FREIGHT TERMINAL - LOT 7 AND LOT 4 DP1231806, IRRIGATION WAY, WUMBULGAL.

I refer to your correspondence regarding the subject Application which was referred to the Roads and Maritime Services for assessment and comment.

From the information provided it is understood that the development proposal is for the establishment of an intermodal rail hub with construction of a rail siding connecting with the main rail line which runs along the northern edge of the subject site. The proposed development is supported by documentation prepared by Planning Matters. The subject site has frontage to Irrigation Way (MR80), which is a classified road, within a 100 km/h speed zone.

The site of the intermodal freight terminal is proposed to be located in the north western corner of an industrial estate that has been developed adjacent to the existing rail line. A new road is to be constructed from the development to the existing internal roadway over Lot 7 DP 1231806 which services access to the industrial estate. The intersection of this new roadway with the existing internal roadway is approximately 1 kilometre from the intersection of the existing internal roadway with Irrigation Way. This distance will provide for the stacking of vehicles clear of the road reserve of Irrigation Way.

The submitted documentation indicates that access to the proposed facility is to be via the existing internal access roadway to Irrigation Way through Lot 7 DP 1231806. On this basis a Right of Carriageway is to be created over Lot 7 in favour of the subject site (Lot 4 DP 1231806) prior to the release of the Construction Certificate. As legal access is available over Lot 7 a new driveway to Irrigation Way is not required.

From the documentation it is evident that the intent of the proposal is to provide for the movement of freight by rail. The proposed intermodal facility seeks to maximise rail transport options and the removal of trucks from the roads. However such a development concentrates "last mile" movements to the development site as goods need to be delivered to and distributed from the intermodal facility. In this regard it is acknowledged that the proposed rail siding development will provide an alternative to the current rail loading facility within the urban limits of Griffith and that the removal of such a facility will benefit the existing road network and amenity surrounding the railway yards within Griffith.

The statement of environmental effects submitted with the application indicates that the development will not generate traffic in excess of exceed 250 truck movements per day. On this basis any development consent should restrict the number of truck movements to 250 and require the submission of an operational management plan detailing how this will be monitored and enforced. It needs to be acknowledged that this 250 truck movement per day is in addition to the existing traffic generation to the site. Further development of the land within the surrounding industrial estate will warrant the submission of a traffic impact assessment providing for assessment of the cumulative traffic movements to the whole site.

Currently the existing private access roadway into the development site is not sealed. Dust generation and loose material and dust being dragged onto Irrigation Way by vehicles exiting the site to Irrigation Way has the potential to be a road safety issue on Irrigation Way. Therefore the current internal road is to be sealed for a distance of at least 200 metres from its intersection with Irrigation Way.

The proposed rail siding is to be located along the northern boundary of the subject site and to the east of the existing railway level crossing on Irrigation Way. The plans submitted with the development application indicated that the western connection of the siding was to intersect with the existing main rail line within 60 to 80 metres of the railway level crossing on Irrigation Way. This short distance would require locomotives shunting carriages within the siding to exit the siding to within metres of, or across, the carriageway of Irrigation Way. For road safety reasons Roads and Maritime Services objects to the proposed location of the rail connection relative to the carriageway of Irrigation Way as a locomotive standing within close proximity to the roadway at the rail level crossing within a 100 km/h speed zone would potentially cause motorist to take some form of evasive action, eg stop unnecessarily.

Revised plans to the rail siding design to increase this distance of the siding connection to the main rail line to approximately 130 metres from the carriageway of Irrigation Way were submitted for review. Depending on the size of the train 3 to 4 locomotives occupying a length of approximately 80 to 90 metres would need to shunt onto the main line. This would allow for a 50 metre separation from the carriageway of Irrigation Way at best. Due to the size of the development site it appears that options are available to further increase the separation of the shunt limit from the rail level crossing on Irrigation Way and to address the view to trains on the main rail line by landscaping of the like in the north western area of the subject site. Notwithstanding this the required site lines for the rail level crossing on Irrigation Way would need to be retained. Therefore any consent for the proposed development shall include a condition requiring the separation distance between the western connection of the proposed siding to the main rail line and the carriageway of Irrigation Way be maximised to the satisfaction of Roads and Maritime Services and the Council.

Access into the siding from the main line is undertaken at low train speeds. Therefore to minimise delay to the motorist on Irrigation Way the use of the siding shall be conditioned so that no access is available to the siding via the western approach to the siding. All trains shall access the siding from the main line from the eastern approach to the siding. The use of the western connection for shunting purposes is also undertaken at low speeds but this is to be limited to locomotives only with carriages to remain within the siding. It is understood that a shunt management plan is to be prepared for the rail siding. The shunt management plan, or changes to such plan, shall be to the satisfaction of Roads and Maritime and Council in addition to any other rail regulatory authorities.

The main concern for Roads and Maritime Services is the potential impact of the development on motorists travelling on Irrigation Way within a 100 km/h speed zone particularly due to the proximity of the proposed shunt limit for the siding to the carriageway of Irrigation Way. Roads and Maritime acknowledges that shunting onto the main line will only be required when the train exceeds the length of the one lines within the siding. However the proposed shunt limit is

not agreed to by Roads and Maritime Services for road safety reasons. The proponent is to maximise the shunt limit separation from Irrigation Way and demonstrate that this shunt limit is located so that the proximity of trains will not adversely distract or impact on passing motorists on Irrigation Way. The preference is for the separation of the shunt limit from the carriageway to be maximised however measures to screen locomotives standing on the main railway line from vehicles approaching the level crossing, such as establishment of vegetation on the site, may also be considered. Such measures will need to comply with safe sight distance requirements of relevant Australian standards, guidelines & publications relating to road-rail interfaces. The main issue is for the proof that the development will not impact on motorists on Irrigation Way. The consent authority may resolve to consider this issue as a requirement prior to issue of any construction certificate or as a deferred commencement condition.

It is understood that the currently the plans for the proposed siding are currently in the conceptual stages of preparation for submission of the Development Application. Should approval be granted the proposed design of the rail siding and its connections to the main rail line will be subject to a detailed design phase to provide plans and documentation to the address the requirements of the Independent Transport Safety Regulator and industry standards required to facilitate the safe operation of railway operations. The proponent has provided, in writing, an undertaking to the include Roads and Maritime Services in the LINX User Requirements Workshop for Wumbulgal to work through the concerns of all key stakeholders.

Further to the above the industrial estate currently appears to be developing in an ad-hoc manner. At some time in the future a threshold will be reached where the internal access roadway and intersection with Irrigation Way that services the Industrial estate will need to be upgraded to a higher standard. To require this as part of an approval for a single development when the threshold is reached may not be considered to be fair and reasonable. The preparation and adoption of a masterplan or Development Control Plan for the further development of the estate would allow for a considered and informed assessment of the estate as a whole and staged implementation of the various infrastructure requirements for the estate.

Roads and Maritime Services is mainly concerned with the impact of the development on the safety and efficiency of the Classified Road Network. As the subject site has frontage and access to Irrigation Way, which is a classified road, within a 100 km/h speed zone the following conditions are proposed for road safety reasons.

