

DATE OF DETERMINATION	13 August 2024
DATE OF PANEL DECISION	13 August 2024
DATE OF PANEL BRIEFING	31 July 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 the Council appointed Panel members noting that they are serving Councilors. 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 decision made.

Papers circulated electronically on 26 July 2024 and 10 August 2024.

MATTER DETERMINED

PPSSTH-360 – ALBURY – DA10.2024.40795.1 at 24 McLaurin Road, Ettamogah 2640 – Industrial Development – Factory, Warehouse, Associated Office & Amenities, Bulk Earthworks, Retaining Walls, Carpark and Signage for Plastic Film Recycling Facility (Resource Recovery Facility) (as described in Schedule 1).

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.

Development application of consent

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

At its determination meeting on 26 July 2024, the Panel agreed to consider a request from the Applicant regarding the timing of the required Trade Waste Agreement with Council. The Applicant requested that the conditions be amended such that the Trade Waste approval is to be issued prior to occupancy, rather than prior to the issue of a construction certificate.

The Panel was satisfied there is technology available to enable the Applicant to meet the 5mh/l objective for micro plastic discharge required for the Trade Waste approval. However, the Panel was of the view that the time to seek the Trade Waste agreement was prior to construction to provide certainty of outcomes, and ensure Council is not burdened with ongoing regulatory concerns. Consequently, the Panel determined that a precautionary approach should be adopted, and the relevant discharge levels and the associated Trade Waste approval be finalised prior to the issue of the relevant construction certification.

The Panel requested additional matters be addressed prior to the Panel making its final decision on the development application. These included:

- Confirmation that the construction of the flood levy was complete.
- The amendment of conditions of consent relating to end of trip facilities, construction hours and outdoor storage (refer Conditions below); and
- The annotation of the relevant plan in Condition 1 to indicate that the area at the back of the site does not form part of the approval.

Council confirmed that the flood works have been completed in accordance with the recommendations in the Nexus Flood Mitigation Study prepared by WMS Engineering. As a consequence, it further advised that the site is no longer considered to be flood prone.

The Panel subsequently considered all relevant material including the Council’s supplementary information and revised conditions of consent.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* for the reasons outlined in the Council’s Assessment Report, supplementary information, and the recommended draft conditions as amended. The Panel was satisfied that:

- It had given due consideration to the Applicant’s request in relation to the timing of the Trade Waste Agreement;
- The additional information provided in relation to flooding and mapping had satisfied the Panels questions in this regard;
- The preconditions to the grant of consent had been satisfied;
- A thorough 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:
 - help divert up to 15,000 tonnes of LDPE/LLDPE from landfill each year;
 - 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 of the Panel was unanimous.

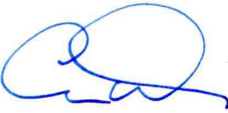

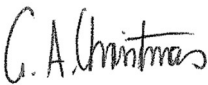
CONDITIONS

The Development Application was approved subject to the conditions in the amended draft conditions of consent provided on 6 August 2024, which can be found in Schedule 2. The final set of draft conditions include the following amendments which were requested by the Panel:

- Condition A1 amended to reflect the revised fencing/signage plan submitted 30/07/2024 (revision number 03);
- Condition B15 amended to address end of trip facilities;
- Condition D3 amended to permit extended hours of construction on Saturday (until 5pm); and
- Condition F11 added to address external storage of uncontained plastic (approval from the applicant to add this condition has been provided in writing)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted 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-360 – ALBURY – DA10.2024.40795.1
2	PROPOSED DEVELOPMENT	Industrial Development – Factory, Warehouse, Associated Office & Amenities, Bulk Earthworks, Retaining Walls, Carpark and Signage for Plastic Film Recycling Facility (Resource Recovery Facility)
3	STREET ADDRESS	Lot 7 DP1276039 – 24 McLaurin Road, Ettamogah
4	APPLICANT/OWNER	Blueprint Planning / Albury City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million General development over \$30 million Private infrastructure and community facilities over \$5 million (waste or resource management facility)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP Industry and Employment SEPP Resilience and Hazards SEPP Transport and Infrastructure 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: 26 July 2024 Supplementary information provided by Council received: 8 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"> Final 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>: Sharna Holland, Matt Wilson, David Christy, Robert Duncan, Megan Leahy. <u>Council Waste Water staff</u>: Chris Murphy and Greg Jackson. <u>Council Consultant Assessment Planner</u>: David Hunter (Habitat Planning) <u>Applicant representatives</u>: James Laycock (Blueprint Planning), Paul Baker (Pact Group), Stephanie Thoo (Pro Pac Group), Dominic Adams (Pro Pac Group), James Bartholomew (Kin Group), Sunny Puni (Kin Group) <u>DPHI</u>: Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and amended set provided 6 August 2024

