

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	5 September 2024
DATE OF PANEL DECISION	5 September 2024
DATE OF PANEL BRIEFING	3 September 2024
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	None
DECLARATIONS OF INTEREST	The Chair considered that there was a reasonably perceived conflict of interest for Council appointed Panel members Cllr Glachan and Cllr Hurley who are serving Councillors on the Albury City Council. Albury City Council is the registered owner of the site and has a commercial interest in the land the subject of the development application and therefore any approval that might be forthcoming.

Papers circulated electronically on 25 July 2024 and supplementary assessment report on 30 August 2024.

MATTER DETERMINED

PPSSTH-349 – ALBURY – DA10.2024.40751.1 at 21 McLaurin Road, Ettamogah – Construction of an Industrial Development for the Purpose of Design, Manufacture, Coating, Packaging, and Distribution of Steel Products including Associated Offices, Car Parking and Landscaping, Earthworks and Civil Works.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings listed at item 8 in Schedule 1.

At its determination meeting on 31 July 2024, the Panel considered there was insufficient information and consideration of impacts provided in the assessment report to enable it to carry out its decision-making functions under Section 4.16 of the *Environmental Planning and Assessment Act, 1979*.

It was not clear to the Panel what activities would occur within the proposed industrial building making it difficult to fully understand what the associated impacts might be, and whether impacts would be acceptable. Whilst recognising the proposal is likely to have merit, and that strategic background studies had been undertaken in establishing the Nexus Industrial Precinct, the Panel considered it required a greater understanding of the proposal and impacts of the development in order to carry out its responsibilities under the Act.

The Panel unanimously agreed to defer the determination of the matter until certain information was provided by the Applicant and an addendum to the Assessment Report completed by Council's consultant planner. The additional information included:

- An expanded explanation regarding the use and operation of the proposed building (including delivery arrangements and location, the management of lighting, car parking, delivery hours, hours of operation etc)
- Indicative drawings of the proposed process undertaken within the building (flow diagram).
- Having regard to the operational aspects of the proposal above, a qualitative assessment of potential traffic, noise and process water (if any) impacts. Where relevant, the response should reference any strategic impact analysis undertaken in support of the Hub.
- Consideration of end of trip facilities.
- Details of the proposed capture, harvesting and re-use of stormwater.
- A revised instrument of consent if applicable.

In a Supplementary Report dated 29 August 2024, Council addressed the above matters. The Supplementary Report also addressed comments on the recommended conditions provided by the Applicant. These are discussed further below.

REASONS FOR THE DECISION

The Panel determined to approve the development application pursuant to section 4.16 of the Act for the reasons outlined in the Council's Assessment Report, Supplementary Report, and the recommended draft conditions as amended. The Panel was satisfied that:

- The matters the subject of the deferral had been adequately addressed.
- The Applicant's comments on the recommended conditions had been considered (refer below).
- The preconditions to the grant of consent had been satisfied.
- An appropriate assessment in terms of Section 4.15 of the Environmental Planning and Assessment Act, 1979 had been undertaken.
- The proposal is unlikely to result in any unacceptable amenity, environmental or land use safety impacts subject to the imposition of the revised conditions of consent; and
- The development would:
 - be consistent with the Nexus Regional Structure Plan as it would be located on land identified for High Impact Industrial;
 - provide economic stimulus through employment opportunities and ongoing expenditure in the region; and
 - help stimulate the ongoing development of the Nexus Industrial Precinct.

Given the above, the Panel was satisfied that the development was in the public interest.

The decision was unanimous.

CONDITIONS

The Development Application was approved subject to the recommended conditions of consent with the following amendments. Council is directed to make these amendments to the draft conditions contained in Schedule 2 prior to issuing the revised Notice of Determination.




- The Notice of Determination must include the following description of the development:
'Industrial Development for the Purpose of Design, Manufacture, Coating, Packaging, and Distribution of Steel Products including Associated Offices, Car Parking and Landscaping, Earthworks and Civil Works'.
- Condition B9 is to be amended to read as follows:
'The finished floor level for habitable areas (office area) shall be no less than R L 236.10m ADH'.
- Condition D7 b) is to be amended to read as follows:
'Saturdays, 8.00am to 5.00pm'.