Roads and Maritime Services has assessed the Development Application based on the documentation provided and would raise no objection to the development proposal subject to the Consent Authority ensuring that the development is undertaken in accordance with the information submitted as amended by the inclusion of the following as conditions of consent (if approved):-

1. The separation of the western connection of the proposed siding to the main railway line from the carriageway of irrigation Way shall be maximised to the satisfaction of Roads and Maritime Services and Council. Prior to the commencement of any works on the subject site the proposed siding connection to the main rail line and the resulting shunt limit shall be demonstrated to be safe and not impact on motorists on Irrigation Way.
2. Detailed design plans & documentation for the location of siding connections to the main railway line and the required shunt limits shall be prepared and submitted to the consent authority for approval. This documentation shall demonstrate that trains using the proposed siding and located adjacent to the shunt limit for the siding will not adversely interfere with passing vehicular traffic travelling along Irrigation Way. In particular, the documentation shall demonstrate that the proposed shunt limit will be located a sufficient

distance from the existing level crossing on Irrigation Way so that motorists on Irrigation Way will not be concerned about the potential for collision with locomotives undertaking shunting activities on the main railway line. Any proposed measures to screen locomotives standing on the main railway line from view by motorists approaching the level crossing shall be identified on the submitted plans. The documentation shall also demonstrate that the rail level crossing and the proposed siding connection points & shunting limit points will comply with the requirements of relevant statutory requirements, Australian standards, guidelines & publications relating to road-rail interfaces. All detailed design plans & documentation shall be approved by both John Holland Country Regional Network (JHCRN) and NSW Roads & Maritime Services prior to the issue of any Construction Certificate for the development.

- 3. Access for trains between the proposed rail siding and the main rail line shall be via the eastern approach to the siding only. Locomotives are permitted to access the main line via the western approach for shunting purposes only. Carriages are not permitted to access the main rail line via the western end of the siding for any purpose. This is to be addressed in the management plans for the use of the rail siding.*
- 4. A shunt management plan shall be prepared for the use of the proposed rail siding in accordance with the requirements of regulatory rail authorities and to the satisfaction of the consent authority and Roads and Maritime Services.*
- 5. Access to the subject site (Lot 4 DP 1231806) shall be via right of carriageway over Lot 7 DP 1231806 only. Access directly from the subject site to the road reserve of Irrigation Way is denied.*
- 6. A maximum of 250 truck movements (125 truck trips) per day is permitted to the proposed rail siding development site. An operational plan of management detailing how this will be monitored and controlled is to be prepared and submitted to satisfaction of Council and Roads and Maritime Services.*
- 7. As a minimum the internal roadway shall be constructed and maintained to provide for two-way movement for vehicles up to B-triple heavy vehicles and sealed to a minimum width of 7 metres for at least 200 metres from its intersection with Irrigation Way. The sealed section of the internal road is to be line marked to delineate the 2 travel lanes. The remainder of the internal roadway within the subject property should be constructed using an all-weather surface and treated to minimise dust leaving the subject site.*
- 8. Suitable drainage treatment is to be implemented to retard any increased storm water run-off directly from the development site to the road reserve of Irrigation Way (MR80).*
- 9. A construction management plan to address construction activity access and parking is to be prepared prior to commencement of construction activity on the development site. Access to the development site is to be via the existing internal access roadway.*
- 10. Prior to any works commencing within the road reserve of Irrigation Way the applicant must apply for and obtain approval under Section 138 of the Roads Act, 1993, from the road authority (Council) and concurrence from Roads and Maritime Services. The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed works and as required by the various public utility authorities and/or their agents.*
- 11. Works associated with the development shall be at no cost to Roads and Maritime Services.*

Please be advised that under the provisions of the Environmental Planning & Assessment Act it is the responsibility of the Consent Authority to assess the environmental implications, and notify potentially affected persons, of any development including conditions. (Appendix 16)

John Holland Group

John Holland Rail has no objections to the proposal. (Appendix 17)

9. OTHER APPROVALS REQUIRED

9.1 Local Government Act 1993

Pursuant to section 68 of the *Local Government Act 1993* (LG Act), separate approvals will be required to the installation and operation of an on-site sewerage management system (OSMS) for the proposed office building. Conditions of any subsequent consent will enforce this requirement. Based on the land area and proposed use, an OSMS will be able to be catered for.

10. RIVERINA MURRAY REGIONAL PLAN 2036

The proposed development is seen to be generally consistent with the *Riverina Murray Regional Plan 2036*, specifically *Direction 17: Transform the region into the Eastern seaboard's freight and logistic hub* and *Direction 18: Enhance road and rail freight links*.

11. ASSESSMENT – STATUTORY REQUIREMENTS

11.1 COMMONWEALTH LEGISLATION

11.1.1 *Environment Protection and Biodiversity Conservation Act 1997 (EPBC Act)*

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides protection for matters of national environmental significance. Any actions that may impact a matter of national environmental significance are controlled actions and require approval from the Commonwealth Government Minister of the Environment.

With regard to the proposed development, it will not create a significant impact on the environment and approval from the Commonwealth is not required.

11.2 STATE LEGISLATION

11.2.1 *Environmental Planning and Assessment Act 1979 (the EP&A Act)*

(i) Section 5A Significant effect on threatened species, populations or ecological communities, or their habitats

Section 5A of the EP&A Act requires that in the administration of sections 78A, 79B and 79C of the Act a decision is required to be made as to whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats. The proposed development does not propose the removal of any native or mature vegetation, all

works are proposed to be undertaken on land which is generally free of significant vegetation and previously disturbed through agricultural activities and through the construction of the rail corridor traversing the site. No further consideration under this section of the EP&A Act is considered to be required as flora and fauna impacts are seen to be minimal.

(ii) Section 79B Consultation and concurrence

Section 79B (3)(b) of the EP&A Act provides development consent cannot be granted for development that is likely to significantly affect a threatened species, population or ecological community or its habitat without the concurrence of the Chief Executive of the Office of Environment and Heritage or, if a Minister is the consent authority, unless the Minister has consulted with the Minister administering the *Threatened Species Conservation Act 1995*.

As above within the section 5A comments, the proposed development does not propose the removal of any native or mature vegetation, all works are proposed to be undertaken on land which is generally free of significant vegetation and previously disturbed through agricultural activities and through the construction of the rail corridor traversing the site. No further consideration under this section of the EP&A Act is considered to be required.

Note: in relation to Sections 5A and 79B(3)(b), these sections of the EP&A Act were repealed on 25 August 2017 in light of the commencement of the Biodiversity Conservation Act 2016, which commenced on the same date. These provisions of the EP&A Act however are considered to still apply to the proposal as the application is considered to be a 'pending or interim planning application' as per the Biodiversity Conservation (Savings and Transitional) Regulation 2017.

(iii) Section 77A Designated Development

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* (the Reg), as called up by section 77A of the EP&A Act details what development is *Designated Development*. Schedule 3 of the Reg outlines the following criteria for when *railway freight terminals* are to be considered Designated Development:

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

- (a) that involve more than 250 truck movements per day, or*
- (b) that involve the clearing of more than 20 hectares of native vegetation, or*
- (c) that are located:*
 - (i) within 40 metres of a natural water body, wetland or environmentally sensitive area, or*
 - (ii) within 500 metres of a residential zone or dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.*

In relation to each of the above criterion:

- (a) The statement of environmental effects submitted with the application states the development will not exceed 250 truck movements per day. As this figure does not*

exceed 250 truck movements, the development does not trigger Designated Development requirements. Notwithstanding, should any subsequent development consent be issued, a condition of development consent would restrict the number of truck movements to 250 and require the submission of an operational plan of management detailing how this will be monitored and controlled.

- (b) The development does not involve the removal of more than 20 hectares of native vegetation
- (c) The development is not located within 40 metres of a natural water body, wetland or environmental sensitive area, nor is it within 500 metres of a residential zone or dwelling not associated with the development.

(iv) Section 79BA Consultation and development consent—certain bush fire prone land

The subject site mapped as being partially bush fire prone (see Figure 8) below. Section 79BA states that development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land unless the consent authority is satisfied that the development conforms to the specifications and requirements of *Planning for Bush Fire Protection 2006* (PBP), or the consent authority has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to PBP.



Figure 8 – Bushfire Prone Land Map, yellow indicates a buffer area from the vegetated 'threat'.