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
A-202	05	Coloured Elevations	Lo Studio	10/04/2024
A-212	04	Office Coloured Elevations	Lo Studio	05/04/2024
A-301	04	Sections	Lo Studio	10/04/2024
A-100	08	Site/Ground Floor Plan	Lo Studio	10/04/2024
A-103	03	Fencing and Signage Plan	Lo Studio	10/04/2024
A-113	02	Warehouse Ground Floor Fitout Plan	Lo Studio	10/04/2024
A-120	06	Office Ground Floor Plan	Lo Studio	10/04/2024
A-102	05	Site/Roof Plan	Lo Studio	10/04/2024
A-112	06	Warehouse Roof Plan	Lo Studio	10/04/2024
L000	03	General Arrangement of Landscaping Areas	Enviro Culture	09/04/2024
L001	03	McLaurin Road High Profile Frontage Landscape Plan	Enviro Culture	09/04/2024
L003	03	Details & Specifications Landscape Plan	Enviro Culture	09/04/2024

Approved documents			
Document title	Version number	Prepared by	Date of document
NABERS Embodied emissions materials form	N/A	Joss Construction	N/A

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

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) NSW EPA – General Terms of Approval

The development shall be in accordance with the General Terms of Approval Notice No: 1641157 issued by New South Wales Environmental Protection Authority on 24 July 2024, attached to this Development Consent.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (A3)

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)

(A4) Occupation certificate

An Occupation Certificate or Compliance Certificate under Section 6.5 of the *Environmental Planning and Assessment Act 1979* is to be obtained from the Principal Certifier on completion of all works, compliance with all preconditions specified in a development consent and prior to use of the development.

Condition reason: To ensure the building is safe to occupy. (A080)

(A5) 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 completion of the development.

Condition reason: To protect public assets. (A450 modified)

(A7) Development within allotment boundaries

All buildings and structures shall be contained wholly within the confines of the allotment boundaries. Condition reason: To ensure the development is sited within the allotment boundaries. (A999)

(A8) 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	\$203,968.05
Section 64 - Sewer	228	\$398,681.40
		\$602,649.45

The amounts payable under this condition are due prior to the release of the Occupation Certificate 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.

Condition reason: To ensure compliance with the *Albury Infrastructure Contributions Plan 2014*. (A303)

(A9) Provision of services

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

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.

Detailed engineering plans and certification may be required to support any requested adjustments to Council infrastructure.

Condition reason: To protect existing infrastructure. (E487 & B069)

(A10) 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)

(A11) Vegetation Protection

The development must not remove or damage any tree on site unless written approval from Albury City Council has been obtained.

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

(A12) Earthworks

Fill is to be placed in layers not exceeding 300mm of loose material and is to be compacted to 98% of standard compaction. Tests are to be taken on every layer and are to be verified by a NATA registered soils laboratory and evidence shall be submitted to Council. Test locations will be nominated by Council's Engineering Supervisor and 'Works As Executed (WAE)' plans.

Condition reason: To avoid potential flooding due to level alterations. (A994)

(A13) Council easements

Existing ground levels within Council easements shall not be altered by cut or fill unless approved as part of this consent. Any fill, stockpiles and building materials shall not be placed within any easement without the prior approval of Council.

Condition reason: To protect Council's infrastructure. (A440)

(A14) Boundary fencing

Boundary fencing located forward of the industrial development in the front setback of the site shall not incorporate cyclone mesh or barbed wire and is to be powder coated black or dark green. All security fencing shall be power-coated black or dark green and shall not be electrified or incorporate barbed wire.

Condition Reason: To ensure compliance with the Albury DCP 2010 fencing requirements. (A15)

Plant, equipment or features on roof

No plant, equipment, services or architectural features other than those shown on the approved plans are permitted to be attached to the front elevation of the building, or side elevations that can be seen from a public place, without the written consent of Council.