The Panel considered the Applicant's request for extended construction hours to allow work between 6am to 6pm, 7 days a week. Whilst acknowledging the industrial context of the construction task, the Panel determined that the standard recommended construction hours identified in the EPA's *Interim Construction Noise Guideline (2009)* were appropriate, albeit with the extended Saturday timeframe consistent with other approvals within the Nexus Industrial Precinct.

The Panel also considered the Applicant's request to defer payment of Infrastructure Contributions (Condition A10) to the Occupation Certificate stage as opposed to prior to issue of the relevant Construction Certificate. The Panel did not support this request noting that Clause 3.18 of the *City of Albury Infrastructure Contributions Plan 2014* requires that Local Infrastructure Contributions required to be paid by a condition imposed in accordance with the Plan must be paid prior to the release of the Construction Certificate.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-349 – ALBURY – DA10.2024.40751.1
2	PROPOSED DEVELOPMENT	Industrial Development for the Purpose of Design, Manufacture, Coating, Packaging, and Distribution of Steel Products including Associated Offices, Car Parking and Landscaping, Earthworks and Civil Works
3	STREET ADDRESS	21 McLaurin Road, Ettamogah
4	APPLICANT/OWNER	Applicant: Barker Group (NSW) P/L (C/- Habitat Planning) Owner: Albury City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport & Infrastructure) 2021 State Environmental Planning Policy (Resilience & Hazards) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 Albury Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Albury Development Control Plan 2010 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 25 July 2024 List any council memo or supplementary report received: 30 August 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing to discuss council's recommendation: 31 July 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas <u>Council assessment staff</u>: Rob Duncan, Matt Wilson, David Christy <u>Council Consultant Assessment Planner</u>: Peter O'Dwyer (BioPlan) <u>Applicant representatives</u>: David Hunter (Habitat Planning), Vaughan Reddell (Aurora Project Management) <u>DPHI</u>: Amanda Moylan, Tracey Gillett Final briefing to discuss council's recommendation: 3 September 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas <u>Council assessment staff</u>: Rob Duncan, Matt Wilson <u>Council Consultant Assessment Planner</u>: Peter O'Dwyer (BioPlan) <u>Applicant representatives</u>: David Hunter (Habitat Planning), Vaughan Reddell (Aurora Project Management) <u>Other</u>: Tracey Gillett (DPHI), Tim Mahoney (DPHI)

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2**Terms and Reasons for Conditions**

Under Section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions proscribed under Section 4.17(11) of the EP&A Act. The terms of conditions and reasons are set out below.

GENERAL**A. GENERAL CONDITIONS****(A1) Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
A01	C	Site Layout	RB	09/08/2024
A01.1	C	Truck Movement	RB	09/08/2024
A02	C	Shed Plan	RB	09/08/2024
A02.1	B	Office Plan	RB	27/06/2024
A02.2	C	Equipment Fitout	RB	09/08/2024
A03	B	Shed - Elevations	RB	27/06/2024
SS24-5297 000, 100 - 104	C	Landscape plans	LH	07/02/2024
SS24-5297 501	A	Landscape details	LH	31/01/2024
701073-C-01	G	Stormwater Management Plan	JS	20/06/2024
701073-C-02	G	Catchment Plan	JS	20/06/2024
701073-C-03	G	Drainage Longitudinal Section	JS	20/06/2024
701073-C-04	G	Drainage Longitudinal Section	JS	20/06/2024
701073-S-01	A	Proposed Retaining Wall	BF	20/06/2024

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development. (A001)

(A2) **Vegetation Protection**

The development must not remove any tree unless prior approval of the AlburyCity Council has been obtained. Any existing street tree within Council's road reserve shall not be removed or damaged during construction. This requirement does not apply to trees indicated to be removed on the site layout plan submitted with the Development Application.

Condition reason: To protect and retain vegetation. (A015)

(A3) **Works to Council Owned Assets**

Where works are required to Council owned water supply, sewerage or stormwater drainage infrastructure and subdivision is not proposed, application must be made through the NSW Planning Portal in accordance with the *Local Government Act 1993* and will be subject to such approvals as may be issued under the *Local Government Act 1993*.

