

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018NTH012
<b>DA Number</b>	DA2018/0202
<b>LGA</b>	Richmond Valley Council
<b>Proposed Development</b>	Northern Regional Livestock Exchange – Stage 2 Upgrade
<b>Street Address</b>	74 Dargaville Drive, Casino
<b>Applicant/Owner</b>	Richmond Valley Council/Richmond Valley Council
<b>Date of DA lodgement</b>	12 April 2018
<b>Number of Submissions</b>	One
<b>Recommendation</b>	That development application DA2018/0202 be determined by granting consent subject to conditions.
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Council related development having a CIV greater than \$5 million
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment.</li> <li>• Biodiversity Conservation Act 2017</li> <li>• Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to development applications.</li> <li>• Environmental Planning &amp; Assessment Regulation 2000, Schedule 3 cl. 35 – Alterations and Additions to Designated Development.</li> <li>• State Environmental Planning Policy No. 55 – Contaminated Land</li> <li>• State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>• Draft Amendment to State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>• Richmond Valley Local Environmental Plan 2012</li> <li>• Richmond Valley Development Control Plan 2015</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Appendix A - Proposed Design Plans</li> <li>• Appendix B - NSW Environmental Protection Authority General Terms of Approval and email of 5 July 2018.</li> <li>• Appendix C – Resolution of Tomki Shire Council Meeting 20 March 1975</li> <li>• Appendix D - Written request to vary a development standard under clause 4.6 of the Richmond Valley Local Environmental Plan 2012</li> <li>• Appendix E – Statutory Review Newton Denny Chapelle</li> <li>• Appendix F – Schedule of Recommended Consent Conditions</li> </ul>
<b>Report prepared by</b>	Cherie Smith, Development Assessment Planner
<b>Report date</b>	04 July 2018

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

### 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?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### 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
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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not Applicable
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*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment?	Yes
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*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*

**Northern Regional Livestock Exchange Upgrade Stage 2  
Development Application Number DA2018/0202  
(JRPP Reference No. 2018NTH012)  
Assessment Report and Recommendation Cover Sheet**

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**1. Executive Summary**

**1.1. Overview**

Development Application DA2018/0202 (JRPP Reference No. 2018NTH012) seeks consent for alterations to the existing Northern Regional Livestock Exchange (NRLX). The project is Stage 2 in the upgrade aiming to address maintenance, animal welfare, work health and safety and economic viability issues.

The modernisation has been identified as essential to the long term operation of the facility. The redevelopment project has seen Stage 1 approved under DA2017/0175 completed. The project has an estimated CIV of \$6.5 million and comprises the following key components:

- Construction of a new roof over the holding yards, similar to the completed saleyards roof and a new roof over the central dip and weigh area to provide a complete coverage to the facility.
- Demolition of small sheds, fencing and gates, the existing roof and tree removal.
- Upgrades to the holding yards including new cattle facilities and installation of soft floors.
- Upgrade of the delivery and loading facility. Reconstruction and replacement ramps, loading area, cattle pens, reorientation of the tick office and upgrades to the scale office.
- Conversion of cattle yards to new transit yards including new fencing and gates.
- Upgrade and refurbishment of the existing canteen, amenities and provision of buyers lounge facilities.
- Installation of two 400KL water tanks.
- New agent's office (as built) and upgrades to the existing office.
- Construction of a new storage shed (37 x 9.4 x 6.0h).
- Formalisation and sealing of the existing car park.
- Ancillary site works including stormwater infrastructure, fencing and gates, lighting, paving and electrical works.

**1.2. Reason for consideration by Regional Planning Panel**

The determining authority is the Northern Regional Planning Panel pursuant to cl. 2.15 of the Environmental Planning and Assessment Act 1979 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, being Council related development having a CIV greater than \$5 million.

**1.3. Integrated Development**

The application is Integrated Development, the existing facility operates under a licence issued under Protection of the Environment Operations Act 1997. NSW Environmental Protection Authority raised no objection and General Terms of Approval have been granted with three conditions. The Terms of Approval are provided in Appendix B.

#### **1.4. Location, History and Permissibility**

The development is located on Lot 1 DP 1240949, 74 Dargaville Drive Casino. The site covers an area of 44 hectares within a small industrial area being approximately 4.5 km north-west of the Casino township.

The existing facility was approved under application number 39/1975 on 20 March 1975 with the original saleyards established in 1982. More recently significant upgrades under Stage 1 of the project have been undertaken following determination of DA2017/0175 as by the Regional Planning Panel on 21 June 2017. The currently proposed Stage 2 redevelopment carries on from the Stage 1 works.

The site is zoned IN1 General Industrial under Richmond Valley Local Environmental Plan 2012. The proposed development involves alterations and additions to the existing land use being a stock and sale yards.

A stock and sale yard is a type of Rural Industry which is permitted with consent in the IN1 General Industrial zone. As demonstrated in section 8 of this report the proposal is considered to satisfy requirements for exclusion from being Designated Development pursuant to Part 2 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

#### **1.5. Public Exhibition and Notification**

The application was placed on public exhibition for 32 days being from 26 April 2018 to 28 May 2018. Written notification to adjoining land owners was undertaken and a published notice appeared in the local paper on 25 April 2018. No public submissions were received during the exhibition period; one submission was received outside the exhibition period. This submission was accepted and the issues raised are considered in this report.

#### **1.6. Legislative Assessment**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and the relevant environmental planning instruments. Further detailed assessment of the relevant criteria is provided within the report. The application is considered to comply.

The following environmental planning instruments require particular matters that the consent authority must be satisfied about before granting consent.

- Environmental Planning and Assessment Act 1979 - Section 4.15(c)
- Environmental Planning and Assessment Regulation 2000 – clause 92 and Schedule 3
- State Environmental Planning Policy No. 55 – Remediation of Land – clause 7
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- Draft amendment to State Environmental Planning Policy No. 44 – Koala Habitat Protection
- Richmond Valley Local Environmental Plan 2012 – clauses 4.6(3) & (4), 6.2, 6.3(3), 6.6(3) & (4)

In particular the development proposes a variation to the Height of Building standard prescribed under clause 4.3 of Richmond Valley Local Environmental Plan 2012. The maximum prescribed height of 8.5m is proposed to be varied to enable construction of the

roof to reach a height of approximately 14m. A variation request has been submitted and is attached in Appendix D.

Departure from the building height standard is not considered to result in any adverse environmental impact and is not contrary to its objectives. Under the circumstances of this application strict compliance is considered to be unreasonable and unnecessary and the variation request is recommended to be approved.

The development application, Statement of Environmental Effects and associated records have been provided to an independent Planning Consultant to review Council's assessment processes and this report. The subsequent response and comments have been taken into consideration and amendments made to this report where appropriate. A copy of the report of the planning consultant is attached in Appendix E.

### **1.7. Recommendation**

That development application DA2018/0202 (JRPP Reference No. 2018NTH012) be determined by granting consent subject to the conditions of consent contained within Appendix F.

### **1.8. Attachments**

Appendix A	Proposed Development Plans.
Appendix B	General Terms of Approval NSW Environmental Protection Authority and email dated 5 July 2018.
Appendix C	Resolution of Tomki Shire Council Meeting 20 March 1975, approval of stock selling facilities.
Appendix D	Applicants Request to vary LEP Development Standard under Clause 4.6.
Appendix E	Statutory Review, Newton Denny Chapelle, 06 June 2018.
Appendix F	Recommended Conditions of Consent.







The NRLX site is accessed from Dargaville Drive a sealed two way road connecting to Reynolds Road. Reynolds Road is a short 1.6km route to its intersection with the Summerland Way. The site is bounded to the west by the railway line, the north by vacant grazing land and a wetland, to the south east a Landfill facility and to the east by a grain processing industry and Reynolds Road.

Vacant land lying to the south of the waste management facility and timber processing plant is zoned IN1 General Industrial. The vacant land immediately to the north is the location of an approved (yet to be constructed) Rail Freight Terminal complex. Figure 2 shows the Saleyards in relation to surrounding development.