Works proposed are not considered to be a *special fire protection purpose* as defined under the *Rural Fires Act 1997* and subdivision is not proposed as part of this development. The applicant has not provided a report or certificate from a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment. To this end, Council has reviewed the proposal against PBP and consider the development proposal to meet relevant provisions.

The proposed office building is the only habitable building proposed, it is to be located in excess of 100m from the vegetation which is considered to be the bushfire threat and accordingly will not need to satisfy a Bush Fire Attack Level (BAL) as per Australian Standard AS3959-2009.

The only component of the proposal which is 'impacted' by the bush fire buffer area as shown in figure 3 is the proposed hardstand area adjacent to the railway line. There are no habitable or other permanent structures to be built within this area. It is considered the proposal is generally consistent with the specific objectives of PBP which are:

- *afford occupants of any building adequate protection from exposure to a bush fire;*

- *provide for a defensible space to be located around buildings;*
- *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;*
- *ensure that safe operational access and egress for emergency service personnel and residents is available;*
- *provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ); and*
- *ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush firefighting).*

In light of the above objectives, the subject site is very minimally impacted by bush fire threats and the development proposed provides for adequate defensible space, generous distances between buildings & the bush fire threat and provides suitable all weather access for emergency vehicles attend the site if needed. Furthermore, conditions of any subsequent consent will require the submission of an emergency management plan for the development to Council for approval prior to the issue of any Construction Certificate.

(v) Section 79C Evaluation

This application has been assessed using the heads of consideration specified under section 79C of the EP&A Act (*and other relevant sections*). Matters detailed below are considered to be of relevance to the proposed development subject of the Development Application.

Section 79C(1)(a) Matters for consideration – General requires the consent authority to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and the regulations*”.

The following Environmental Planning Instruments (EPIs) apply – s.79C (1)(a)(i)

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Clause	Consideration
7 – Step 1 – Is the land potential koala habitat?	Before a council may grant consent to an application for consent to carry out development on land to which this Part applies, it must satisfy itself whether or not the land is a potential koala habitat. A potential koala habitat is defined as: <i>Areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.</i> Comment: The subject site contains very sparse native vegetation (in many instances single trees) within the vicinity of the proposed development. To this end, the vegetation is not considered to be potential koala habitat therefore, further assessment against this <i>SEPP</i> is not required.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause	Consideration
7 – Contamination and remediation to be considered in determining development application.	A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. The subject site is not identified on Council's contaminated land register as being a site which is potentially contaminated. Furthermore, the sites historical use has been for general agricultural purposes, it is considered to be suitable for use in its current state for the proposed development without the need for remediation to take place. No further consideration under this policy is considered required.

State Environmental Planning Policy (Infrastructure) 2007

Clause	Consideration
55 – Development adjacent to corridor	Before determining an application (or any application for modification of a consent) for development adjacent to a gas pipeline corridor, the consent authority must: • be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and • take those risks into consideration. As the proposal involves works over a gas transmission pipeline known as the Junee-Griffith Lateral Pipeline, the DA was referred to the Australian Pipeline Authority Group (APA) who are the relevant authority for the pipeline. Please refer to section 8 previously in this report for details. As a result of the comments provided from the APA, they, in consultation with the applicant and developer, have prepared a Safety Management Study (SMS) to address the concerns of the APA in terms of potential impacts on their pipeline and also the requirements of this clause. The APA has confirmed that have no objection to the proposed development, subject to the conditions they have specified as detail in section 8 previously in this report. To this end, Council is now satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development have been identified, and that those risks have been taken into consideration.
85 – Development immediately	This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development: (a) is likely to have an adverse effect on rail safety, or

adjacent to rail corridors	(b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or (c) involves the use of a crane in air space above any rail corridor. It is considered that the development <i>may</i> have the potential to have an adverse effect on rail safety due to its proximity to the railway line and works being proposed within the railway reserve, subsequently in accordance with the requirements of this clause the application was referred to the relevant rail authority for comment. The application was referred to the rail authority on 27 July 2017 and a formal response and/or comments in terms of their assessment of the proposal has not been received at the time of preparation of this report. As per clause 85(2)(b) consideration has been given to the document <i>Development Near Rail Corridors and Busy Roads – Interim Guideline</i> prepared by the then NSW Department of Planning (now known as Department of Planning & Environment). An assessment of the development against applicable provisions can be found below: <u><i>Section 1: Introduction</i></u> This part provides an overview of why the Guidelines are relevant and to which development they specifically apply. <u><i>Section 2: Strategic Planning Context</i></u> General guidance information for strategic planning. <u><i>Section 3: Noise and vibration</i></u> During the construction phase, there will be noise and vibration experienced within the immediate area. This will be not any more significant than a general commercial construction site considering the scale of the works and is not seen to be an unreasonable impact arising within the area. Considering the size of the site and its surrounding locality, there will be minimal consequences arising on adjoining land uses. In terms of on-going operations on-site, a Noise Impact Assessment prepared by Reverb Acoustics has been submitted with the DA documentation, a copy of which can be found in Appendix 5 of this report. The noise impact assessment recommends noise control strategies for the site to mitigate any arising acoustic impacts on the rural environment and sensitive receptors. As such, should any future development consent be issued these recommendations would be enforced via conditions of consent. Overall, the noise impact assessment concludes that the proposal is able to operate 24 hours a day providing that the report's recommendations are implemented. This includes the commencement of a noise monitoring program during commissioning of the site to verify the predictions of the report and identify any possible non-compliances.
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	Again, should any future development consent be issued the commencement of the noise monitoring program will be ensured via conditions of consent. <u><i>Section 4: Air quality near busy roads</i></u> This section of the Guidelines more specifically relates to health implications from motor vehicle emissions and nearby developments (or proposed developments) which may or would be sensitive to a 'busy road'. In the case of the proposed development, whilst Irrigation Way is a Roads and Maritime Services (RMS) controlled 'Main Road', vehicles emissions concerns from the development are not a significant factor due to the open rural locality, separation to sensitive receptors (see site suitability assessment further in this report) and use of Irrigation Way not seen to be a 'busy road' in comparison to metropolitan roads. As previously mentioned in this report, an Air Quality Assessment prepared by Pacific Environment, dated 21 April 2017 has been provided with the DA documentation. It can be found in Appendix 7. The assessment has primarily considered potential dust emissions from the site resulting from vehicles manoeuvring on unsealed roads upon the site. The assessment concludes: <i>'The results of the modelling indicate that the predicted increment and cumulative annual average concentrations of PM10, PM2.5, TSP and dust deposition at the closest sensitive receptors all comply with the impact assessment criteria.'</i> The report does however acknowledge that whilst there is the potential for additional exceedances of relevant impact assessment criteria at the closest sensitive receptors, it is considered unlikely in practice due to the conservative assessment assumptions undertaken. A condition of any subsequent consent issued would also reinforce (as per the report's conclusion) that <i>'further analysis of the meteorological conditions resulting in these exceedances could be undertaken to be included in the management plan for the site.'</i>
86 – Excavation in, above or adjacent to rail corridors	This clause applies to development which involves the penetration of ground to a depth of at least 2m below ground level (existing) on land: (a) within or above a rail corridor, or (b) within 25m (measured horizontally) of a rail corridor, or (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor. As the proposal is not expected to involve excavation to a depth of at least 2m, there is no further consideration required under this clause.