Where works are required to Council owned water supply, sewerage or stormwater drainage infrastructure and subdivision is proposed, application must be made through the NSW Planning Portal for a Subdivision Works Certificate in accordance with the *Environmental Planning and Assessment Act 1979* and will be subject to such approvals as may be issued under the *Environmental Planning and Assessment Act 1979*.

Condition reason: To ensure proper approval processes are followed for works involving public assets. (A031)

(A4) **Building work requirements**

Prior to commencing any building construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* are to be complied with:

- a) A Construction Certificate is to be obtained in accordance with Section 6.7 of the Act
- b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act
- c) Council is to be notified at least two (2) days in advance of the intention to commence building works in accordance with Section 6.6 of the Act
- d) Submit to the Principal Certifying Authority a copy of the insurance certificate as required by the *Home Building Act 1989*.

Condition reason: To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*. (A060)

(A5) **Compliance – National Construction Code of Australia**

All aspects of the building design are to comply with the applicable Performance Requirements of the National Construction Code of Australia to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- a) Complying with the Deemed-to-Satisfy provisions, or
- b) Formulating a Performance Solution which:
 - i. Complies with the Performance Requirements, or
 - ii. Is shown to be at least equivalent to the Deemed-to-Satisfy provision, or
- c) A combination of a) and b).

Condition reason: To ensure compliance with the National Construction Code. (A100)

(A6) **Protection of Public Infrastructure**

Council must be notified of any damage to the public infrastructure such as road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the development. Adequate protection must be provided for public infrastructure prior to work commencing and during building operations. Any damage to public infrastructure caused during construction shall be made good prior to the issue of an occupation or subdivision certificate.

Condition reason: To protect public assets. (A450)

(A7) **Parking**

All onsite carparking shall comply with AS2890.1 2004 parking facilities for off-street parking & AS2890.6 2004 parking standards for disabled. Details of parking shall be included as part of the detailed engineering design submitted to council prior to issue of Construction Certificate.

The car parking area shall be equipped with the necessary infrastructure to be adapted to provide electric vehicle charging spaces.

Condition reason: to ensure adequate parking is provided. (A996)

(A8) **Stormwater Treatment**

Prior to discharge of stormwater from pervious areas stormwater shall be treated removing contaminants as per the minimum standard listed in below table. Prior to issue of any

construction certificate details of proposed treatment system shall be submitted to council engineering department for acceptance. Treated discharge rates shall not exceed pre developed flows.

Gross Pollutant Removal	90%
Total Suspended Solids	49%
Hydrocarbons	90%
Total Nitrogen	26%
Total Phosphorus	40%

Condition reason: Section 88B Requirement:

(A9) **Existing Council Stormwater Pit**

Councils existing stormwater pit located within proposed crossover on McLaurin Road may be incorporated into the crossover with council approval of structural engineering design & certification. This pit structure must be constructed to be trafficable capable of supporting a fully loaded multi combination vehicle, detailed design to be provided to council prior to Construction Certificate (A999)

Condition reason: To protect Council's infrastructure.

(A10) **Infrastructure Contributions (Section 64)**

The following monetary contributions are required and payable to Council in accordance with Section 64 of the *Local Government Act, 1993*, to provide for the increased demand for public amenities and services resulting from the development.

Purpose	Hot key	Total
Section 64 - Water	227	\$27,306.00
Section 64 - Sewer	228	\$60,159.37
		\$87,465.37

The amounts payable under this condition are due prior to the release of the Construction Certificate or Subdivision Certificate, whichever occurs first, and will be indexed annually in accordance with Clause 3.17 of the *City of Albury Infrastructure Contributions Plan 2014*. Prior to payment of the above contributions, the applicant is advised to contact Council to verify

the amounts due and payable. It is the responsibility of the Principal Certifying Authority to ensure that contributions have been paid to Council in accordance with this Consent.

This contribution has been imposed in accordance with *City of Albury Infrastructure Contributions Plan 2014*. Council's Contributions Plan can be viewed at www.alburycity.nsw.gov.au/ or a copy may be inspected or purchased at Council's Administration Centre. (A303)

Condition reason: To ensure development contributions are paid.

(A11) Switchboards/Utilities/Air Conditioning Units

Switchboards, air conditioning units, garbage storage areas and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place unless appropriately screened.