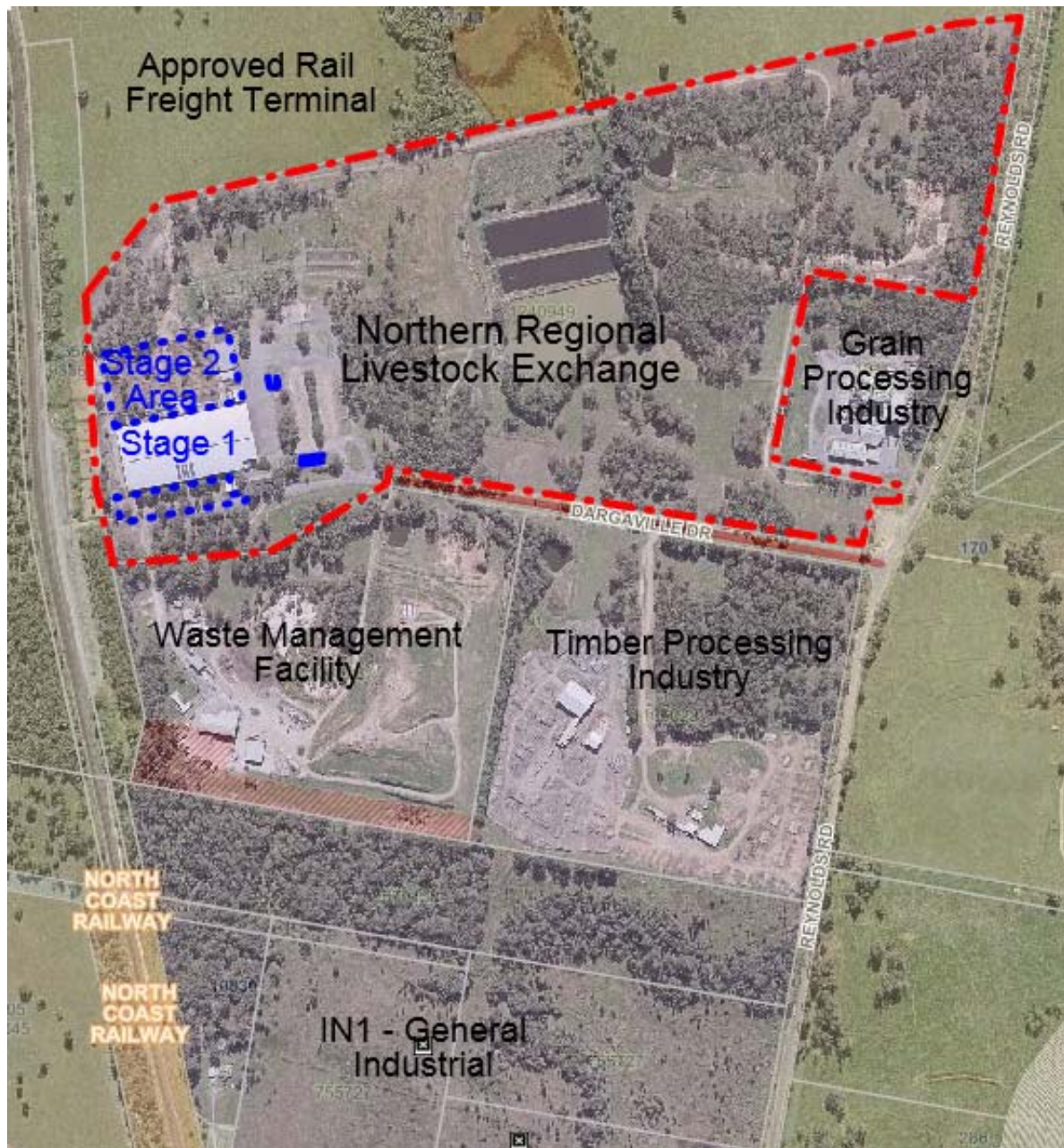


Figure 2: NRLX Sale yards local context

The NRLX main infrastructure is located on the western portion of the site includes the main saleyards facility, selling pens, yards, walkways, load-in/out facilities, car/truck parking areas,



and the truck wash bays. The central and eastern portions contain grassland, scattered vegetation areas and the effluent management system, ponds and irrigation areas.



Figure 3: NRLX recent aerial image

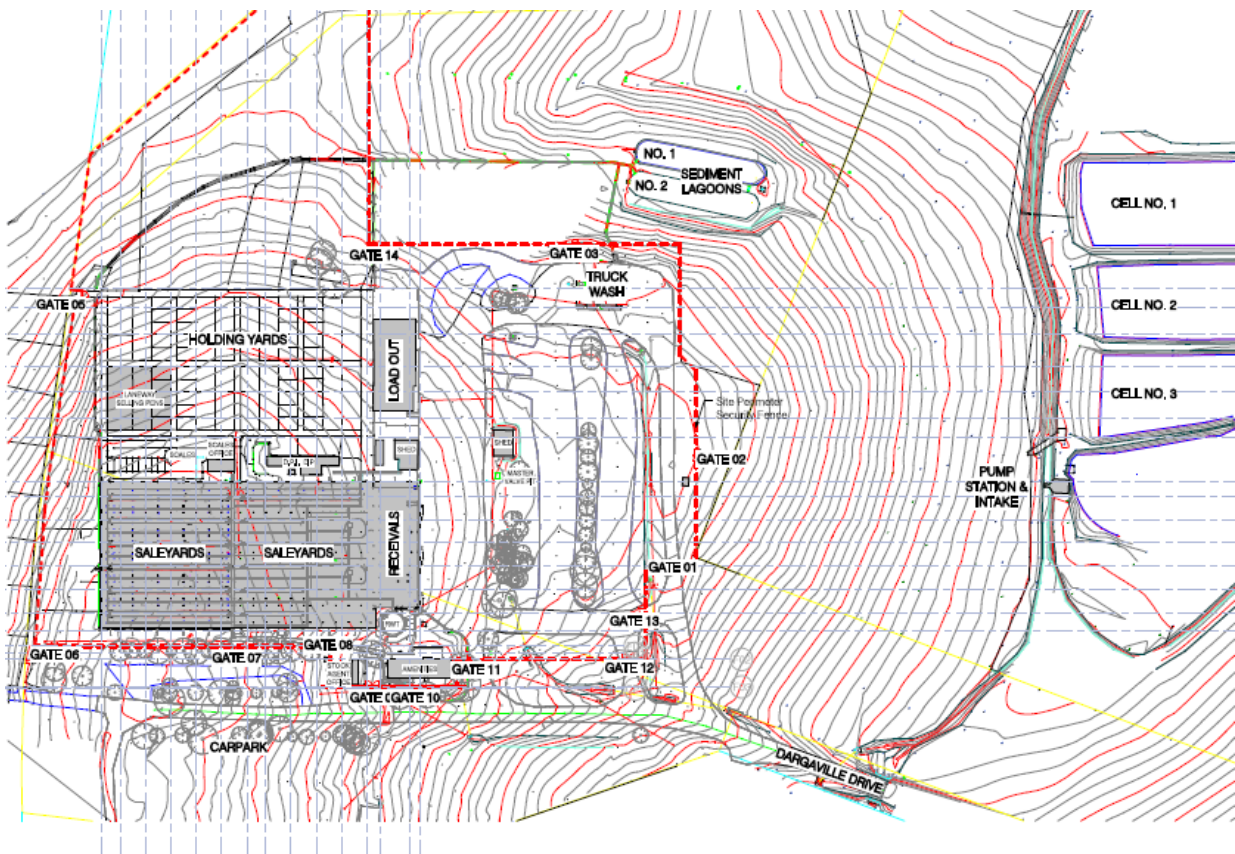


Figure 4: Existing Site infrastructure and Facilities



## 2.2 Northern Regional Livestock Exchange Operations and Facilities

The NRLX is a regionally significant saleyard facility. The Casino township started as a beef cattle area 142 years ago and the industry remains a significant economic contributor today. The original Casino Saleyards were located in Hotham Street, nearby the now expanded Casino township.

Construction of a new Saleyard facility commenced shortly after its approval by the former Tomki Shire in 1975, and operations were completely relocated from the Hotham Street facility on 10 September 1982. Casino Saleyards have always remained within the top 5 saleyards in the State, with cattle being drawn from as far away as the Tablelands, Queensland border and Kempsey.

Throughput averages 115,000 head per annum, although varies widely from year to year due to weather conditions, herd rebuilding, demand for exports, value of the Australian dollar and prevalence of disease outbreaks in other countries. Records show a peak of 147,000 head in 1998, current throughput is lesser being around 100,000 head per annum for the past 4-5 years. Regular sales occur on Wednesdays and most Fridays.

Sale facilities on the site are concentrated toward the western end of the lot. Existing site facilities in this area include;

- Covered selling pens and yards, buyer and auctioneer walkways,
- load-in and out facilities,
- mustering and holding yards,
- weighing facilities
- dip facility and yards
- car/truck parking areas,
- truck wash area,
- site offices,
- amenities and a canteen
- storage and maintenance sheds



Figure 5: Roof section completed under Stage 1



Figure 6: Existing Dip Facility and Holding Yards



Figure 7: Existing unformed carpark

## 2.3 Site History and Background of current proposal

The former Shire of Tomki approved the building and use of land for stock selling facilities at the current site under application number 39/1975 on 20 March 1975. The approval was granted pursuant to the Local Government Act 1919. A copy of the Council resolution approving the application is provided in Appendix C.

Since its original construction various minor alterations and additions have been undertaken to the saleyards. Most recently DA2017/0175 was approved for significant upgrades comprising Stage 1 of the project. This included roofing, soft flooring and reconstruction of selling and mustering yards. A further recent consent DA2018/0144 has been granted for upgrade and extension of the truckwash facilities.

Approvals history from a review of Councils records demonstrates a range of ancillary works approved dating back to 1986.

- BA1986/0124 New amenities building and relocation of building
- BA1986/0125 Roof to saleyard
- BA1987/0018 Roof over part of saleyards
- BA1987/0069 Toilet additions
- BA1989/0091 Office
- BA1990/0006 Workshop and Storage Area
- BA1991/0085 Roof over Cattle Dip
- BA1991/0096 Steel overhead walkway
- BA1991/0091 Shed
- BA1993/0060 Shelter
- BA1993/0096 Steel walkway
- BA1994/0015 Covered Area
- BA1995/0184 Shed Additions
- BA1996/0078 Shed additions
- DA1996/0046 Subdivision
- DA1997/0028 Extractive Industry
- BA1997/0076 Selling pens and walkway
- DA2005/0155 Shed
- DA2003/0373 Work shed and office store rooms
- DA2010/0116 Earthworks
- DA2012/0039 Awning to Elevated Walkway (Selling Pens 121 to 140)
- DA2014/0078 Covered Roof over existing stalls

In 2012 a Saleyards Strategic Review by Huefner and Associates Pty Ltd found the NRLX structure and function were affecting the its performance and profitability. The NRLX was found to require substantial investment to remain economically viable, reduce WH&S risks and optimise animal welfare. In conjunction with the Stage 1 works previously approved the current development proposal has been initiated to address these issues and revitalise the facility.



### 3. Development Proposal

Development Application DA2018/0202 (JRPP Reference No. 2018NTH012) seeks consent for alterations to the existing Northern Regional Livestock Exchange (NRLX). The proposal represents Stage 2 of works required to continue the modernisation and improvement of the facilities infrastructure.

The upgrades address best practice animal welfare, work health and safety initiatives and deliver improved environmental performance and operational efficiencies. It is not proposed to change the nature of current operation.

Following a request for additional information minor amendments to the original development were provided. These amendments were submitted on 19 June 2018 with changes to the proposal as follows;

- Removal of the previously proposed stormwater detention dam and inclusion of an additional water tank, (making a total of 2 x 400kL tanks proposed for Stage 2).
- Demolition of a further small existing storage shed located to the east of the loading area.
- Construction of a new 350m<sup>2</sup> storage shed adjacent the southern fence between gates 11 and 12.
- An Executive Summary Memo of the NRLX Water Balance Investigation
- An Ecological Impact Assessment
- The amended plans are contained in Appendix A.