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

BUILDING WORK

B. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

(B1) Long Service Levy

Prior to the issue of a Construction Certificate, the Building Industry Long Service Levy is to be paid in accordance with the provisions of Section 34 of the *Building and Construction Industry Payments Act 1986*. This fee is payable on all projects 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)

(B2) Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the National Construction Code of Australia and AS1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

Condition reason: To ensure access and sanitary facilities are designed to comply with the NCC and relevant standards. (B110)

(B3) Vehicle manoeuvring and car parking areas

Prior to the issue of a Construction Certificate a vehicle manoeuvring and car parking plans shall be submitted to Council for endorsement, demonstrating the following:

- a. All onsite carparking complying with AS2890.1:2004 *off-street parking* and AS2890.6:2022 *off street parking for people with disabilities*.
- b. All parking spaces and vehicle manoeuvring areas allow cars and trucks to drive in a forward direction, both when entering and leaving the property.
- c. All carpark dimensions turning circles
- d. All car parking and circulation areas finished with a fully sealed surface, drained and line marked, to prevent nuisance from dust, mud, drainage, sediment loss and the like. Such areas shall at a minimum be provided with a bitumen seal, asphalt, or concrete.
- e. Landscaped areas protected from vehicle activity by a minimum height 100mm kerb or similar barrier.
- f. The driveway and vehicle manoeuvring areas fitted with adequate cut-off drains and sediment traps to ensure sedimentation does not transfer onto other land.
- g. The carparking area equipped with the necessary infrastructure to be adapted to provide electric vehicle charging spaces.

Plans are to be submitted to Albury City Council for approval prior to the issue of a Construction Certificate.

Condition Reason: To ensure appropriate vehicle access, pavement sealing, and drainage is provided.

(BW1-414 & BW4-484, BW3-402 modified)

(B4) 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 flow paths.
- 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)

(B5) Retaining wall design

An appropriately qualified person shall design retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures. Details are to be included with the plans and specifications to accompany any Construction Certificate.

Condition reason: To ensure the engineering design considers relevant legislative requirements. (BW1- 498)

(B6) 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)

(B7) Structures near existing assets

No structure shall encroach onto, or exert any load on, the utilities within easements without approval from AlburyCity. 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)

(B8) Stormwater treatment

Prior to discharge of stormwater from the site, stormwater shall be treated to remove contaminants as per the minimum requirements listed in the below table. Details of the proposed treatment system, and the stormwater discharge point for the site into Council's existing piped network, shall be submitted to Council's Engineering team for approval prior to the application of a Construction Certificate. Stormwater shall be detained onsite, and discharge of stormwater shall not exceed predeveloped flow. Engineering report, design and calculations shall be prepared by suitability qualified engineer demonstrating detention on site.

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

Condition reason: To protect Council's infrastructure and the environment. (A998)

(B9) 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)

(B10) 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 and successfully obtain a Trade Waste Agreement from Council prior to the issue of a Construction Certificate. The application must be determined by Council's Trade Waste Department and may require an approved pre-treatment device (eg. oil/grease arrester, 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.

This development must demonstrate compliance with strict adherence to the Total Suspended Solids (TSS) limit of 5mg/L. If discharge exceeds the limit, discharge must cease immediately until corrective measures are implemented and verified. The operator of the site must implement and maintain a recognised and current waste treatment policy and operating procedure, including comprehensive training for all relevant personnel.

Note: A Trade Waste Application form can be downloaded from AlburyCity's website

Condition reason: To protect public health and the environment and to ensure there is no unacceptable discharge to Council's sewerage system. (BW1-049 modified)

(B11) Waste Management Plan

A Waste Management Plan to address waste removal once the site is operational is to be prepared submitted to Council and approved prior to the issue of a Construction Certificate. The plan shall include and address at a minimum the following information:

- a) Identify how regularly waste will be collected from the site.
- b) To maximise recycling, the waste receptacle area must be equipped with separate waste bins to allow for the sorting and separation of waste into the following waste streams – organic, recyclables and general waste. Each waste stream must be separated and clearly labelled.
- c) Any waste storage bins shall be fitted with closing lids and shall be collected by licensed contractors between the hours of 9:00am and 5:00pm, Monday to Friday.
- d) Any approved waste storage area must be appropriately maintained to prevent litter, odour, and the entry of pests.
- e) All liquid trade waste discharged to the sewerage system, must comply with the trade waste approval issued by the relevant authority.
- f) All liquid trade waste pre-treatment devices must be regularly maintained to remain effective in accordance with the conditions of the liquid trade waste approval issued by the relevant authority.