Condition Reason: To protect public interest, the environment and existing amenity of the locality.

(A12) Provision of Bicycle & Motorcycle Parking

The provision of at least 10 racked bicycle parks of both security levels A and B (as per AS2890.3 – 2015 Parking Facilities Bicycle Parking) including secure bike storage, change room facilities and lockers and at least 4 dedicated motorcycle parking spaces.

Condition reason: to ensure adequate parking is provided.

BUILDING WORK

B. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

(B1) Sewer - Trade waste

Pursuant to Section 68 of the *Local Government Act 1993*, and to ensure there is no unacceptable discharge to Council's sewerage system, the applicant must apply to Council for a Trade Waste Agreement. The application will be determined by Council's Trade Waste Department prior to a Construction Certificate being issued and may require an approved pre-treatment device (eg. oil/grease arrestor, separators, etc) to be installed.

The application must:

- a) Include detailed hydraulic plans indicating the size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS/NZS3500.
- b) Be lodged via the NSW Planning Portal.

This development will be required to meet discharge standards in accordance with Council's Trade Waste Policy.

[Section 68 of the Local Government Act 1993 | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](#).

Note: A Trade Waste Application form can be downloaded from AlburyCity's website [Liquid trade waste | AlburyCity \(nsw.gov.au\)](#)

Condition reason: To protect public health and the environment. (BW1-049)

(B2) Construction Certificate - Long Service Levy

The Building Industry Long Service Levy is to be paid in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986. This fee is payable on all projects valued at \$250,000 and over and is calculated at the rate of 0.25% of the current value of works.

Condition reason: To ensure the long service levy is paid. (BW1-105)

(B3) Easements – Location of existing assets

Any existing sewer, stormwater or water mains on the property must be accurately located. All designs for structures or footings within the vicinity of these assets must adhere to, and be approved, in accordance with Albury City Guidelines.

Condition reason: To protect Council's infrastructure. (BW1-456)

(B4) Easements – Structures near existing assets

No structure shall encroach onto, or exert any load on, the utilities within easements without approval from Albury City. Structures located within an easement, or adjacent to existing infrastructure, must extend to a minimum of 300mm below the invert of the existing asset, in accordance with Albury City Guidelines.

Condition reason: To protect Councils infrastructure. (BW1-458)

(B5) **Easements - Clear of pipeline**

Footings of any building adjacent to an easement or pipeline to be a minimum of 300mm below the invert of the pipe and may rise by 300mm for each 300mm removed there from.

Condition reason: To protect Councils infrastructure. (BW1-460)

(B6) **Soil and water management**

Prior to issue of a Construction Certificate, a Soil and Water Management Plan is to be submitted to the Principal Certifying Authority for approval. The plan is to demonstrate the capacity of drainage infrastructure to service the development, treat and retard stormwater, and reduce any impacts on soil and water downstream of the proposed development. Reference must be made to the publication – Soil and Water Management Policy, prepared jointly by Albury, Hume and Wodonga Councils, undated. Consideration of Water Sensitive Urban Design is encouraged.

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways. (BW1-522)

(B7) **Stormwater Drainage**

All stormwater runoff from the proposed development is to be collected on-site and conveyed to a lawful point of adequate capacity in a manner that is consistent with the latest version of Australian Standard 3500.1.2021, and does not impede or direct natural surface water runoff so as to cause nuisance to adjoining properties.

Condition reason: To ensure stormwater drainage is managed in accordance with the relevant standards. (B528)

(B8) **Stormwater drainage design**

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

- a) Be in accordance with *Australian Standard 3500.3*
- b) Provide for drainage discharge to an existing Council drainage system.
- c) Maintain where relevant existing stormwater overland flowpaths.

- d) Ensure that the development either during construction or upon completion, does not impede or direct natural surface water runoff so as to cause a nuisance to adjoining properties.

Details including easements to be created are to be included with the plans and specifications to accompany any Construction Certificate or Subdivision Works Certificate.

Condition reason: To ensure stormwater drainage is managed in accordance with the relevant standards. (BW1-538)

(B9) Flooding

The site has been identified as being at risk of flooding. The minimum finished floor level for habitable areas (office area) shall therefore be not less than R L 237.29m AHD (i.e. 0.5m above the 1 in 100 year flood level). Should public levy works carried out to ameliorate flooding on the subject land be established and recognized, floor levels may be adjusted to comply with the newly established levels R L 236.10m AHD.