101 – Development with frontage to classified road	The development site has frontage to Irrigation Way which is a Classified Road. An existing vehicular access which currently services the site is proposed to be utilised for the proposed development. This clause specifically states the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that: <i>(a) where practicable, vehicular access to the land is provided by a road other than the classified road,</i> Comment: The access point to the site to be utilised for the proposal is existing from Irrigation Way, there are no other roads providing access to the land considered to be suitable. In this regard, the subject site (actual allotment of land) is accessed from an internal road network which has been established as part of previous developments and accordingly the classified road and internal road network have been previously found to be constructed to the satisfaction of the RMS. <i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</i> <i>(b) the design of the vehicular access to the land, or</i> <i>(ii) the emission of smoke or dust from the development, or</i> <i>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i> Comment: A traffic parking and assessment report prepared by Varga Traffic Planning which can be found in Appendix 6, concludes that: <i>‘..... Projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity, nor will it require any infrastructure/road network upgrades.’</i> In light of the traffic and parking report assessment and comments received from the RMS (see previously in this report and further in this table), Council is satisfied the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. In terms of emissions of smoke or dust from the proposed development, an Air Quality Assessment has been submitted with the Development Application which concludes that the development will not exceed <i>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or</i>
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	<i>includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i> Comment: The development is not considered to be a type that is sensitive to traffic noise or vehicle emissions. To this end, there are no adverse impacts arising directly effecting the proposed development as a result of the proximity of the classified road.
104 Traffic – generating development	Freight intermodal facilities and freight terminals of any size or capacity are required by this clause and schedule 3 of the SEPP to be referred to Roads and Maritime Services (RMS). Accordingly, Council referred the application to RMS. They have provided comments and recommended conditions of consent that address the traffic generated by this development. – see Annexure 16, in particular the need to ensure that the daily traffic of heavy vehicles does not exceed 250 movements a day and that in the event that the overall Wumbulgal site undergoes further development that the intersection treatment at Irrigation Way be upgraded. The clause also required the consent authority to take into consideration: • <i>The accessibility of the site concerned, including:</i> - o <i>the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</i> - o <i>the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</i> • <i>Any potential traffic safety, road congestion or parking implications of the development.</i> As discussed above in clause 101 of this table, a traffic parking and assessment report prepared by Varga Traffic Planning has been completed in relation to the proposed development. The report has found that it is: <i>‘..... reasonable to conclude that the proposed railway freight terminal will not have any unacceptable implications in terms of traffic, servicing, access or parking implications’</i> The proposal is also consistent with the above points to consider whereby the intent of the development is to move freight off-site via rail, minimising truck movements from the site.

State Environmental Planning Policy (Rural lands) 2008

Clause	Consideration
2 – Aims of Policy	The aims of this Policy have been considered against the proposed development as detailed below, the proposal is considered to be generally consistent with the aims of the policy. <i>(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> Comment: The proposal is consistent with the established facilities on the site and directly relates to these agricultural related uses. <i>(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,</i> Comment: Please refer to the assessment of the proposal against the rural planning principles below. <i>(c) to implement measures designed to reduce land use conflicts,</i> Comment: The site is well isolated from any sensitive land uses and receptors. The potential for land use conflict is considered minimal. <i>(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i> Comment: The site is not identified as State significant agricultural land. <i>(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i> Comment: N/A to proposal.
4 – Land to which this policy applies	The policy applies to the state except those Local Government Areas (LGA) as listed within this clause. The Leeton LGA is not listed and the subject site is located within an RU1 Primary Production Zone under the <i>Leeton Local Environmental Plan 2014</i>, therefore policy applies to the subject site and proposed development.

7 – Rural Planning Principles	The Rural Planning Principles this Policy have been considered against the proposed development. <i>(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> Comment: The proposed terminal is considered to create a positive economic outcome for the locality and greater region, a much needed services for farming enterprises within the locality. Additionally the development provides short term employment opportunities during construction and permanent employment once operational. <i>(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i> Comment: The freight terminal is a much needed services for the locality and greater agricultural sector. It is being developed in response to the demands of the industry. Since establishing the WRIFT Agribusiness Centre three separate rural based industries have established at the site who currently utilise containerised rail freight. <i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i> Comment: As articulated above, the development will result in positive economic outcomes for the locality. <i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> Comment: The subject site is relatively isolated from any sensitive receptors and will not have a significant environmental impacts. Overall the development is seen to be in the interest of the local community as it creates positive outcomes in terms of services for the agricultural sector, increased employment opportunities all without any social negative impacts arising. <i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the</i>
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	<i>importance of water resources and avoiding constrained land,</i> Comment: Natural resources will not be detrimentally impacted and the consideration of impacts on biodiversity, native vegetation and water resources have been largely addressed throughout this report. The development is consistent with the intent of this principle. <i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i> Comment: N/A. The site is not suitable for rural lifestyle development due to its locality and lack of essential services such as reticulated potable water and electricity. The Leeton Local Government Area (LGA) has a large supply of land zoned appropriately for rural lifestyle development. <i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i> Comment: N/A to the proposed development <i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i> Comment: As previously stated in this report, the proposed development is seen to be generally consistent with the <i>Riverina Murray Regional Plan 2036</i>, specifically <i>Direction 17: Transform the region into the Eastern seaboard's freight and logistic hub</i> and <i>Direction 18: Enhance road and rail freight links</i>.
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State Environmental Planning Policy (State and Regional Development) 2011

The proposal meets the criterion for regional development under part 4 of *State Environmental Planning Policy (State and Regional Development) 2011* and clause 6 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) in that the development is private infrastructure development with a Capital Investment Value (CIV) over \$5 million. Accordingly, the Western Region Joint Regional Planning Panel will exercise the consent authority functions of Council for the proposed development.

(vi) Leeton Local Environmental Plan 2014 (LLEP)

Clause	Consideration
2.3 – Zone objectives and land use table	The subject site is located within Zone RU1 Primary Production. A 'freight transport facility' is a permissible use within the zone with consent. The LLEP defines the use as follows: <i>Freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.</i> The objectives of the RU1 zone are: <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> <i>To minimise the fragmentation and alienation of resource lands.</i> <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> <i>To provide opportunities for intensive and extensive agriculture in appropriate locations consistent with the environmental capability of the land and access to irrigation water.</i> <i>To allow the development of processing, service and value-adding industries related to agriculture and primary industry production.</i> <i>To protect and enhance the water quality of receiving watercourses and groundwater systems so as to reduce land degradation.</i> Generally the development is considered to be consistent with the objectives if the RU1 zone, in particular: <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> <i>To allow the development of processing, service and value-adding industries related to agriculture and primary industry production.</i>
6.1 – Earthworks	Earthworks required are only those which are ancillary to the construction of the proposed development. They are not considered to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
6.3 – Terrestrial biodiversity	In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider: Whether the development is likely to have:

	• any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and • any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and • any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and • any adverse impact on the habitat elements providing connectivity on the land, and Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that: • the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or • if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or • if that impact cannot be minimised—the development will be managed to mitigate that impact. As can be seen in Figure 9 below, a very small portion of the site is mapped as having biodiversity value/significance. This is within the rail reserve for the most part and as detailed previously within this report, there is no vegetation (mature, native or otherwise) proposed to be removed. The area is already highly disturbed through the presence of the rail corridor infrastructure and previous agricultural activities on the site. To this end there will be no adverse environmental impacts on flora or fauna, nor any disruption or disturbance to the biodiversity significance/values of the area. The development is considered to satisfy the requirements of this clause.
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Figure 9 – Green shaded area is area of biodiversity value/significance

(vii) Any proposed instrument that is or has been the subject of public consultation – s.79C (1)(a)(ii)

There are no EPI's the subject of public consultation which are considered to be applicable to the proposed development.

(viii) Any development control plan – s.79C (1)(a)(iii)

There are no Development Control Plans applying to the development.

(ix) Any planning agreement entered into under section 93F – s.79C(1)(a)(iiia)

There are no planning agreements applying to the development.