Therefore the application (as amended) includes the following key components and activities;

- Construction of a new roof over the holding yards, similar to the completed saleyards roof.
- Construction of a new roof over the central dip and weighing area to provide a complete coverage to the stock selling facility.
- Demolition of small sheds, fencing, gates, roof over dip site, scales and removal of 38 trees.
- Installation of two 400KL water tanks.
- Additional and upgraded fencing and cattle facilities to the holding yards.
- Soft flooring to the holding yards.
- New cattle pens to the dip area.
- Upgrade and refurbishment of the delivery area and loading facilities.
- Formalisation and sealing of the existing car park.
- Demolition of two existing storage sheds.
- Construction of a new storage shed (37m x 9.4m x 6.0h).
- Conversion of existing cattle yards to new transit yards including new fencing and gates.
- Internal upgrades to existing amenities.
- Refurbishment of the existing canteen.
- Upgrades to the existing scales house.
- An additional Agents Office (As built)
- Provision of a buyers lounge within the existing dining room area
- Installation of technology components including CCTV/NLIS scanners and WIFI throughout the site
- Ancillary site works including stormwater infrastructure, fencing and gates, lighting, paving and electrical works.



Figure 8: Area of proposed Stage 2 Development

The principal and most prominent component of the development is the construction of the new roof mirroring the recently constructed roof, along with the central joining roof. The proposed Stage 2 roofed area covers approximately 15,000m<sup>2</sup> of the existing yards and centrally located dip, weighing, and loading facilities

The area to be covered is located immediately west of the recently completed Stage 1 area. The new structure has a varied height due to its curvature and varied ground levels across the site, although visually replicates the existing roof structure. Detailed elevations are included in Appendix A.

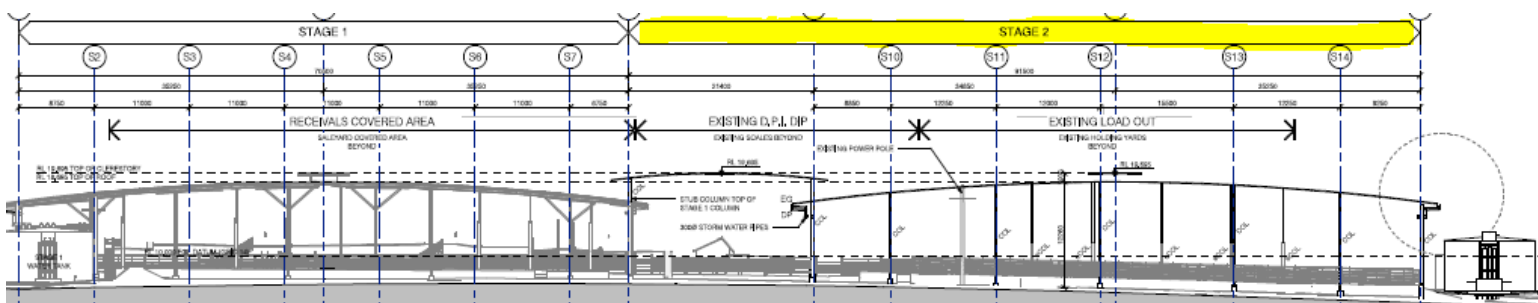


Figure 9: Proposed new roof structure adjacent Stage 1 roof



Figure 10: Existing holding yards, loading facilities and dip area current uncovered.

The roof serves many purposes and delivers significant benefits including:

- Weather protection for livestock, staff and other users of the facility.
- Enables the installation of soft flooring to cattle yards, reducing slippery surfaces, improves animal comfort and safety.
- The use of soft flooring reduces water demand and reduces the generation of wastewaters currently occurring as a result of cleaning the yards and stormwater overflows.
- Delivers improved environmental outcomes through the diversion of a significant volume of contaminated stormwater from the existing wastewater treatment and effluent management system.
- Facilitates capture of clean rainwater and potential water reuse opportunities.



## 4. Referrals

The following referrals were undertaken as part of the assessment process:

### External

Authority	Comment
<b>NSW Environmental Protection Authority</b>	General Terms of Approval provided 24 May 2018 with nil conditions. Following this additional information was submitted and notified to EPA.  By email on 5 July 2018 EPA advised that three consent conditions were required. These conditions have been included in the draft recommended conditions. Correspondence received from the EPA is contained within Appendix B.

### Internal

Authority	Comment
<b>Environmental Health</b>	Andy Edwards Coordinator Environment and Regulatory Services- Acceptable subject to conditions.
<b>Development Engineer</b>	Brian Eggins Senior Administration Officer - Acceptable subject to conditions.
<b>Building Certifier</b>	Neville McDonald Coordinator Building Services - Acceptable subject to conditions.

## 5. Environmental Planning and Assessment Act 1979

### Section 1.7: Application of the Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The provisions of Part 7 of the Biodiversity Conservation Act and Part 7a of the Fisheries Management Act contain additional requirements with respect to assessments, consents and approvals under the EPA Act. Further detailed assessment is provided in Section 9.2 of this report.

### Section 2.15: Consent Authority

The Northern Regional Planning Panel is the determining authority for the application being Council related development with a CIV greater than \$5 million pursuant to Schedule 7 of SEPP (State and Regional Development) 2011.

### Section 2.22: Community Participation

Part 1 of Schedule 1 sets out the mandatory requirements for community participation.

The development application was placed on Public Exhibition for thirty days being from 25 April 2018 to 28 May 2018. Written notification to land owners was undertaken and a published notice appeared in a local newspaper on 25 April 2018. One submission was received outside the exhibition period although it has been accepted and is considered.

#### Section 4.2: Development that needs consent

The proposal is seeking consent under Part 4 of the Act. Consent is sought for refurbishment of the existing NRLX facility. The NRLX is defined as a stock and sale yard being a type of rural industry. A rural industry is permitted with consent in the IN1 General Industrial zone pursuant to Richmond Valley Council Local Environmental Plan 2012.

#### Section 4.14: Consultation and development consent – certain bushfire prone land

The site is bush fire prone although is not development for a special fire protection purpose that would require consultation with the NSW Rural Fire Service. The development is considered to be consistent with the requirements of Planning for Bush Fire Protection.

#### Section 4.15: Evaluation

Section 4.15C details matters the consent authority is to take into consideration in determining an application. Consideration of the matters is provided in detail throughout this report.

<b><i>Provision</i></b>	<b><i>Comment</i></b>
(1)(a)(i) – Environmental planning instruments	Refer to section 6.
(1)(a)(ii) – Draft environmental planning instruments	Refer to section 6.
(1)(a)(iii) – Development control plans	Refer to section 7.
(1)(a)(iiia) – Planning Agreements	No planning agreements relate to the application.
(1)(a)(iv) – The Regulations	Refer to section 8.
(1)(a)(v) – Coastal Zone Management Plan	No coastal zone management plan applies to the land.
(1)(b) – Likely impacts of the development	Refer to section 9.
(1)(c)(i) – Site suitability	Refer to section 10.
(1)(d)(i) - Submissions	One submission was received and is addressed in section 11.
(1)(e)(i) – The public interest	Refer to section 12.

#### Section 7.13: Conditions subject to a contributions plan

A consent authority may only impose a condition relating to contributions if it is a contribution kind allowed and in accordance with a contributions plan.

Richmond Valley Council Section 94A Contributions plan applies and a consent condition consistent with this plan has been included in the recommended conditions.

#### Section 4.47: Integrated Development

Section 4.47 identifies development that requires both consent and one or more approvals under certain legislation as Integrated Development. Before granting consent General Terms of Approval must be obtained and a consent must be consistent with those terms.

The existing development operates under an Environmental Protection Licence. The current application was referred to the Environmental Protection Authority (EPA). EPA raised no objection to the proposal and has advised that three consent conditions are required. These conditions have been included in the draft recommended conditions.

The conditions are;

1. Clean and dirty water separation must be maintained at the premises at all times. The clean stormwater catchment on the premises must be maintained in a manner that prevents entry of clean stormwater into the waste water system.
2. The clean stormwater system must be designed, installed and maintained to capture and convey the 1 in 100 year ARI flood.
3. Before construction, the design of any stormwater management works (including diversion channels or changes to onsite storage) must be provided to the EPA including specifications and any changes to treatment or management of stormwater or wastewater systems.

A copy of the General Terms of Approval and email confirming the required consent conditions is provided in Appendix B.



## **6. Environmental Planning Instruments - Section 4.15(1)(a)(i)**

The Environmental Planning instruments applying to this application are;

- State Environmental Planning Policy 44 - Koala Habitat Protection
- Draft Amendment to State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy 55 – Remediation of Land
- Richmond Valley Local Environmental Plan 2012
- Richmond Valley Development Control Plan 2015

### **6.1 State Environmental Planning Policy No. 44 - Koala Habitat Protection**

SEPP 44 aims to conserve and manage natural vegetation areas that provide habitat for Koala's. Koala Plans of Management are required for areas containing core Koala habitat. Vegetation removal is required for the project and therefore a detailed Ecological Impact Assessment was undertaken and submitted.

Clause 7 outlines the requirement to identify whether or not the land is a potential koala habitat. If the land is not potential koala habitat consent may be granted.

*Potential koala habitat means 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.*

The Ecological Impact Assessment has been undertaken by a suitably qualified and experienced consultant who found;

- only two small topped Forest Red Gum (*Eucalyptus tereticornis*) the only Schedule 2 species recorded.
- There were no signs of Koala use, (Koala scats or scratch marks) associated with the two Forest Red Gum.

### **6.2 Draft Amendment to State Environmental Planning Policy No. 44 – Koala Habitat Protection**

The key changes in the proposed amended SEPP relate to the definitions of koala habitat, list of tree species, list of councils and development assessment process. An assessment of vegetation to be removed has been undertaken as part of the Ecological Impact Assessment. There is no evidence of Koala use at the site.

### **6.3 State Environmental Planning Policy No. 55 – Remediation of Land**

The policy provides for consideration of possible land contamination, and remediation for the purpose of reducing the risk of harm to human health or the environment. Clause 7 requires a consent authority consider whether land is contaminated and if so whether the site is suitable for the intended purpose.

The NRLX site can be considered as being potentially contaminated due to the presence of an active NSW Department of Primary Industries cattle dip site as part of the saleyards infrastructure and its general saleyards activity. The dip itself is not to be disturbed. The existing dip roof is to be removed due to construction of a new main roof over the entire area. New cattle pens adjacent the dip is proposed.