Condition reason: To ensure minimum finished floor level for habitable areas (office areas) are established at an appropriate level.

C. BEFORE BUILDING WORK COMMENCES

(C1) Vegetation Removal

The development must not remove any tree unless prior approval of AlburyCity Council has been obtained. With the exemption; trees 3m or less in height and a trunk circumference less than 300mm or a tree on the Council exemption species list. Any existing street tree within Council's road reserve shall not be removed or damaged during construction. This requirement does not apply to trees indicated/approved to be removed on the site layout plan submitted with the Development Application.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW2-015)

(C2) Compliance – No filling without prior approval

No fill material is to be imported to the site without the prior approval of AlburyCity Council. No recycling of material for use as fill material is to be carried out on the site without the prior approval of Council. No filling is to be placed on the site that is likely to cause surface water flooding of any adjoining property.

Condition reason: To ensure fill material is of suitable quality. (BW2-406)

(C3) Compliance - Damage to Council property

The applicant is required to notify Council in writing prior to commencing building operations, of any existing damage to kerbing and guttering and/or footpath paving. The absence of such notification shall signify that no damage exists and the applicant will be liable for the cost of the reinstatement of any damage to kerbing and guttering or footpath paving which may be necessary after completion of the work.

Condition reason: To ensure public infrastructure is appropriately maintained. *(BW2-410)*

(C4) Prior to commencement of Construction Works

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

- a) Provide Notice of commencement of work and appointment of Principal Certifying Authority; to the Council.
- b) Notify the adjoining owners that work will commence.
- c) Notify the Council of the name, address, phone number and licence number of the builder.
- d) Erect a sign at the front of the property stating that unauthorised entry is prohibited and showing the builder's name or Owner builder details (as applicable), licence number, phone number and site address.
- e) Protect and support any neighbouring buildings, trees, structures or works on adjoining land from possible damage from the excavation and if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation, at the person's with the benefit of the consents own expense.
- f) Protect any public place from damage, obstruction or inconvenience from the carrying out of the consent.
- g) Prevent any substance from falling onto a public place.
- h) Follow any other conditions prescribed in the Environmental Planning and Assessment Regulation 2021
- i) The vegetation/tree protection measures are to be certified by the relevant Council officer prior to the commencement of works

Condition reason: To ensure construction works are appropriately notified. *(BW2-426)*

(C5) Erosion and Sediment Control

Run-off and erosion control measures must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land. The control measures

must be in accordance with AlburyCity Council's adopted Erosion and Sediment Control Guidelines for Building Sites.

Erosion and sediment control measures must address and incorporate general site management material handling practices, soil stabilisation, wind erosion, access measures and shall provide for:

- a) The diversion of uncontaminated run-off around cleared or disturbed areas
- b) The erection of a silt fence to prevent debris escaping into drainage systems or waterways
- c) The prevention of tracking of sediment by vehicles onto roads
- d) The stockpiling of topsoil, excavated material, construction and landscaping supplies and debris within the site, and the removal or utilisation (where appropriate) of that stockpile after completion of the works.
- e) Maintenance of control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction.

Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways (BW2-430)

D. DURING BUILDING WORK

(D1) Construction - stamped plans and erection of site notice

Stamped plans, specifications, a copy of the Development Consent, the Construction Certificate and any other Certificates to be relied upon is to be available on site at all times during construction.

The following details are to be included with a maximum of 2 signs to be erected on the site:

- a) The name of the Principal Certifying Authority, their address and telephone number,
- b) The name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- c) That unauthorised entry to the work site is prohibited,
- d) The designated waste storage area must be covered when the site is unattended, and
- e) All sediment and erosion control measures is to be fully maintained until completion of the construction phase.
- f) Signage shall be retained:
- g) At the commencement of, and for the full length of the construction works onsite, and
- h) In a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development, OR all construction signage is to be removed on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

Condition Reason: To ensure construction work is carried out in accordance with approved plans and appropriate details are exhibited. (BW3-015)

(D2) **Construction – Building Inspections**

Inspections are to be conducted in accordance with section 6.5 (1)(b) for building work and/or section 6.5 (2)(b) for subdivision work of the *Environmental Planning & Assessment Act 1979* and as required by the Principal Certifier.