(x) The regulations (to the extent that they prescribe matters for the purposes of this paragraph) – s.79C (1)(a)(iv)

All building works are to be undertaken in accordance with the Building Code of Australia and prescribed conditions of consent will reinforce this should any subsequent consent be granted.

(xii) Likely impacts – s.79C (1)(b)

Section 79C (1)(b) of the EP&A Act requires the consent authority to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*. The table below considers the above likely impacts along with other potential matters considered to be relevant to the proposed development.

Matter	Consideration
Natural Environment	Impacts on the natural environment have been considered at length throughout this report. Overall the site is one which has been previously disturbed through farming activities and no mature trees or native vegetation are proposed to be removed. Potential impacts on the natural environment are considered minimal.
Built Environment	Impacts on the built environment are negligible. The locality is characterised by rural land uses which will not be impacted by the proposal. The development is consistent with established character of the subject site and no land use conflicts will arise.
Social impacts within the locality	There will be no adverse social impacts arising within the locality.
Economic impacts within the locality	The proposed freight terminal will provide for a significant improvement to freight transportation within the region. Positive economic impacts will result through improved efficiencies in freight services for farmers and agricultural business within the locality, employment opportunities locality and a short term economic benefits through the use of local trades and services where possible during any subsequent construction phase should consent be granted.

Context & setting	As articulated within the built environment assessment above in this table, the development proposed is directly related to the existing uses on the site which is characterised by rural related uses. Further consideration of the compatibility of the proposal and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on “compatibility with context” in <i>Project Venture Developments v Pittwater Council</i> [2005] NSWLEC 191. In order to test whether a proposal is compatible with its context, the following two questions can be asked: <i>1. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.</i> Comments: The physical impacts arising from the proposed development on surrounding land and developments are negligible. The development proposed will not in any way preclude the future development of any adjoining land. <i>2. Is the proposal's appearance in harmony with the buildings around it and the character of the street?</i> Comments: This consideration is not directly relevant to the proposed development, however in terms of harmony and character of the locality, the proposal is seen to be consistent with the established rural and agricultural land uses established within the area and upon the subject site.
Access, Transport & Traffic	Potential traffic impacts arising are largely address through the assessment of the proposal against the relevant provisions of <i>State Environmental Planning Policy (Infrastructure)</i> previously in this report. Sufficient parking spaces (35 off-street spaces) are proposed to be provided which will more that accommodate staff and expected visitors to the site. Irrigation Way will not be adversely impacted by the development and in turn the development is not considered to be impacted by the traffic movements on Irrigation Way. Impacts on traffic and site accessibility within the locality and within the site itself have been found to be not unreasonable.

Utilities	Council's reticulated sewer is not available and separate application will need to be made to Council for the installation of an on-site sewerage management system (see section 9.1 previously in this report). See below for water and water use considerations. Currently there is no reticulated electricity supply to or within the site. Existing developments have made their own on site power provision. It is understood that grant funds have been sort for the provision of reticulated power and a non-potable water supply.
Heritage	There are no items of heritage significance (Aboriginal or European) listed or known to be upon or within the vicinity of the subject site. A condition of any subsequent consent issued will require works to cease on-site immediately should any Aboriginal items or relics be discovered during works and that the Office of Environment and Heritage be notified immediately.
Water	The development is not one which is of high water demand. As Council's reticulated water supply system is not available to the site, all water required for the site's operations must be collected on-site. In terms of surface water and stormwater drainage, conceptual disposal details have been provided. Due to the large scale of the site it is considered that stormwater disposal for the site is readily able to be achieved without impact on adjoining land owners. To this end, conditions of any subsequent consent will ensure full hydraulic details prepared by a suitably qualified engineer are provided prior to the issue of a Construction Certificate.
Soils	The site is not identified as containing any sensitive soils (such as acid sulphate). No significant impacts to soils on the site
Air quality	Air quality is largely addressed previously in this report (see the assessment within clause 85 of the <i>State Environmental Planning Policy (Infrastructure) 2007</i> table). The potential impacts the development may have on air quality within the locality and on sensitive receptors are minor in light of the conservative approach within the Air Quality Assessment undertaken. Appropriate conditions of any subsequent consent will ensure recommendations within the report are incorporated within the future operational plan of management for the site.
Flora & fauna	Potential impacts on flora and fauna are seen to be minimal (if any). Please refer to section 11.2.1(i) of this report under the headings ' <i>Section 5A Significant effect on threatened species, populations or ecological communities, or their habitats</i> ', ' <i>Section 79B Consultation and concurrence</i> ' and the assessment of the proposal against clause 6.3 of the Leeton Local Environmental Plan 2014.

Waste	The development is not seen to create significant waste. Generally, the only waste arising from this proposal during operation will be from the proposed office. Conditions of any subsequent consent will require the submission of a waste management plan to address waste generation during construction and for on-going operation.
Energy	Energy usage for the site is not considered to be exorbitant, the office building on-site will be required to satisfy Building Code of Australia energy efficiency requirements. Conditions of any subsequent consent issued will ensure lighting for the site is controlled via timers
Light spillage and nuisance lighting	The development is proposed to operate 24 hours per day however there are no lighting details provided with the DA, other than commentary within the SEE. To this end, to ensure that lighting does not create negative impacts for adjoining land owners and also does not impact upon the safety of Irrigation Way, conditions of consent (if granted) will require the submission of a proposed lighting plan for Council's approval prior to the issue of any Construction Certificate.
Noise and vibration	As discussed previously within this report, a Noise Impact Assessment prepared by Reverb Acoustics has been submitted with the DA documentation, a copy of which can be found in Appendix 5 of this report. The noise impact assessment recommends noise control strategies for the site to mitigate any arising acoustic impacts on the rural environment and sensitive receptors. As such, should any future development consent be issued these recommendations would be enforced via conditions of consent. Noise and vibration experienced during construction are not seen to be unreasonable in light of the locality and the sites large scale.
Natural Hazards	The site is mapped as being bush fire prone land, this is addressed in detail within section 11.2.1(iv) of this report under the heading <i>Section 79BA Consultation and development consent—certain bush fire prone land.</i>
Safety, security and crime prevention	Due to the location of the development, the general opportunity for surveillance along the frontage of the site and within the site itself and that the site will be in operation 24 hours a day (i.e. staff always on-site) there are no safety, security and crime impacts considered to be arising.
Cumulative impacts	There are no significant impacts arising as a result of the development and in a cumulative context the impact is considered minimal.

Climate change	Climate change has been considered in the assessment of this application. Internationally there is a lack of knowledge on the specifics of climate change and the likely impact it will have on the subject development, and in turn; impacts the proposed development may have on climate change. In the absence of any detailed information at the present however, refusal of this application is not warranted on the basis of climate change impacts.
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(xiii) Site Suitability – s.79C (1)(c)

Section 79C (1)(c) of the EP&A Act requires the Consent Authority to consider “*the suitability of the site for the development*”. There are two key heads of consideration in the assessment of site suitability:

Does the proposal fit within the locality?

The proposed is directly related to existing uses on-site and is consistent with the character established within the locality.

Are the sites attributes conducive to the proposed development?

The site is able to physically cater for the development without significant impact on the natural or built environment. The scale of the site easily accommodates the proposal and by being isolated from sensitive land uses, there will be minimal impacts on any sensitive receptors.