Council Officers have undertaken a preliminary assessment of the site and investigated the dip bath. The bath was made active in September 1982. The first chemical used to charge the dip known as “Casino Saleyards dip” was *Barricade S*. The active constituent of *Barricade S* is Cypermethrin, a synthetic pyrethroid and Chlorfenvinphos, an organophosphate. According to NSW Department Primary Industries officer Mr Larry Falls the organophosphate component is only a small percentage of the active constituent of *Barricade S*.

Apart from Cypermethrin Chlorfenvinphos, the only other chemical used at the dip has been Amitraz which was first used at the dip in 1994 and continues to be used today. Amitraz is rapidly broken down in soil containing oxygen. The half-life in soil is less than one day.

Chlorfenvinphos, is also hydrolysed in soil however its residual properties in the environment varies largely depending on conditions such as soil type, acidity / alkalinity and organic content etc. Based on measured residues, Environment Australia calculated half-lives for chlorfenvinphos of 4.6 weeks for a sandy loam, 5.1 weeks for a medium loam and 22.6 weeks for peat soils.

The yards have been covered by concrete however a small area of exposed natural ground exists between the concrete yards and dip. This is the only area considered a potential risk of contamination. Due to the proposed use of the site not to be for a more sensitive land-use and the low risk nature of the chemicals used at the dip a sampling program has not been carried out.

A risk assessment has identified that a managed approach during construction can be adopted. A condition is recommended requiring that the top 300mm of soils where removed within 30m of the dip bath are to be stored separately in a bunded and covered area, and then sampled to determine if contamination exists and disposed of accordingly.

## 6.4 Richmond Valley Local Environmental Plan 2012

### Objectives of the zone

The site is zoned IN1 General Industry as shown in Figure 13. The existing NRLX facilities being a stock and sale yard fall within the rural industry land use definition. Rural industries are permissible with consent in the IN1 land zone. The proposed development therefore involves alterations and additions (refurbishment) of the existing Rural Industry.

**stock and sale yard** means a building or place that is used on a commercial basis for the purpose of offering livestock or poultry for sale and that may be used for the short-term storage and watering of stock.

*Note. Stock and sale yards are a type of rural industry—see the definition of that term in this Dictionary.*

**rural industry** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),
- (d) sawmill or log processing works,
- (e) **stock and sale yards**,
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

*Note. Rural industries are not a type of industry—see the definition of that term in this Dictionary.*

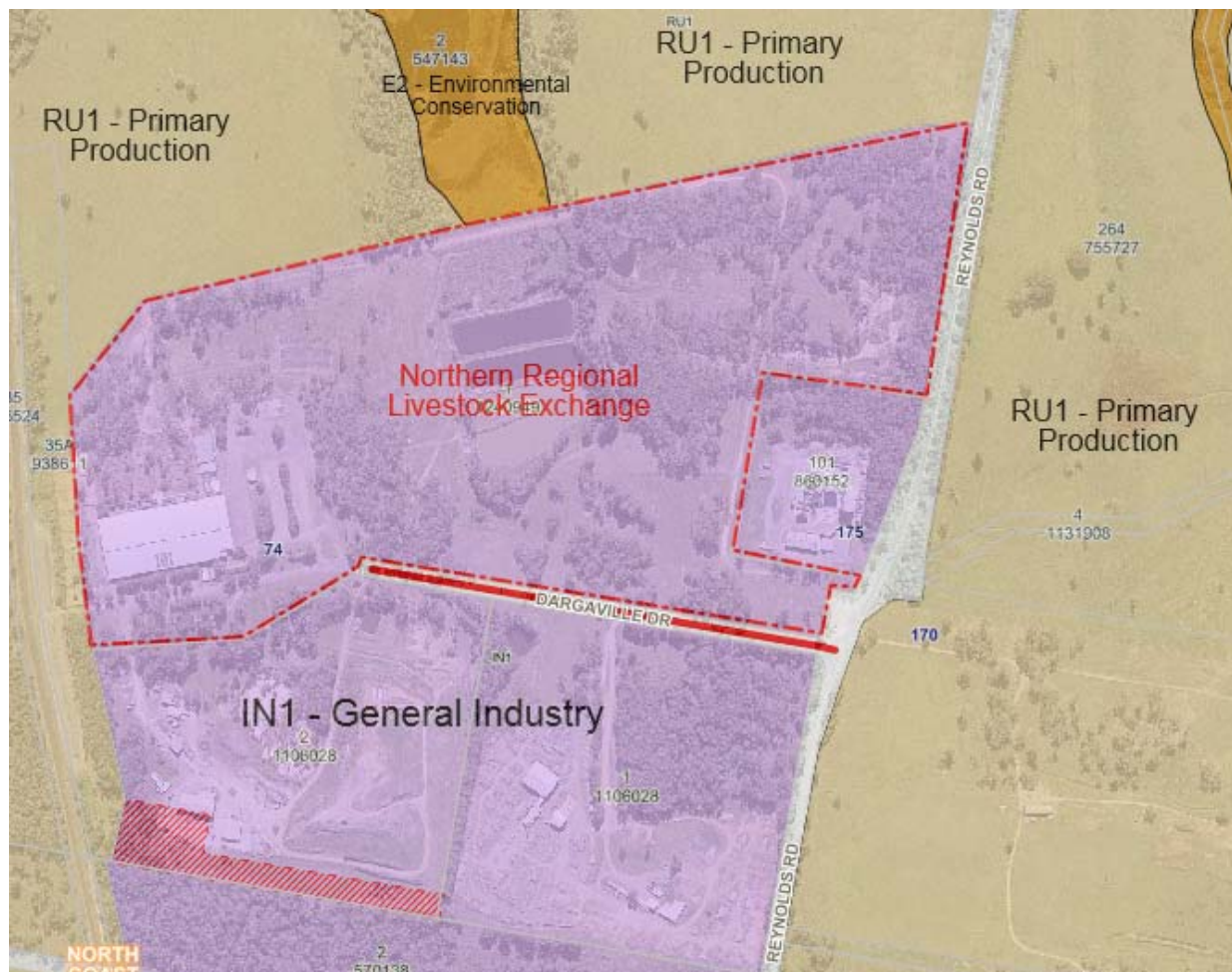


Figure 11: LEP Land Zone Map

The IN1 zone objectives are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable development that is associated with, ancillary to, or supportive of, industry or industrial employees.

The proposed development involves ancillary works to the existing saleyards activity. The proposal is considered consistent with the objectives as the redevelopment provides for the continued operations of the existing Rural Industry. The proposed development supports the ongoing economic and social benefits of the NRLX to rural communities both local and regionally.

The LEP provisions applicable to the proposed development are listed below.

Clause	Provision	Comment
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	<b>Complies</b> Development consent is sought for the demolition of parts of the existing infrastructure to enable its renewal.
4.3 Height of buildings	Maximum height of 8.5m applies.	<b>Non compliance</b> A building height of approximately 14m is proposed. This represents a variation of 64.7%.
4.6 Exceptions to development standards	Flexibility and provisions relating to exceptions to development standards	<b>Complies</b> A request to vary Clause 4.3 Height of Building development standard has been submitted and is further considered in section 6.4.a.
6.2 Essential services	Requires a consent authority consider that essential services (water, electricity, sewage, stormwater drainage and road access) are available or suitable arrangements for its provision have been made.	<b>Complies</b> All site services are existing. If required redesign/augmentation in accordance with the service providers requirements will occur. Further comments relating to stormwater drainage is provided in section 9.3.
6.3 Earthworks	Development consent is required for earthworks unless they are ancillary to other development having consent. The consent authority must consider the likely effect on; <ul style="list-style-type: none"> <li>• existing drainage and soil stability,</li> <li>• future use or redevelopment of the site</li> <li>• the quality of fill or soil to be excavated,</li> <li>• disturbance of relics,</li> <li>• adverse impacts on watercourses, catchments or environmentally sensitive areas</li> <li>• any measures proposed to avoid, minimise and mitigate impacts.</li> </ul>	<b>Complies</b> Earthworks, being excavations for footings and stormwater management including, adjustments identified in the Water Balance assessment. Relics are not anticipated due to the existing highly modified facility.  The proposal provides an opportunity to divert existing stormwater flows from overland contaminating sources and the effluent treatment system. In this manner it reduces the environmental impacts of the existing development. Consent conditions are recommended to manage erosion and sediment control, and any potentially contaminated soils. Stormwater Management



		requires augmentation and is further considered in section 9.3.
6.6 Terrestrial biodiversity	Requires a consent authority consider likely impacts on ecological values, significant flora and fauna, habitat values, connectivity and any potential to diminish biodiversity.	<b>Complies</b> The land is mapped as having terrestrial biodiversity values. The removal of isolated trees from within the holding yards is required. A detailed Ecological Assessment has been undertaken finding that no significant biodiversity impacts will result. Further details are provided in section 9.2.

#### 6.4.a Variation to Clause 4.3 Height of Buildings

Clause 4.3(2) of the Richmond Valley Local Environmental Plan 2012 identifies a maximum building height of 8.5m for the site. The objectives of clause 4.3 Height of Buildings are;

- (a) to establish the maximum height for buildings,
- (b) to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,
- (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

A key component in the overall NRLX upgrade is to improve its environmental performance. The construction of a roof over the main saleyards facility is key component of this aim and will significantly reduce contaminated stormwater flows from the facility. Stage 1 of the roof structure is now complete and this Stage 2 proposal connects and completes the roofed coverage.

Like the Stage 1 roof the Stage 2 proposal requires a variation to the prescribed 8.5m height limit in order to provide for an effective design with adequate space to accommodate the associated infrastructure as well as a central clerestory for ventilation and heat escape. The Stage 1 roof was approved with a height of 13.58m.

The Stage 2 roof is designed to integrate with Stage 1, having the appearance of comparable height and design. It also has a curved design with a maximum height of approximately 14m. The difference in actual height when compared to Stage 1 is due to the lower ground levels across the site.

The proposed structure is therefore 5.5m higher than the prescribed maximum height; this represents a 64.7% variation to the development standard. Figure 12 shows the roof structure.