Condition Reason: To ensure inspections are carried out in an appropriate manner. (BW3-027)

(D3) **Construction - licensed plumber**

All plumbing and drainage work to be carried out by a NSW licensed Plumber and Drainer and to the requirements of the *NSW Code of Practice, Plumbing and Drainage*. The licensed plumber's details shall be forwarded to Council prior to commencement of any plumbing work.

Condition Reason: To ensure relevant legislative standards are met. (BW3-030)

(D4) **Protection of public property**

The tracking of mud and soil deposits from the site is not to occur during works, so as to maintain public roads in a clean condition.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-048)

(D5) **Erosion and Sediment Control – building construction sites**

To minimise soil erosion during construction of the dwelling and any outbuildings, the landowner and builder are to ensure that the following measures are implemented in the sequences outlined:

- a) A dish shaped diversion drain or similar structure is to be placed above the proposed construction site(s) to divert run-off to a stable discharge area, such as an area with a grass cover. This diversion drain is to be lined with turf or otherwise stabilised if it erodes after rainfall.
- b) A sediment-trapping fence using a geo-textile fabric specifically designed for such a purpose and installed to manufacturer's specifications is to be placed below the construction area (e.g. "silt stop").
- c) Vegetation is to be cleared from the construction site only – other areas are to remain undisturbed i.e. the removal of vegetation from any other part of the land, as part of this Development Consent, is not permitted.

- d) Topsoil from the construction site or builder's sand is to be stockpiled in a location where it will not be eroded from the site, and is not to be stockpiled on the road reserve.
- e) All erosion control measures will require maintenance after rainfall. They should be retained until the site has fully revegetated.
- f) If soil or other materials are spilt accidentally onto the road or gutter, they shall be removed prior to the completion of the day's work.
- g) Maintain control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction.

Implementation, control and rehabilitation measures shall be in accordance with Council's Erosion & Sediment Control Guidelines for Building Sites.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-060)

(D6) **Soil and water management - Spray-grass**

All land that has been disturbed by earthworks is to be 'spray-seeded' direct drill or similar Council approved method to establish vegetation groundcover.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW3-063)

(D7) **Construction - Hours of work**

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

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

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

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

Condition reason: To ensure construction work is carried out at appropriate times. (BW3-422)

(D8) **Soil and water management - landfill/engineering works**

On completion of all landfill and engineering works, a certificate from a geotechnical engineer must be submitted to Council, confirming that the allotment is suitable for development.

Condition reason: To ensure the subject land is suitable for development. (BW3-456)

(D9) **Adjustments to public utilities**

Adjustments to public utilities necessitated by the development shall be completed at the applicant's cost prior to occupation of the premises, and in accordance with the requirements of the relevant authority.

Condition reason: To ensure costs in adjustments to public utilities are covered by the applicant. (BW3-487)

(D10) **Sewer - Inspection pit**

A sewerage manhole and/or house drainage inspection pit exists on the property and shall remain visible and accessible at all times.

Condition reason: To ensure access is maintained. (BW3-493)

(D11) **Maintenance of soil erosion and pollution controls**

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

Condition reason: To protect public interest, the environment and existing amenity of the locality. (D522)

(D12) **Runoff and sediment control**

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

Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways. (BW3-524)

(D12) **Aboriginal cultural heritage**

The applicant is to be made aware that if any Aboriginal sites/relics/remains are discovered on site that the proponent must;

- a) not further harm the Aboriginal object
- b) immediately cease work at the particular location
- c) secure the area so as to avoid further harm to Aboriginal object

- d) notify OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
- e) not recommence works at the particular location unless authorised in writing by the OEH.

In the event that human/skeletal remains are unexpectedly encountered during the activity, all work must stop immediately, the area must be secured to prevent unauthorised access, and NSW Police and NSW OEH must be contacted.

Condition reason: To protect aboriginal cultural heritage.

E. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(E1) Occupation Certificate

The building is not to be used or occupied until the Principal Certifying Authority has issued an Occupation Certificate certifying that the building has complied fully with the development consent and has been constructed in accordance with the Construction Certificate.