The subject site and greater locality sits within a natural ‘depression’ or valley, it is bound to the North and South by elevated land forms which create a natural form of isolation for the site. The subsequent benefit from this is that any potential ‘externalities’ as a result of the developments operation (e.g. noise, dust etc) will not be directed towards these sensitive uses, which are also significantly separated from the site. Figure 10 below shows the broader ‘Wumbulgal Intermodal Grain Terminal’ outlined in red with nearest sensitive receptors to the site as shown:

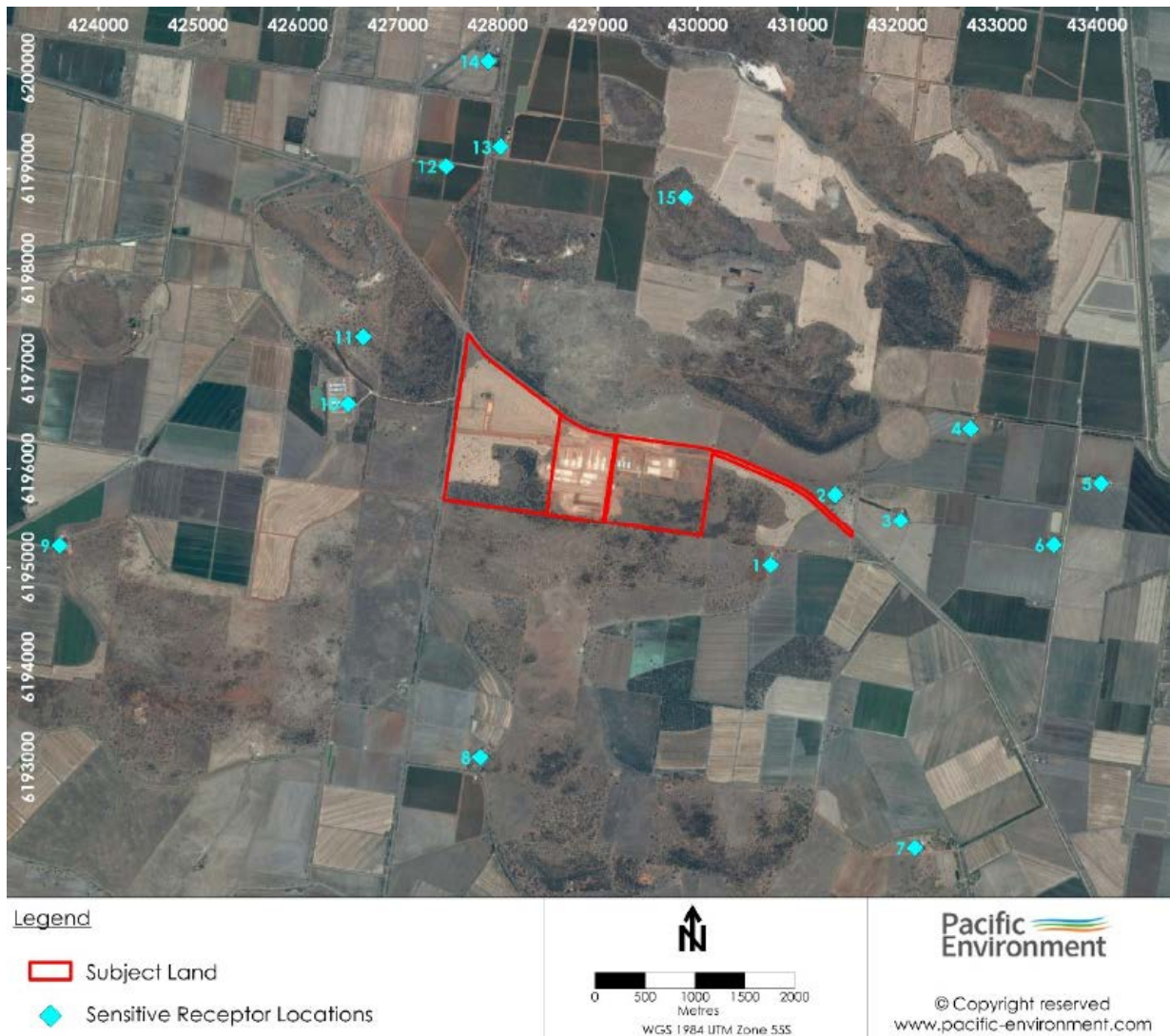


Figure 10 – Sensitive receptors near the site.

(xiv) Submissions – s.79C (1)(d)

Section 79C (1)(d) of the EP&A Act requires the consent authority to consider “any submissions made in accordance with this Act”. The proposal was notified for a period of twenty (21) days from 27 July 2017 to 21 August 2017. As a result, no public submissions were received.

(xv) The public interest – s.79C (1)(e)

Section 79C (1)(e) of the EP&A Act requires the Consent Authority to consider “the public interest”. The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. The proposed development is considered to generally meet the provisions of relevant environmental planning instruments and subsequently, as these instruments have been created having regard to the objects of the Act and following community consultation they are considered to express planning controls that seek to protect the public interest. Accordingly, it is considered that the proposal is not prejudicial to the public interest.

The future operator of the proposed development currently operates a similar freight terminal within an urban area of the nearby city of Griffith. It is the intention of this proposal that the current operations in Griffith will be transferred to the subject site, this will alleviate current land use conflict issues arising at the current Griffith terminal by being isolated from the sensitive surrounding urban land uses. In this regard the development is considered to be in the public interest.

(xvi) Section 94A Fixed development consent levies

In accordance with the *Leeton Shire Council Section 94A Fixed Levy Plan 2016*, with a value of works being \$9,343,200.00, the levy payable will be \$93,432.00. This figure equates to 1% of the value of the development as per the plan's provisions. A condition of any subsequent consent will require payment prior to the issue of any Occupation Certificate.

12. CONCLUSION & RECOMMENDATION

Development Application DA73/2017 for the proposed freight transport facility been assessed in accordance with the applicable provisions of the *Environmental Planning and Assessment Act 1979*. The assessment demonstrates that the proposal is considered to be satisfactory and met applicable matters for consideration identified within relevant legislation.

The proposal is consistent with the provisions of applicable environmental planning instruments and is not considered to create an adverse impacts upon the natural or built environment, or result in any negative social or economic impacts. The subject site is seen to be suitable for the development with the established character of the area well suited to the proposal. The development is not prejudicial to the public interest and no public submissions were received during the notification process.

The application was referred to government authorities for comments and assessment, generally each authority is satisfied with the development subject to specific conditions. The relevant rail authority has not provided comments in relation to the development, however as a safeguard appropriate conditions of any subsequent consent issued would ensure their requirements are satisfied prior to works commencing.

It is considered that there is reasonable grounds for development consent to not be granted, accordingly approval of the application is recommended.

13. RECOMMENDED CONDITIONS OF DEVELOPMENT CONSENT

Should consent be granted, the following conditions of consent are recommended:

GENERAL CONDITIONS OF CONSENT

1. The development shall be undertaken generally in accordance with the stamped approved plans, and other approved supporting documentation except where modified in red or by any of the following conditions of this consent, including in particular the following documents;
 - (i) State of Environment Effects dated March 2017 prepared by Planningmatters Development Service.
 - (ii) Plans Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14 from Miestudio dated 4 August 2017 for Planningmatters Development Service for a Freight Terminal, The Irrigation Way Wumbulgal NSW.
 - (iii) Noise Impact Assessment: Railway Freight Terminal Lots 4 & 5 DP 1201358, The Irrigation Way Wumbulgal, NSW, dated February 2017 prepared by Reverb Acoustics.
 - (iv) Traffic and Parking Assessment Report: Proposed Establishment of a Railway Freight Terminal Lots 3, 4 & 5 DP 1201358 The Irrigation Way Wumbulgal, NSW, dated February 2017 prepared by dated 8 March 2017 Ref 17129 prepared by Varga Traffic.
 - (v) Air Quality Assessment – Irrigation Way, Wumbulgal dated 21 April 2017 prepared by Pacific Environment Document control number: AQU-NW-002-21445.
2. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.
3. The development must comply with all applicable prescribed condition of consent as per Part 6, Division 8A of the Environmental Planning and Assessment Regulation 2000.
4. This consent does not approve any fuel storage facilities or outbuildings associated with the use of the development or any associated adverting signage. Separate approval is to be obtained for these items.
5. All works are to be undertaken in accordance with the requirements of the relevant rail authority and to their satisfaction
6. Access for people with disabilities shall be provided to and within the building in accordance with the provisions of the Disability (Access to Premises – Buildings) Standards 2010.
7. This approval does not ensure total compliance with the Disability Discrimination Act 1992. Applicants should investigate their potential for liability under the Act.
8. All building works shall be carried out in accordance with the Building Code of Australia.
9. A separate application is to be submitted to Council and approval obtained prior to the installation of the on-site sewer management system.
10. A copy of the stamped approved plans shall be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

11. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures shall be in accordance with the NSW WorkCover publication titled, 'Site Security and Public Access onto Housing Construction Sites' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

12. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- c) The name, address and telephone number of the Principal Certifying Authority for the work; and
- d) The name of the Principal Contractor and a telephone number at which that person may be contacted outside of working hours; and
- c) That unauthorised entry to the work site is prohibited.