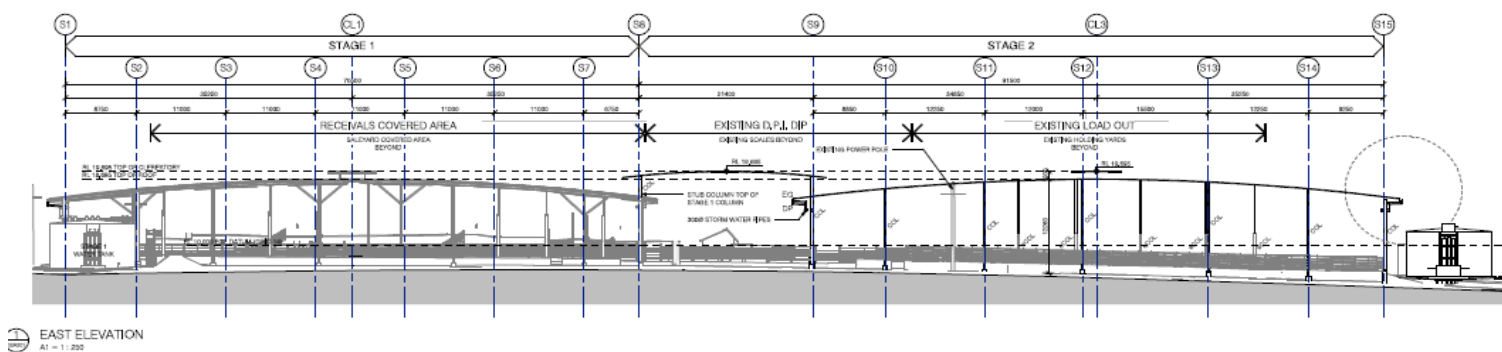


Figure 12: Proposed New Roof to match Stage 1 construction.

Clause 4.6 of the LEP provides a degree of flexibility in applying certain standards in order to achieve better outcomes for and from development. The clause sets out strict criteria which enable such a variation to be considered and approved. The matters prescribed under clause 4.6 are detailed below.

The departure from the building height standard is not considered to result in any adverse environmental impact and is not contrary to its objectives. The request to vary the development standard has been demonstrated to be justified, and under the circumstances strict compliance is considered to be unreasonable and unnecessary. It is recommended the request to vary clause 4.3(2) Height of Buildings of Richmond Valley Local Environmental Plan 2012 be granted.

#### Clause 4.6 Richmond Valley Local Environmental Plan 2012

##### Clause 4.6 Exceptions to Development Standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

**Comment:** The development is seeking flexibility in the application of the Height of Building standard in order to achieve a functional outcome for the development being a roof that integrates with the recently completed Stage 1 roof and that provides space for undercover activities including raised walkways, effective spanning of the structure over the existing saleyards area, control of ventilation, light and temperature for animal and human comfort.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

**Comment:** The JRPP as the determining authority may grant development consent to the subject proposal notwithstanding it not complying with clause 4.3 of Richmond Valley Local Environmental Plan 2012. Clause 4.3 is not excluded pursuant to subclause (8) below.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The applicant's written request demonstrating that compliance with the development standard is unreasonable or unnecessary and that there are sufficient grounds to justify the variation is provided in Appendix D.

4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

Comment (a)(i): The applicant's written request is considered to comprehensively demonstrate and justify that strict compliance with the Height of Buildings standard in this instance is both unnecessary and unreasonable. It further shows there are sufficient environmental planning grounds for a consent authority to be satisfied the variation is well founded.

The justification outlined in the written request is summarised as follows;

- The proposal would not result in any adverse amenity impacts (such as visual impact, overshadowing, loss of privacy or solar access) due to the site context and lack of proximal sensitive receivers. The proposal does not interface with a main road therefore does not adversely affect the streetscape.
- The development is comparable with the recently constructed roof being 13.58m high. Stage 1 of the project was approved with a similar variation. Stage 2 involves a second matching roof to the north with a bridging roof between the two main structures.
- The design provides for seamless integration between the structures from Stages 1 and 2
- The improvements will result in an overall more efficient and productive saleyard operation, with improved conditions for animals and those that work at and use the facility. The improvements will address maintenance, animal welfare, and Work, Health and Safety issues which currently exist.
- The roof provides weather protection, improved animal conditions as it enables soft flooring to be installed and significantly reduces contaminated stormwater runoff and effluent discharges.
- The proposal will modernise and support the NRLX in becoming a standout facility in the region and be a driver for long-term business operations and socio-economic

benefits.

- The development could not efficiently progress if strict compliance with the height restriction were imposed.
- The proposed height is to allow for an effective spanning that provides for a roof over the saleyards and adequate space/height to accommodate the associated infrastructure, including yards/pens, walkways and platforms, as well as a pop-up central clerestory roof for ventilation and head escape.
- There are sufficient environmental planning grounds to vary the standard based upon the sites context and separation, character of the industrial area, existing nature of the livestock facility, and surrounding visual screening.
- The objective of the standard being to compliment the streetscape and character of the area while minimising amenity impacts such as visual, loss of privacy and solar access, are upheld notwithstanding non-compliance with the prescribed standard.

Comment (a)(i i): Consistency with objectives of the standard and for development in the zone.

The Height of Building clause has the following objectives:

- (a) to establish the maximum height for buildings,
- (b) to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,
- (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

In considering the applicant's written request and justification in conjunction with the objectives of the Height of Buildings clause the following is noted:

- The site is within an established industrial zone and relates to an existing Rural Industry. A recently completed roof approved under Stage 1 is of similar height.
- The proposed height is consistent with existing and currently approved structures at other enterprises in the industrial area.
- The nearby grain production facility includes a plant building and numerous silos having a height of greater than 17m.
- Approval has been granted for an additional silo at this site being 22m high.
- The Casino Rail Freight Terminal to be located on the property adjoining to the north will have both buildings and silos exceeding 29m in height with associated elevators and towers around 37m in height.
- Due to the substantial separation from adjoining and sensitive receivers no visual, privacy, solar access or view loss impacts would result if the variation request were to be granted.

The objectives of the IN1 General Industrial Zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable development that is associated with, ancillary to, or supportive of, industry or industrial employees

The proposed development supports an existing land use that requires investment to enable



its ongoing, successful operation including the retention of existing employment and support for rural producers and the wider community. The development will not change any operational aspect of the existing saleyards and will continue to operate compatibly with the adjoining industrial enterprises. The proposal compliments the approved and recently constructed works under Stage 1 of the NRLX redevelopment project.

Comment (b) : Concurrence of the Secretary has been obtained.

*Planning Circular PS18-003 Variations to Development Standards*, issued on 21 February 2018 contains notification to consent authorities of arrangements for when the Secretary's concurrence to vary development standards may be assumed. Consent authorities may assume the Secretary's concurrence under clause 4.6 subject to two conditions;

a) Lot size standard for dwellings in rural areas.

This condition is not applicable as the variation does not relate to a dwelling in rural areas.

b) Numerical and non-numerical development standards.

This restriction on delegates determining applications involving numerical or non-numerical standards does not apply to all regionally significant development.

It is considered in this instance the applicant's request has satisfactorily address the matters prescribed under subclause (3), the proposed development is consistent with the objectives of the standard and the land zone and the concurrence of the Secretary may be assumed.

5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Comment: In accordance with *Planning Circular PS08-003 Variations to Development Standards* and *Planning Circular PS08-014 Reporting Variations to Development Standards*. the concurrence of the Secretary may be assumed in this instance. Notwithstanding contravention of the standard in this instance is not of significance for the region or State. The unique circumstance of this instance being, the proposals location, setting and context, design, and positive outcomes as detailed throughout this report demonstrate there is not diminishing of the public benefit should a variation be granted in this instance.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU2 Rural Landscape, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone E4 Environmental Living.

Comment: The proposed development does not relate to a subdivision of land.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

Comment: Required records will be kept by the Council.

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (ca) clause 6.1.

Comment: The application is not in respect of complying development, or in connection with BASIX commitments. The variation relates to a standard under clause 4.3 of Richmond Valley Local Environmental Plan 2012. It is therefore not excluded from the operation of this clause.

## 7. Development Control Plans – Section 4.15(1)(a)(iii)

### Richmond Valley Development Control Plan 2015

The DCP provisions applicable to the proposed development are listed below.

Part	Provision	Comment
Part C Industrial Development	The DCP provides a range of standards and objectives relating to building lines, side and rear setbacks, height, carparking, signage and amenity impacts.	<b>Complies</b> The Proposal is for redevelopment of the existing NRLX saleyards and related infrastructure. The new roof structure will exceed the maximum height of buildings however as considered in Section 6.4.a the proposed height is considered to be satisfactory. The proposed development is within the existing footprint of the facility therefore does not impact any existing setbacks, carparking or cause any additional amenity impacts.
Part H Natural Resources and Hazards	The site has mapped native vegetation resources and is Bushfire Prone	<b>Complies</b> Some vegetation removal is required however this comprises isolated trees located within the existing holding yards footprint. The vegetation does not include any threatened species; comprise an endangered ecological community or potential Koala habitat. The development will not increase any hazard relating to bushfire, it is to be constructed of non-combustible materials.
Part I Other Considerations	Setbacks and Building Height Car Parking Noise Impacts Water Sensitive Design Crime Prevention Context and Site Analysis	<b>Complies</b> The site maintains existing compliant setbacks. A variation to the Building Height is proposed and addressed in Section 6.3.a.  Formalisation, sealing and line marking of existing carparks and access is proposed. No reduction in on-site parking is proposed.

		<p>Due to the physical separation of the site from sensitive receivers changes to the existing noise impacts are not expected.</p> <p>Stormwater management and detention are required to be implemented with options identified in the Water Balance Investigation.</p> <p>Existing site fence and secure access points, CCTV and monitored access through the AV Data system have been implemented to manage security and crime prevention at the facility.</p> <p>The site is strategically located having good access and significant distance to sensitive receivers. No changes to operational aspects of the existing development are proposed.</p>
Part J Notification and Advertising		<p><b>Complies</b></p> <p>The application was notified and advertised for 30 days.</p>



## 8. The Regulations – Section 4.15(1)(a)(iv)

### Designated Development

Development described in Part 1 of Schedule 3 is declared to be designated development, unless it is declared not to be designated development by a provision of Part 2 or 3 of that Schedule.