Condition reason: To ensure the works have been completed in accordance with the approved plans and conditions of consent have been satisfied. (BW4-030)

(E2) Landscaping - Irrigation installation

The site being landscaped in accordance with the particulars submitted, prior to occupying the development and being maintained at all times to enhance environmental quality. The applicant shall install a watering system (e.g. micro irrigation, sprays, under-ground pop-up sprinklers) to ensure the health and minimise maintenance of landscaped areas. Installation must be undertaken by an appropriately licensed person in accordance with an approved plan complying with the provisions of the *Local Government (Water, Sewerage and Drainage) Regulation 1993*.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW4-035)

(E3) Access - driveway type

A full width heavy industrial type driveway being constructed across the footway clear of the property side boundary in accordance with a permit obtained from AlburyCity.

Condition reason: To ensure the driveway is provided up to the council standards. (BW4-421)

(E4) Street number

A street number shall be displayed in a prominent location at the front of the property in the interest of public safety and the delivery of goods, parcels and emergency services.

Condition reason: To ensure the property is identifiable for emergency purposes. *(BW4-424)*

(E5) **Certificate of Compliance - Plumbing/Drainage**

Prior to occupation the responsible Plumbing contractor is to submit to Council a Certificate of Compliance. All plumbing work is to comply with the relevant legislation.

Condition reason: To ensure plumbing and drainage works are certified. *(BW4-433)*

(E6) **Environmental - petroleum products interception**

All areas where oil, grease and associated products may be deposited or spilled shall be provided with measures to prevent and intercept discharge of such substances and the like to the public drainage system. Adequate demonstration of compliance shall be submitted with the application for Occupancy Certificate.

Condition reason: To protect public infrastructure and the environment. *(BW4-460)*

(E7) **Soil and water management - parking area construction**

The vehicle parking and manoeuvring areas being fully constructed, drained and maintained thereafter so as to prevent nuisance from dust, mud, drainage, sediment loss and the like. Such areas shall at a minimum be provided with a bitumen seal or equivalent surface on a suitable hard standing pavement.

Condition reason: To prevent pollutants entering waterways. *(BW4-484)*

(E8) **Fire safety - certificate**

On completion of the erection of the building, the owner is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the National Construction Code of Australia.

Condition reason: To ensure building construction is compliant with the National Construction Code and Australian Standards. *(BW4-600)*

(E9) **Water/Sewer & Drainage Approval**

All plumbing or drainage works will require an approval under Section 68(1) (Table Part B Water supply, sewerage and stormwater drainage work) of the *Local Government Act 1993* prior to commencement of work.

The Plumbing application shall:

- a) include a plan of the hydraulic services, prepared by a suitably qualified consultant.
- b) all plumbing and drainage work is to be carried out by a NSW Licensed Plumber and Drainer and to the requirements of the Plumbing Code of Australia.
- c) the Licensed Plumber's details are to be forwarded to Council prior to commencement of any plumbing work.

Condition reason: To ensure all plumbing and drainage work meets the relevant legislative requirements. (BW2-045)

F. OCCUPATION AND ONGOING USE

(F1) **External lighting**

Any external lights must be designed in accordance with AS4282 – *Control of the Obtrusive Effects of Outdoor Lighting* and directed away from the adjoining allotments to prevent light spill and glare. The level of illumination and/or lighting intensity is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW5-018)

(F2) **Landscaped areas**

Landscaping is to be maintained:

- a) In accordance with the approved plan,
 - b) In a healthy state, and
 - c) In perpetuity by the existing or future owners and occupiers of the development.
- If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation that died or was removed.

Condition Reason: To protect public interest and amenity of the locality. (BW3-012)

(F3) **Carpark and vehicle manoeuvring**

All car spaces, access lanes and driveways must be always kept available for these purposes and maintained thereafter to prevent nuisance from dust, mud, drainage, sediment loss and the like.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. *(BW4-006 modified)*

(F4) Waste removal

During ongoing use of the industrial development:

- a) an adequate number of bins must be put on the premises to manage the amount of waste generated or as directed by Council.
- b) all garbage and recyclable materials generated from the premises must be stored wholly within any approved storage area and shall be screened from public view.
- c) waste collection and pick-up must only occur off-street.
- d) arrangements must be implemented for the separation of waste into the following waste streams – organic, recyclables and general waste. Each waste stream must be separated and clearly labelled.
- e) all waste storage bins must be fitted with closing lids and the waste storage area must be appropriately maintained to prevent litter, odour, and the entry of pests and vermin.
- f) where the collection of garbage and recyclable materials from the premises is undertaken by a licensed contractor, it must only occur between 8am and 5pm on Monday to Friday.