Condition reason: To protect public interest, the environment and amenity of the locality. (B12)

Compliance with Building Code of Australia

Prior to issue of a Construction Certificate, and in addition to construction plans and specifications, the applicant is to provide the Certifying Authority with a detailed Building Code of Australia Compliance Report for the proposed industrial development.

The report is to clearly identify all areas of the proposed building which will not meet the “deemed-to- satisfy” provisions of the Building Code of Australia and provide sufficient documentary evidence to justify the formulation of any “alternative solution” proposed to satisfy the performance requirements.

Plans and specifications submitted to the Certifier must be sufficiently detailed and complete to show the location of all existing and proposed fire safety features, required services and equipment, as well as to ensure that the building will maintain acceptable standards of structural adequacy, safety, access, health and amenity for the on-going benefit of the community.

Condition reason: To assist with the design, assessment and compliance with the National Construction Code / Building Code of Australia – Volume One. (BW1-999)

(B13) Construction Management Plan

A Construction Management Plan (CMP) is to be prepared, submitted, and approved by Council prior to the issue of a Construction Certificate. The Plan shall address, as a minimum, the following matters:

- a) Location and extent of any proposed builder’s hoarding and work zones
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;
 - ii. Estimated frequency of truck movements;
 - iii. Location of parking for construction vehicles; and
 - iv. Measures to ensure pedestrian safety near the site;
- e) Details of bulk earthworks to be carried out;
- f) Locations of site office, site facilities, temporary sanitary facilities and any storage areas for materials related to the project;
- g) The equipment used to carry out works;
- h) Detail how construction waste will be managed on site, including the methods of implementation and communication to all contractors of the waste management plan requirements;
- i) Outline the means to minimise and manage dust generation from the construction works;
- j) Noise management measures to be provided for plant and equipment; and
- k) Protection measures for adjoining properties, pedestrians, vehicles and public assets;
- l) Waste management
- m) The protective measures for the preservation of trees in adjoining public areas including measures in accordance with:
 - i. AS 4970 – Protection of trees on development sites;

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Condition Reason: To protect public interest, the environment and amenity of the locality. (B14)

Flood compatible materials

All building materials and electrical fixtures below the adopted flood level shall be flood compatible to ensure safety of building occupants.

Condition reason: To reduce flooding risk and improve safety. (BW3-445 modified)

(B15) End of trip facilities

End of trip facilities shall include changerooms, showers, and lockers. Bicycle parking shall be designed in accordance with AS 2890.3 – Bicycle Parking Facilities. Details are to be included with the plans and specifications to accompany any Construction Certificate.

Condition reason: To encourage other modes on transport.

C. BEFORE BUILDING WORK COMMENCES

(C1) Prior to commencement of Construction Works

Two days before any site works or building 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)

(C2) 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 all the hydraulic services, including the provision of backflow prevention devices. The plan is to be prepared by a suitably qualified hydraulic 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)

(C3) Water meter location

The water meter shall be located so as not to be subject to damage and shall be easily and readily accessible by Council. The meter must have a clearance of 300mm from adjacent objects and finished ground level. Where necessary, appropriate barriers, bollards and/or caging must be installed to ensure protection of the water meters.

Condition reason: To protect public infrastructure. (BW2-428 modified)

(C4) Sewage Disposal

The applicant carrying out all necessary investigations to ensure that it is possible to discharge sewerage to Council's sewer main by gravity. The alternative being a sewer pump with installation and maintenance at the owner's cost.

Condition reason: To ensure sewage can be discharged appropriately. (BW2-433)

D. DURING BUILDING WORK

(D1) 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)

(D2) Mode of Work

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

Condition Reason: To ensure development is carried out in a safe and inoffensive manner.
(BW3-033)

(D3) Hours of work

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 5.00pm
- 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)

(D4) Driveway across nature strip and drainage

Full width heavy industrial (STD-R-39) type driveway(s) shall be constructed across the footway clear of the property side boundary in accordance with a permit obtained from AlburyCity. The adjacent road being protected from surface water by the construction of a grated drain across the driveway within the boundary connected to an approved drainage system.