Under Part 1 of Schedule 3 the existing NRLX would fall within the livestock intensive industries criteria of clause 21(5)(a). The existing NRLX is a stock and saleyard having a throughput greater than 50,000 head of cattle per annum.

The proposed development is for alterations and additions to the existing NRLX. Subsequently Part 2 of Schedule 3 allows alterations or additions to be not Designated Development if the alterations do not significantly increase the environmental impacts of the total development having regard to certain factors set out in clause 36. The criteria under clause 36 are to be considered by the consent authority in forming its opinion.

The criteria are addressed below.

<b><i>the impact of the existing development having regard to factors including:</i></b>	
(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,	<p>NRLX was approved by the Council in 1975 and has numerous minor development approvals granted since its establishment.</p> <p>EPA has issued an Environmental Protection Licence for the Saleyards and has provided support for the current application subject to recommended conditions as outlined in the draft consent conditions.</p> <p>The facility is operating in accordance with its subject approvals.</p>
(ii) rehabilitation or restoration of any disturbed land,	The existing site retains areas of native vegetation through its central and perimeter areas. Tree removal is limited to isolated trees directly within the existing development footprint.
(iii) the number and nature of all past changes and their cumulative effects,	Past changes outlined in section 2.3 have resulted in Stage 1 of a major redevelopment completed. The current application compliments and builds upon these works to deliver improved environmental performance, animal welfare and WH&S outcomes.
<b><i>the likely impact of the proposed alterations or additions having regard to factors including:</i></b>	
(i) the scale, character or nature of the proposal in relation to the development,	The redevelopment is ancillary to the existing approved land-use, its purpose is to refurbish existing infrastructure and to construct additions (new roof) to address staff and visitor safety, animal welfare and environmental performance.

	The roof will be prominent however as demonstrated in section 6.4.a the roof is consistent with the recently completed Stage 1 roof, overall character of the site, as well as the scale and nature of the surrounding development. The proposal is entirely contained within the existing saleyards footprint.
(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and	<p>Impacts to existing vegetation have been found to not result in significant impacts. No changes to air or noise quality are anticipated following construction, temporary construction impacts can be managed.</p> <p>Upon completion the development will result in improvements to water quality due to a reduction in pollutant loads to the effluent treatment system. Any impacts to scenic quality are minor and limited to the immediate vicinity and surrounding industrial area.</p>
(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and	<p>Impacts have been investigated and can be accurately predicted. The site operates under a licence issued by the EPA. EPA has been consulted as part of the assessment and has issued General Terms of Approval.</p> <p>Consent conditions are recommended to ensure environmental protections are implemented and maintained.</p>
(iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and	The development delivers improved environmental impacts particularly in relation to contamination of stormwater. The roof is a visually prominent change in the environment, however the distance to sensitive receivers and screening, limit its impact beyond its surroundings.
<b><i>any proposals:</i></b>	
(i) to mitigate the environmental impacts and manage any residual risk, and	Impacts are primarily confined to construction activities and safeguards to protect soils and water resources are proposed by way of stormwater management, erosion and sediment control measures. These are included within the recommended consent conditions.
(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.	The development will comply with relevant construction standards. The EPA has issued General Terms of Approval with three conditions. Consent conditions are recommended to ensure compliance with standards and codes.

The criteria above demonstrate the proposed development does not significantly increase the environmental impacts of the total development; conversely the proposal to redevelop NRLX

will deliver significant environmental improvements. It is therefore considered the development application may be declared not to be Designated Development. Other matters relevant to the application as provided in the Environmental Planning and Assessment Regulation are detailed below.

<b>Environmental Planning and Assessment Regulation 2000</b>		
<b>Part</b>	<b>Provision</b>	<b>Comment</b>
Clause 5	Certain applications are identified as Nominated Integrated Development also Other Advertised Development	The site has an existing Environmental Protection Licence. For the purposes of the regulation the application was treated as Other Advertised Development and exhibited in accordance with requirements.
Cause 25J and 25K	Section 7.12 levy— determination of proposed cost of development  Maximum percentage	A consent condition is recommended to address the levy and to consider the cost of development for the purposes of calculating the levy.
Part 6 Division 3	Procedures for Integrated development.	General Terms of Approval were obtained and are attached in Appendix B.
Part 6 Division 7	Public participation – Other Advertised Development	The Application was advertised and notified as required.
Part 6 Division 8	Additional matters to be considered: Coastal Policy Demolition Paper Subdivisions Dark Sky Planning	Site is not located within the coastal zone, is not part of a subdivision under Schedule 5 of the Act, and is not within a dark sky planning area.  Consent conditions are included to require demolition to be undertaken in accordance with AS2601.
Part 6 Division 12A	Additional provisions relating to Regional Panels	Miscellaneous administrative provision relating to Regional Panels.
Part 9	Fire Safety and BCA compliance	Consent conditions are included to require compliance with BCA and fire safety as required .

## **9. The Likely Impacts of the Development - Section 4.15(1)(b)**

The proposed development is not considered to have any potential significant adverse impacts. The facility currently operates as a saleyards and would continue to undertake activities in the same manner. The likely impacts of the development are considered below and able to be mitigated or managed by way of standard construction management practices as outlined in the Statement of Environmental Effects, Ecological Impact Assessment and consent conditions as recommended in Appendix F.

### **9.1 Visual changes resulting from the Roof**

Given the scale and form of the proposed roof structure its visual impact will be a significant change in the local environment. However, the recent completion of the Stage 1 roof demonstrates although a large structure it is compatible with and has no detrimental amenity impacts on the surrounding area.

The site is benefited by its physical separation from dwellings and screening from the surrounding rural landscape. Figure 13 shows the location of residential dwellings and extent of surrounding vegetation.

The submitted Statement of Environmental Effects includes a Visual Impact assessment which found;

- The proposal is within the existing NRLX facility and is comparable to the scale, character and nature of existing development.
- The nearest dwellings are located along, or access from, Summerland Way and are between 500m to 1km away from the development site.
- Their surrounding views consist of a rural setting having scattered and clustered vegetation throughout local landscape.
- Views toward the NRLX facility are filtered and in most cases concealed due to distance and the presence of vegetation between the development site and potential receivers.
- The site is not directly visible from the surrounding road networks, including the Summerland Way and Reynolds Road. It only becomes visible from within Dargaville Drive.
- These features ensure the site and proposed roof will be filtered and in most cases substantially concealed from surrounding viewpoints.





#### LEGEND

- |  |                                       |
|--|---------------------------------------|
| Completed stage 1 redevelopment (sale yards)   | Residential sensitive receiver buffer |
| Proposed stage 2 redevelopment (holding yards) | Residential sensitive receiver        |
| New carpark                                    |                                       |
| New dam  |                                       |
| New transit yards                              |                                       |
| Cadastre                                       |                                       |

0 350

**GeoLINK**  
Geospatial Information Systems

#### Location of Residential Visual Sensitive Receivers

Statement of Environmental Effects:  
Redevelopment of the Northern Rivers Livestock Exchange  
3088-1007

Illustration 4.1

Figure 13: Location of nearby dwellings and screening vegetation.

## 9.2 Vegetation and Biodiversity

Vegetation clearing is required for the development. Construction of the new roof will require the removal of trees from within the holding yards area, the carpark upgrade requires removal of 1 tree and a further 2 small trees are to be removed to enable construction of new storage shed.

Clearing was also initially proposed to enable construction of the detention dam however this is no longer required and has been removed from the application. No clearing is required for the transit yards with all trees in this area to be retained.

An Ecological Impact Assessment has been undertaken by Arbor Ecological. It examined the ecological attributes of the site and broader area, the developments potential impacts and relevant legislative requirements. It includes an assessment against the Biodiversity Conservation Act and provided both an Assessment of Significance and threshold area calculation as required under the legislation.

The findings of the assessment were;

- Isolated regrowth and planted vegetation is proposed to be cleared. The vegetation is of low ecological value and is below the threshold level identified in the Biodiversity Conservation Act.
- Continued cattle access has impacted tree health and condition and resulted in little vegetation other than isolated and scattered trees in a highly modified and disturbed environment.
- Several topped and potentially hollow bearing small trees were unable to be inspected from the ground.
- Vegetation to be removed is not part of a continuous vegetated corridor and the proposal is not expected to substantially fragment vegetation and habitats in the broader area and does not create barriers to the movement of threatened species.
- Conservatively the proposal would likely cause the loss of low quality habitat for four NSW listed and one Commonwealth listed threatened mobile bat species (Grey-headed flying fox, Eastern False Pipistrelle, Little Bentwing-bat, Eastern Bentwing-bat). The potential loss of habitat for these species is not considered critical when the availability of similar and better quality habitat in the broader area is considered.
- The Assessment of significance concluded that while the proposal would have some negative ecological effects it is not likely to significantly reduce habitat values for species in the locality nor is it likely to contribute significantly to key threatening processes for any threatened species.
- The development is unlikely to place local populations of any threatened species at significant risk of extinction.
- Avoidance and mitigation measures in regard to vegetation clearing procedures and retained vegetation protection have been recommended in Table 2 Section 5 of the report. A consent condition is recommended to ensure these measures are implemented.

### Biodiversity Conservation Act 2016

Part 7 of the Biodiversity Conservation Act requires development applications under Part 4 of the EPA Act to determine whether the proposed development is likely to significantly affect threatened species. Section 7.2 provides a development will significantly affect threatened species if any of the following apply:

*a) is likely to significantly affect threatened species, ecological communities or their habitats according to the test of significance set out at Section 7.3,*

The Ecological Impact Assessment was undertaken by Arbor Ecological. This included an assessment of significance (Appendix 3 of the document) it found;

- 6 threatened plant species were previously recorded in the locality. None were likely to occur in the study area.
- 21 threatened fauna species were previously recorded in the locality. Four mobile mammal species were considered likely to occur in the study area from time to time.
- These were the Grey-headed flying fox, Eastern False Pipistrelle, Little Bentwing-bat, Eastern Bentwing-bat.
- Life cycle impact assessments for these four species were completed.
- Site vegetation did not comprise an Endangered Ecological Community.
- The loss of potential foraging, roosting and sheltering habitat is not critical to survival and persistence in the local area of the threatened species.
- The locality and beyond includes relatively large and better quality areas of potential habitat for the species.
- Vegetation to be removed is not part of corridor. The development will not fragment or create barriers to the movement of threatened species.
- The area is not an identified area of Outstanding Biodiversity Value.
- The clearing of native vegetation is a key threatening process and the proposal will remove isolated regrowth and planted trees.
- A single dead tree and several topped and potentially hollow bearing trees with small hollows are to be removed. These potentially provide roost or shelter habitats.
- Management measures are recommended including pre and post clearing assessments by an ecologist, and best practice machine removal.
- The assessment concluded that while some negative ecological effects associated with the loss of isolated trees and associated fauna habitats, it is not likely to significantly reduce habitat values for forest species in the locality or beyond. It is not likely to contribute significantly to key threatening processes for any threatened species
- The preparation of species impact statements is not necessary.