Condition reason: To protect the amenity of the local area.

(F5) Sewer inspection pit

A sewerage manhole and/or house drainage inspection pit exists on the property and shall remain visible and accessible at all times.

Condition Reason: To ensure access to Council infrastructure is maintained. *(BW5-493)*

(F6) Trade Waste

Trade waste material is not to be discharged into the sewer drainage pipelines or stormwater drainage systems, unless in accordance with the approved Trade Waste Application, as required by condition of this development consent.

Condition reason: To protect Council's infrastructure, public health, and the environment. *(BW5-039 modified)*

(F7) Signage

No sign that requires Council's approval being displayed until Development Consent is issued. All signs shall be designed and sited to complement the development and be maintained at all times in good order and condition.

All signs shall be designed and installed in consideration of wind loads applicable to the locality in accordance with the relevant Australian Standards.

Condition reason: To protect the amenity of the local area. *(BW5-800)*

(F8) Hours of operation

The industrial development is approved to operate 24 hours a day, 7 days per week.

Condition reason: To identify hours of operation. *(F999)*

(F9) Security alarms

All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia and be connected to a security service.

Condition reason: To protect the amenity of the local area. *(F012)*

(F10) Loading/unloading of vehicles

All loading and unloading of vehicles shall take place entirely within the site and, in a manner not injurious to amenity and traffic safety. All vehicles waiting to be loaded/unloaded shall be located within the boundaries of the subject site and under no circumstances shall loading/unloading operations be permitted within the public road.

Condition reason: To protect the amenity of the local area.

(F11) External storage

There being no external storage, unless appropriately screened, of goods, materials, waste, or the like, visible from any public place.

Condition reason: To protect the amenity of the local area.

(F12) Drainage, water, sewer, and service easements

Drainage, water, sewer, and service easements to be kept free of obstruction, including trees and shrubs, so that unfettered access to, and protection of, services will be ensured.

Condition Reason: To protect Council infrastructure and ensure access is maintained. *(G450)*

(F13) Site maintenance

Any undeveloped area within the site shall be grass planted and adequately maintained to prevent unsightly conditions.

Condition reason: To protect the amenity of the local area. (BW2-051)

NOTES

G. ADVISORY AND ANCILLARY MATTERS
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(G1) Compliance

It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact the AlburyCity's City Development Cluster on 02 6023 8111 if there is any difficulty in understanding or complying with any of the above conditions. (I010)

(G2) Underground assets – Before you Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please refer to www.byda.com.au before excavating or erecting structures (this is the law in NSW). (I130)

(G3) Telstra assets

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. (I131)

(G4) Water meter/service pipe

There is nothing to be located within 1m of the proposed water meter location* such as:

- a) Concrete, gates, trafficable areas (driveway, footpath or the like) and fences
- b) Any obstructions that might prevent unfettered access for reading, testing, inspection, maintenance, and exchange of the water meter and services
- c) Meters and pipe work are not to be imbedded in or under brick fences or pillars, they can not be located behind a solid fences or walls (purpose designed recessed areas in fences that allow reading, testing, inspection, maintenance and exchange are acceptable subject to AlburyCity's approval).

Note: *with the exception of the side boundary fence (300mm). Also noting chain mesh fence on property boundary - Access to read water meter must be ensured. (I085)

(G5) Electrical Infrastructure

- a) Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;

- b) Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); and
- c) It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.
- d) Information relating to developments near electrical infrastructure is available on the Essential Energy website Development Applications (essentialenergy.com.au)

* * *

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Albury City Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environmental Protection Authority

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by Section 2.7 of the EP&A Act.

Local planning panel means – not applicable, Albury has no local planning panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under Section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage systems means all works and facilities relating to:

the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirement of the EP&A Regulation.

Sydney district or regional planning panel means Southern Regional Planning Panel