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

13. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

14. Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

15. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

- a) No work is permitted on Sundays and Public Holidays
- b) No work is permitted on Saturdays when a public holiday is adjacent to that weekend, or on Construction industry awarded rostered days off or on Construction industry shutdown long weekends.

16. All works undertaken in carrying out the development shall comply with Work Health and Safety Act 2011 and Regulations and Safe Work NSW Guidelines codes of practice as well as Safe Work Australia.

17. The existing internal access road within Lot 7 is to be sealed from the intersection of Irrigation Way to the eastern most point of the proposed access into Lot 4 plus any distance required to ensure that all heavy vehicle accessing and exiting the site will do so on the sealed section of the existing road in Lot 7, in accordance with Austroads guides or similar to cater for the proposed vehicle loadings.

The internal access road on Lot 4, from the intersection of the existing internal road on Lot 7, is also to be sealed for a minimum distance of 20 metres from the intersection north.

As a minimum the internal roadway shall be constructed and maintained to provide for two-way movement for vehicles up to B-triple heavy vehicles and sealed to a minimum width of 7 metres for at least from its intersection with Irrigation Way to just past the entrance of Lot 4. The sealed section of the internal road is to be line marked to delineate the 2 travel lanes. The remainder of the internal roadway within Lot 4 should be constructed using an all-weather surface and treated to minimise dust leaving the subject site.

18. Car parking for visitors and staff and truck parking is to be accommodated fully on site in a safe location and designated accordingly. Twelve (12) B-Triple parking spaces, and initially a minimum of fifteen (15) car parking spaces will be required to be provided and heavy vehicles stacking areas upon entry and exit are to be catered for as identified in the submitted documents.

The developer is to provide further car parking spaces should future demand require extra spaces.

19. Any damage to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of public infrastructure. Any damage to Council's infrastructure which is obvious before construction is to be immediately notified to Council to avoid later conflict.

20. No improvements within APA Main Gas Easement

Buildings, structures, roadway, pavement, pipeline, cable, fence, change in ground level, or any other improvement on or under the land within the gas transmission pipeline easement must not be constructed without prior consent in writing from APA. No structure or vegetation will be permitted on the easement that prohibits maintenance of line of sight along the pipeline easement.

21. Access to the subject site (Lot 4 DP 1231806) shall be via right of carriageway over Lot 7 DP 1231806 only. Access directly from the subject site to the road reserve of Irrigation Way is denied.

22. A maximum of 250 truck movements (125 truck trips) per day is permitted to the proposed rail siding development site.

23. Detailed design of works over APA gas main.

Prior to development commencing, detailed engineering designs must be submitted to APA for review, and amendment as required, to comply with APA requirements. Any application for a Construction Certificate must not be accepted by the consent authority unless accompanied by a letter from APA stating that the detailed engineering designs meet APA's requirements. At a minimum the detailed engineering design must:

- Include slab protection of the pipeline at the rail spur crossings to ensure the pipeline is not subject to unacceptable loads or vibration
- Demonstrate adequate drainage of stormwater from the easement
- Ensure any filling over the easement does not place unacceptable load on the pipeline
- Allow for crossing of the rail spur by light and heavy vehicles required to access the gas pipeline easement for future works by the gas pipeline owner /operator

- Allow for appropriate vegetation having regard to the pipeline and pipeline operations
 - Location of any lighting infrastructure and proposed services.
 - The cost of all works included in the detailed engineering designs must be borne by the applicant.
24. The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed works and as required by the various public utility authorities and/or their agents. It should be noted that the relocation of any utility service within the road reserve will require concurrence from Roads and Maritime Services under section 138 of the Roads Act, 1993 prior to commencement of works.
- Works associated with the development shall be at no cost to Roads and Maritime Services.
25. If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
- a) Not further harm the object;
 - b) Immediately cease all work at the particular location;
 - c) Secure the area so as to avoid further harm to the Aboriginal object;
 - d) Notify the NSW Office of Environment & Heritage (OEH) as soon as practical by phoning 131 555, providing any details of the Aboriginal object and its location; and
 - e) Not recommence any work at the particular location unless authorised in writing by OEH.
 - f) In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and OEH contacted.
26. Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout construction. Waste management and its storage must not pose a threat to public health or the environment.
27. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
28. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

BEFORE ANY WORKS MAY COMMENCE

29. The separation of the western connection of the proposed siding to the main railway line from the carriageway of irrigation Way shall be maximised to the satisfaction of Roads and Maritime Services and Council. Prior to the commencement of any works on the subject site the proposed siding connection to the main rail line and the resulting shunt limit shall be demonstrated to be safe and not impact on motorists on Irrigation Way.
30. Detailed design plans & documentation for the location of siding connections to the main railway line and the required shunt limits shall be prepared and submitted to the consent authority for approval before the issue of any construction certificates will be issued for the development.

This documentation shall demonstrate that trains using the proposed siding and located adjacent to the shunt limit for the siding will not adversely interfere with passing vehicular traffic travelling along Irrigation Way. In particular, the documentation shall demonstrate that the proposed shunt limit will be located a sufficient distance from the existing level crossing on Irrigation Way so as to ensure that passing motorists will not be concerned about the potential for collision with locomotives undertaking shunting activities on the main railway line.

Any proposed measures to screen locomotives standing on the main railway line from view by motorists approaching the level crossing shall be identified on the submitted plans. The documentation shall also demonstrate that the rail level crossing and the proposed siding connection points & shunting limit points will comply with the requirements of relevant statutory requirements, Australian standards, guidelines & publications relating to road-rail interfaces.

All detailed design plans & documentation shall be approved by both John Holland Country Regional Network (JHCRN) and NSW Roads & Maritime Services.

31. A Train Operation and Shunt Management Plan shall be prepared for the use of the proposed rail siding in accordance with the requirements of regulatory rail authorities and to the satisfaction of the consent authority and Roads and Maritime Services.

This Plan will limit access for trains between the proposed rail siding and the main rail line to the eastern approach to the siding only. Locomotives will only be permitted to access the main line via the western approach for shunting purposes only. Carriages will not be permitted to access the main rail line via the western end of the siding for any purpose.

32. Prior to any works commencing within the road reserve of Irrigation Way the applicant must apply for and obtain approval under Section 138 of the Roads Act, 1993, from the road authority (Council) and concurrence from Roads and Maritime Services. The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed works and as required by the various public utility authorities and/or their agents.
33. Should Council be appointed as the Principal Certifying Authority, an application for Construction Certificate shall be submitted to and approved prior to the commencement of any building work.
34. No activity is to be carried out on site until the Construction Certificate has been issued, other than:
 - a) Site investigation for the preparation of the construction, and/or
 - b) Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
35. The Construction Certificate for the building work is to be issued and the person having the benefit of the development consent shall appoint a Principal Certifying Authority prior to the commencement of any building works.