*b) the development exceeds the biodiversity offsets scheme threshold*

The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has two elements:

- a) whether the amount of native vegetation being cleared exceeds a threshold area set out below
- b) whether the impacts occur on an area mapped on the Biodiversity Values map published by the Minister for the Environment.

The area is not mapped on the Biodiversity Values Map therefore only the threshold area trigger applies.

The area threshold is determined by the Minimum lot size as prescribed under a Local Environmental Plan. In this instance the minimum lot size is 750m<sup>2</sup>. Sites with a minimum lot size of less than 1ha have a clearing threshold of 0.25ha or more.

The area of clearing has been found to be below the respective criteria the Biodiversity Offset Scheme does not apply.

*c) occurs in an Area of Outstanding Biodiversity Value*

The site is not an area of outstanding biodiversity value on the Biodiversity Values Map

### **9.3 Stormwater Management**

Currently rain falling over the uncovered saleyards collects high levels of pollutants as it falls and runs over the facility. This high volume of contaminated water is directed to the effluent treatment system. The new roof provides significant opportunity to capture and divert clean water away from polluting sources, significantly reducing the volume of pollutants entering the effluent system and provides the benefit of a harvestable water supply.

Initially it was intended to construct a detention basin nearby the saleyards facility, however following further investigation this is no longer preferred and has been removed from the proposal. The amended development includes the provision of two 400kL tanks for rainwater harvesting.

A Water Balance assessment has been undertaken and provides for maximising of reuse opportunities throughout the site. An optimal harvesting capacity of 1,000kL has been identified to provide for non-potable needs including fire fighting, stockyard washing, stock watering, general cleaning and amenities. In addition to the existing single 400kL tank installed as part of the Stage 1 roofing a further two 400kL tanks are now proposed.

Upon completion 3 x 400kL tanks (total 1,200kL) will exceed the optimal harvesting capacity. Detailed design plans will be needed to manage overflows from the new tanks and the combined impacts of the 3 tanks. These flows need to be diverted around the irrigation area, truck wash area and effluent ponds and ultimately to retention in order to ensure compliance with the EPL and manage discharges off site.

The Water Balance study also investigated stormwater generation from the site and upstream areas and considered its influence upon the existing drainage network and effluent treatment system. Flows from the catchment area run to a central stormwater bypass channel running adjacent the effluent ponds. This channel currently directs flows to the north keeping runoff segregated from NRLX effluent. Flows then exit the channel via a small pipe culvert under the access road that runs parallel to the northern boundary of the property, just north of the effluent treatment pond. This flow discharges to a wetland located on the adjoining property.

Analysis of catchment flows and the channel capacity found the existing channel capacity is insufficient and is likely to overflow. The analysis identified that runoff will need to be stored temporarily and presented three onsite stormwater management options.

1. Install on-site detention involving retrofitting an existing effluent pond, however this is best done after installation of a purpose built wastewater treatment plant and recycle water plant.
2. Increase the stormwater channel capacity by widening the channel bottom and top.
3. Raise the existing onsite treatment pond walls.

A preferred option is not yet finalised and detailed designs will need to be submitted. The following comments relating to each option are provided;

- The water treatment plant and recycled water plant would likely involve considerable construction (subject to further consent) and ongoing operational costs.
- The widening option would have the effect of allowing the flows to cover a wider area (like a miniature floodplain) thereby reducing the velocity of the flows. This would have the advantage of minimising erosion potential, and providing an area for sedimentation deposition before the flow leaves the site.
- The raising option would require increasing the pond wall heights, adjustments to the weir and addressing detention.

As these options require further investigation and refinement consent conditions have been recommended to require the detailed stormwater drainage designs to be submitted to Council for approval prior to the commencement of works.

The water balance assessment was forwarded to EPA they have advised they have reviewed the Water Balance investigation and are satisfied the consent can be supported on the understanding that further information will be provided before one of the onsite stormwater management options is selected. The EPA expects further information on impacts on pond management and irrigation as capacity of the wastewater ponds was changed.

EPA has required three consent conditions be included. These are;

1. Clean and dirty water separation must be maintained at the premises at all times. The clean stormwater catchment on the premises must be maintained in a manner that prevents entry of clean stormwater into the waste water system.
2. The clean stormwater system must be designed, installed and maintained to capture and convey the 1 in 100 year ARI flood.
3. Before construction, the design of any stormwater management works (including diversion channels or changes to onsite storage) must be provided to the EPA including specifications and any changes to treatment or management of stormwater or wastewater systems.



## 9.4 Construction Impacts

The statement of environmental effects outlines safeguards and management measures which in conjunction with the recommended consent conditions ensure construction impacts are mitigated and managed.

### a) Noise and Vibration

- In order to maintain the normal saleyard operation and given the absence of nearby sensitive receivers, construction work is proposed to be undertaken seven days a week 6am to 7pm.
- Noise from the Proposal would be typical of that associated with construction work. Given the isolated location and proximity to other industrial enterprises noise and temporary nature of the impact this is not considered to have significant impacts.
- The nearest residential property is approximately 500m from the site and not expected to be affected.

### b) Traffic

- Dargaville Drive is a sealed two-way road, with an appropriate intersection to Reynolds Road. There are separate entry/exit points that enable circular flow of traffic.
- Traffic movements associated with construction employees, delivery of plant and equipment will not be greater than existing regular traffic generated from deliveries of stock to and from the saleyards.

### c) Soils & Water

- Drainage over the site results in stormwater flows being directed either to the effluent treatment system or overland to a central drainage line. Flows from the central drainage line discharge to wetland area located on the adjoining property. Preparation of an Erosion and Sediment control plan and Stormwater Management and drainage details are has been required.
- Works during the construction phase will result in ground disturbance and therefore risks from erosion and sedimentation are possible. A condition requiring the establishment of a designated location for the storage of excavated soils and plan of management for the stock pile is proposed.
- As contaminated soils may be present in proximity to the existing dip consent conditions have been recommended to ensure excavations from this area are isolated and managed. Environmental controls including bunding, covering and diversion of stormwaters are required. These soils will need to be analysed for contamination and have a plan developed for their management if found to be contaminated.

### d) Waste

- Construction and demolition waste will be generated by the development. Where possible these will be recycled and reused. Waste that cannot be recycled will be appropriately stored and transported to a facility licenced to receive the products.

## **10. Site suitability - Section 79(1)(c)(i)**

The NRLX site has a long history of livestock selling activity. The site is strategically located within a small industrial area, having good connections to major road networks and located at distance to sensitive receivers. The area is appropriately zoned General Industry and is immediately surrounded by other Council infrastructure facilities and rural industries.

The wider rural surrounds screen and provide suitable buffers for the subject site and its neighbouring industries. The development despite exceeding the maximum height of buildings clause has demonstrated to be consistent with the surrounding area and existing development.

The site is not impacted by significant hazards, does not have any significant environmental features or biodiversity values. Some vegetation removal is required however this is restricted to isolated trees and has been found not to significantly affect threatened species or their habitats in the locality.

The proposed development supports an existing land use that requires investment to enable its ongoing, successful operation including the retention of existing employment and support for rural producers and the wider community. The proposed additions to the existing facility are considered suitable in this location.

## **11. Submissions - Section 4.15(1)(d)(i)**

The application was placed on public exhibition for 32 days being from 26 April 2018 to 28 May 2018. Written notification to adjoining land owners was undertaken and a published notice appeared in the local paper on 25 April 2018. No public submissions were received during the exhibition period; one submission was received outside the exhibition period. This submission was accepted. Issues raised in the submission are considered below.

<b>Issue Raised</b>	<b>Comments</b>
Statement of Environmental Effects appears inadequate in addressing native vegetation matters.	Council requested the applicant provide additional information regarding Biodiversity impact. A full Ecological Impact Assessment prepared by Arbor Ecological has now been submitted and replaces the assessment undertaken originally by GeoLink. The Ecological Assessment is included with documents supplied to the Panel.
A Test of Significance under the Biodiversity Conservation Act is required.	The Ecological Impact Assessment now submitted includes the Test of Significance as required.
Clearing greater than 0.25ha requires application of the BAM and Biodiversity Offsets Scheme.	The assessment prepared by GeoLink has been replaced with a more comprehensive assessment undertaken by Arbor Ecological. The application originally proposed a dam that would require removal of additional vegetation. This is no longer proposed. Existing trees within the Transit Yards are to be retained. The

	<p>vegetation to be removed is therefore now limited to that directly impacted by the proposed roof structure and storage shed. Trees have been inspected by an Ecologist and found to have coverage being less than the Offset Scheme threshold of 0.25ha.</p>
<p>Definition of native vegetation under the Local Lands Services Act being individual plants rather than ecological communities.</p>	<p>Removal of the dam from the proposal has resulted in a significantly lesser impact to Native Vegetation than the original proposal. The area of impact is now within a very highly disturbed environment, years of cattle access in the holding paddocks has resulted in almost no groundcovers or understorey plants.</p> <p>A more detailed Ecological Impact Assessment has been submitted as additional information and includes identification and examination of the individual plants. It confirms that the area of native vegetation clearing is below the BOS Threshold. The following recent aerial images show the highly disturbed holding yard area devoid of groundcovers and the storage shed area comprising managed and regularly mown turf.</p>
<p>Error on the Development Application form question 14 is identified. The applicant has ticked the box indicating no vegetation is to be removed.</p>	<p>Council requested the applicant revise and correct the application form. A correction to the relevant question has been received and is included with the documents supplied to the Panel.</p>



Figure 14: Existing Holding yards vegetation.



Figure 15: Existing Holding yards vegetation.

## **12. The Public Interest - Section 4.15(1)(e)(i)**

The project is an important second stage in the redevelopment of the NRLX. In combination with the Stage 1 works recently completed it delivers substantial community benefits both locally and throughout the wider Northern Rivers area. The project will address the facilities current maintenance, animal welfare, work health and safety, environmental and economic viability considerations. In particular the development will:

- modernise the facility and enhance its long-term productivity and economic activity,
- improve animal welfare and introduce best practice soft flooring,
- facilitate WH&S improvements, including reduced slippery surfaces during rainfall and high heat (heat stroke) events due to current exposure levels,
- provide weather protection for cattle, operators and users,
- reduce waste water discharge to the water treatment system,
- reduce pollutant loads to the water treatment system,
- harvest rainwater and enable water conservation and reuse on-site

Wider social and economic benefits for the local community will flow from the proposed redevelopment and include:

- support ongoing direct employment, indirectly support employment of local contractors and suppliers at, to and from the NRLX,
- support the community through capital investment in the region and employee spending,
- support primary producers and cattle farmers in the region by providing a local and consistent saleyard facility with quality conditions and infrastructure,
- improve the longevity and competitiveness of the NRLX,
- cater for on-going and future cattle sale activity with enhanced efficiency.

The submitted application has considered the likely impacts of the development and proposed management and mitigation measures as necessary. The application was referred the NSW Environmental Protection Authority who are happy to support the proposal subject to submission of further information as required by the three consent conditions provided.



## **13. Conclusion**

Development consent is sought for additions to the existing Northern Regional Livestock Exchange. The development proposes works including construction of a substantial roof over the holding yards, dip and weighing facilities. It also proposes a general upgrading of associated stock handling and loading facilities, refurbishment and upgrading of patron and staff areas, formalised carparking and construction of a new storage shed.

The project delivers significant improvements to animal welfare, work health and safety, environmental performance and economic viability. The modernisation has been identified as essential to the long term operation of the facility and significantly contributes to the local community.

The NRLX site has a long history of livestock selling activity, the development is permissible with consent in the zone and complies with the relevant Environmental Planning Instruments. A variation to the LEP Height of Buildings standard has been submitted and it is considered strict compliance with the standard is unreasonable and unnecessary in this instance.

The roof structure is designed to integrate with the already completed Stage 1 works and finalise weather protection at the facility. The roof enables capture and reuse of stormwater, installation of soft flooring and reduction in pollutant loads to the effluent treatment system. Stormwater generation including overflows from the tanks and stormwater generation will need to be managed to ensure compliance with the Environmental Protection Licence. A Water Balance analysis confirms capacity in the stormwater channel is currently insufficient and provides three options to address this. Consent conditions are recommended to ensure detailed design is finalised enabling stormwater to be appropriately managed.

The application has been referred to and is supported by the Environmental Protection Authority. Conditions as required by the Environmental Protection Authority have been included in the recommended draft conditions. Further detailed stormwater designs are required to facilitate the outcomes and recommendations of the Water Balance assessment.

The application was exhibited and notified with one public submissions being received. Issues raised in the submission have been satisfactorily addressed through the submission of a replacement Ecological Impact Assessment. Measures to protect biodiversity are recommended and have been included in the draft conditions.

The proposed development complies with legislative requirements, has appropriately considered potential impacts, is suitable for the location and will have substantial environmental, social and economic benefits. The development is not considered to be inconsistent with the public interest subject to proceeding in accordance with the Statement of Environmental Effects, Ecological Impact Assessment and recommended consent conditions.

It is recommended that development application number DA2018/0202 (JRPP Reference No. 2018NTH012) be approved subject to conditions contained in Schedule of recommended Consent Conditions at Appendix F.

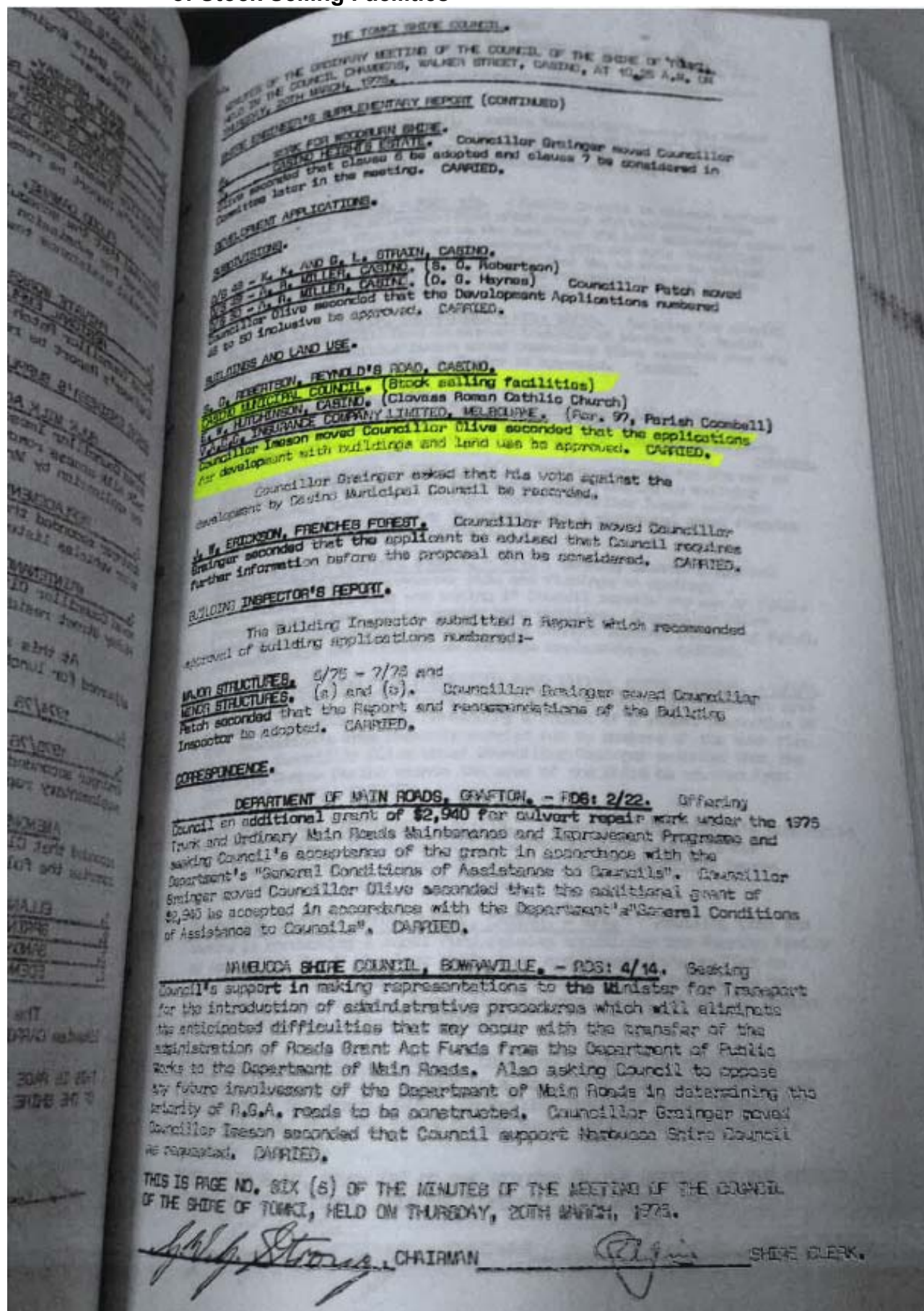
## **Appendix A – Development Plans**

**(Please refer to separate attachment)**

## **Appendix B – General Terms of Approval issued by the Environmental Protection Authority**

**(Please refer to separate attachment)**

## Appendix C –Resolution of Tomki Shire Council Meeting 20 March 1975 approval of Stock Selling Facilities



SCHEDULE OF DEVELOPMENT APPLICATIONS FOR SUBMISSION TO THE MEETING OF COUNCIL TO BE HELD ON THURSDAY, 20TH MARCH, 1975.

RESUBDIVISIONS.

D/S 48 - K. K. & G. L. STRAIN, CASINO. Excision of one 2.718h.a. lot with residence erected thereon from Lot 2 (134.1 h.a.) previously portion 103, Parish Wooroowoolgan.

D/S 49 - A. R. MILLER, CASINO. Resubdivision of lots 5 and 6, D.P. 558836, Parish North Casino, owned by S. O. Robertson. This is a revised proposal arising out of Council's rejection of D/S 47 considered on 18th February, 1975, creates two lots of 11.29 h.a. and 4237 m<sup>2</sup> respectively.

D/S 50 - A. R. MILLER, CASINO. Excision of one lot of 20 acres and residence from lots 3 and 4, D.P. 101920, Parish Bundock, owned by D. G. Haynes.

BUILDINGS AND LAND USE.

ROBERTSON, REYNOLD'S ROAD, CASINO. Erection of residence on lot 7 created by subdivision proposal D/S 49.

ERICKSON, FRENCHS FOREST. Erection of 15 residences on rural property valued at about \$60,000, residences to be occupied by families of co-operative farmers who will run property as an agricultural concern. Property will not be subdivided to provide separate titles to residences.

MUNICIPAL COUNCIL. Erection of Stock Selling facilities on 32 acres owned by S.O. Robertson, adjacent to Council's holding paddocks and along Reynold's Road, being lot 3, D.P. 570139, Parish North Casino.

PAGE NO. ONE (1) OF THE SCHEDULE OF DEVELOPMENT APPLICATIONS FOR SUBMISSION TO THE MEETING OF COUNCIL TO BE HELD ON THURSDAY, 20TH MARCH,

G. Strong CHAIRMAN R. J. in SHIRE CLERK.



**Appendix D – Copy of Applicants Request to Vary LEP Development Standard  
under clause 4.6 Richmond Valley Local Environmental Plan 2012**

**(Please refer to separate attachment)**

## **Appendix E – Statutory Review Newton Denny Chapelle**

**(Please refer to separate attachment)**

## **Appendix F - Schedule of Recommended Consent Conditions**

**(Please refer to separate attachment)**