The Principal Certifying Authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.

36. The following Critical Stage Inspections are required to be carried out by the Principal Certifying Authority to enable the issue of an Occupation Certificate:

- a) After excavation for, and prior to the placement of, any footings.
- b) Prior to pouring any in-situ reinforced concrete building element.
- c) Prior to covering of the framework for any floor, wall, roof or other building element.
- d) Prior to covering waterproofing in any wet areas.
- e) Prior to covering any stormwater drainage connections.
- f) After the building work has been completed and prior to any occupation certificate being issued in relation to the building work.

48 hours prior notice for all of the above inspections (where applicable) shall be given.

37. A Stormwater Management Plan containing hydraulic design details prepared by a suitably qualified and practicing hydraulic engineer for the proposed stormwater disposal and drainage from the development, including any system of on-site stormwater detention must be submitted to and approved by Council before the issue of a Construction Certificate for any drainage works may commence.

The drainage design shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event and any stormwater detention system shall be designed in accordance with Australian Rainfall and Runoff guidelines.

The stormwater management plan is to include suitable drainage treatment is to be implemented to retard any increased storm water run-off directly from the development site to the road reserve of Irrigation Way (MR80).

38. Design plans for the works required to be undertaken on the internal access road from the intersection of Irrigation Way and the turn off to the site (Lot 4) are to be submitted for approval of Council prior to the issue of a Construction Certificate.

39. Submit to Council for approval a Construction Management Plan that clearly sets out the following:

- a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on the roadway.
- e) A Soil and Water Management Plan detailing all sedimentation controls.
- f) Details on construction activity access and parking on the development site.
- g) All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan. All controls in the Plan must be maintained at all times.

A copy of the Plan must be kept on site at all times and made available to the certifying authority and/or Council on request.

40. APA Pipeline Coating Assessment

Prior to the installation of pipeline protection (slabbing or bridging), the condition of the pipeline must be assessed, and the pipeline provided with additional protection if required by APA. A Pipeline Coating Assessment (DCVG Survey) must be commissioned to inform the need for any required protection. The cost of the assessment and any required pipeline protection will be borne by the applicant.

41. APA Third Party Works Authorisation

Prior to the commencement of any works, including earthworks, vegetation clearing or plantings within the gas pipeline easement, the proponent must obtain a third party works authorisation from APA. Any authorised works must comply with any conditions attached to the third party works approval.

42. APA Recoverable Works Agreement

Prior to the commencement of works, the applicant must enter into a recoverable works agreement with APA, on terms acceptable to APA (at APA's absolute discretion). The recoverable works agreement will allow APA to recover costs incurred by APA, from the applicant, in proceeding with the permitted works.

43. APA Co-use agreement

Prior to the commencement of works the applicant must enter into a co-use agreement with APA for the infrastructure crossing the gas pipeline easement, on terms acceptable to APA (at APA's absolute discretion).

44. Delineation of APA Main Gas Easement

Prior to commencement and during the course of any construction activities the southern edge of the gas pipeline easement is to be clearly delineated (e.g. bunting supported by star pickets), with signage at intervals of no more than 50m warning of the presence of a high pressure gas transmission pipeline. This must be provided and paid for by the applicant.

45. Construction Management Plan for All Works Within the Gas Easement

Prior to the commencement of any works, a construction management plan must be submitted to and approved by the approving authority. The plan must:

- Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the operator of the gas transmission pipeline.
- Avoid significant vibration and heavy loadings stored over the pipeline, and heavy vehicle / plant crossings of the pipeline.
- Be endorsed by the operator of the gas transmission pipeline.
- Avoid construction access from the gas pipeline easement, except where necessary and approved by APA.
- Require a gas pipeline awareness induction (delivered by APA) for all construction workers on site.
- Include any other relevant matter to the satisfaction of the assessment manager.

The assessment manager must be satisfied that the pipeline licensee has reviewed and approved the Construction Management Plan. The construction management plan must be implemented to the satisfaction of the responsible authority. The construction management plan may be amended to the satisfaction of the responsible authority.

46. Plans, details and specifications of proposed external lighting for the development are to be submitted to Council for approval. Lighting in association with the development must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect

surrounding land owners or road users within the vicinity of the site. To this end, the lighting must also comply with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

47. Approval is to be obtained from Council in accordance with section 68 of the Local Government Act 1993 for the installation of the proposed on-site sewerage management system. Plans and specifications of the type of system, including any required geotechnical reports are to be including with the application.
48. With regard to the proposed landscaping shown on the stamped approved plans for the development, a Landscaping Management Plan to be submitted to Council for approval outlining the proposed species of plants and their planted and mature heights, method of management and replacement to ensure that the vegetation screening along the eastern side of The Irrigation way is maintained in order to screen the development from passing traffic.
49. A detailed Waste Management (WMP) plan for the development is to be prepared and submitted to Council for approval. The WMP must identify the types of waste that will be generated and all proposals to re-use, recycle or dispose of the waste. The WMP must also include waste management for the on-going use of the site.
50. An Operational Plan of Management (OPM) for the development is to be submitted to Council for approval. The OPM is to include at minimum the following:
 - a) Emergency management procedures
 - b) Methods and measures to ensure the noise control strategies contained with section 4.1 of the Noise Impact Assessment prepared by Reverb Acoustics, dated February 2017 will be employed for the development.
 - c) Methods and measures to ensure the recommendations within the conclusion of the Air Quality Assessment prepared by Pacific Environment Limited, dated 21 April 2017 will be implemented.
 - d) Methods and measures to ensure the number of truck movements to the development do not exceed 250 per day and what action will be taken should this number be exceeded.
 - e) Details on methods and frequency of unsealed road watering for dust control.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

51. Application for any Occupation Certificate shall be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
52. The premises not being occupied until the Occupation Certificate has been issued.
53. Prior to occupation of the building, a Fire Safety Certificate issued by an appropriately qualified person shall be obtained for all the Essential Fire Safety Measures forming part of this consent. A copy of the Fire Safety Certificate shall be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

Each year thereafter, within 12 months, the owner of the building shall ensure these Essential Fire Safety Measures are inspected and Annual Fire Safety Statement issued. A copy shall again be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

54. Speed restriction signs are to be erected at regular intervals along all internal access roads displaying a speed limit of 40km/hr.
55. An approval to operate the on-site waste management system in accordance with section 68 of the Local Government Act 1993 is to be obtained from Council.
56. A contribution in the amount \$93,432.00 of is payable to Council in accordance with the Leeton Shire Council Section 94A Fixed Levy Plan 2016. This figure is subject to increase under the consumer price index (CPI) and the final amount payable will be calculated by Council at the date of payment.
57. All landscaping is to be completed in accordance with the approved plans and associated information as approved by Council.
58. Speed restriction signs are to be erected at regular intervals along all internal access roads displaying a speed limit of 40km/hr.
59. Details of a noise monitoring program prepared by a suitably qualified acoustic consultant as per the recommendations within the Noise Impact Assessment prepared by Reverb Acoustics, dated February 2017 are to be provided to Council for approval. The program must detail how noise controls strategies will be implemented in the event of any non-compliances identified.

MANAGEMENT OF THE DEVELOPMENT

60. The development must not at any time interfere with the amenity of the locality by reason of the emission of nuisance noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.
61. The development is to be operated in accordance with the approved Operation Plan of management at all times.
62. The development is permitted to operate 24 hours per day, 7 days per week.

ADVICE

It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the Disability Discrimination Act.

NOTE: The Disability Discrimination Act (DDA) is a Federal anti-discrimination law. The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. This development consent does not indicate nor confirm that the application complies with the requirements of the DDA.