Condition reason: To ensure that access to the property is in accordance with Council requirements and effective drainage is provided to the site. (BW3-405 & BW4-418 modified)

(D5) Stormwater and surface water drainage

The land surrounding any structure must be graded to divert surface water to the legal point of adequate discharge and clear any structures and adjoining premises. All stormwater runoff from the proposed development is to be collected on-site and conveyed to a lawful point of adequate capacity in a manner that is consistent with the latest version of *Australian Standard 3500.3.2018*.

Condition reason: To ensure surface water and stormwater is appropriately managed in accordance with the relevant standards. (BW3-478 modified)

(D6) No disturbance of nature strip

The nature strip shall not be disturbed by any construction activities other than those essential for access to the site or installation of services.

Condition reason: To provide safe pedestrian movement during works. (BW4-466)

(D7) Regular waste removal

All waste materials stored on-site must be contained in a designated area, such as a waste bay or bin, to ensure that no waste material enters the stormwater system or neighbouring properties during construction works on site. The waste storage area shall be fully enclosed when the site is unattended, particularly at night and over the weekend.

All waste material not required for further on-site processing or for re-use on the site, must be regularly removed from the site to be recycled or disposed of at a Council approved waste facility. All vehicles removing waste must have fully secured and contained loads so that no waste is spilled, or dust or odour created, to the satisfaction of Council.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3- 065 & BW3-066 modified)

(D8) Stabilisation of excavations and/or filled areas

All areas of excavated and/or filled land on the subject allotment are to be retained, battered, and contained wholly within the allotment boundary confines. Any such method that may be utilised to suitably stabilise the site shall ensure that adequate drainage is provided so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring lands.

Consent shall be obtained from the appropriate authority for any earthworks or retaining walls not forming part of this development consent and approved plans if it is:

- a) Within 900mm of a property allotment boundary or,
- b) Results in a cut or fill greater than 600mm
- c) If the retaining wall height is greater than 600mm (including the height of any earth batters) or,
- d) Is located within 1.0 metre of any registered easement, and/or other service pipe such as a sewer main, stormwater main, or water main

Condition reason: To ensure areas of excavation and/or filling are safely constructed and stabilised. (BW3-454)

(D9) 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, are to be available on site at all times during construction.

The following details are to be placed on 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.

Signage but no more than 2 signs stating the above details are to be erected:

- (i) At the commencement of, and for the full length of the, construction works onsite, and
- (ii) 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. (BW3-075)

(D10) Management of Contaminated Land

Should any evidence of contamination be identified whilst works are occurring on site, all work should cease immediately until further notice. Council should be contacted urgently, and a detailed investigation may be required to be undertaken by the proponent.

The site investigation will define the extent and degree of contamination, and what (if any) site remediation is required to ensure the land is suitable for its proposed use.

Any excavated contaminated soil is to be stockpiled onsite prior to removal and must be bunded to minimise the environmental risk of contaminants migrating into stormwater and nearby waterways.

Condition reason: To ensure contaminated soil is appropriately managed should it be found on the subject land.

(D11) Noise control

Work complying with the latest version of Australian Standard 2436 *"Guide to Noise Control on Construction, Maintenance and Demolition Sites"*.

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

(D12) 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)

(D13) Maintenance of soil erosion and pollution controls

All measures specified in the approved Erosion and Sediment Control Plan (ESCP) are to be implemented whilst works are occurring on site, 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.

(BW3-522 modified)

(D14) Protection of trees

All trees within proximity to the site shall have a tree protection zone (TPZ) identified and protective measures installed prior to commencement of works in accordance with Australian Standards AS 4970-09 *Tree Protection on Development Sites*.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3- 040 modified)

(D15) 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 ensure protection of Aboriginal Cultural Heritage. (D16)

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)

(D17) Management of disturbed land

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)

E. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(E1) Irrigation installation

The site being landscaped in accordance with the approved Landscape Plan, prior to occupying the development. The applicant shall install a watering system 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)

(E2) Fire safety certificate

On completion of the development, Council is to be provided 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)

(E3) Street number

A street number shall be displayed in a prominent location at the front of the building 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)

(E4) Stormwater and sewerage plan

A plan showing full details of stormwater and sewerage drainage lines and inlets is to be submitted to Council, prior to the issue of the Occupation Certificate.

Condition Reason: To record the location of the internal site drainage. (BW4-439)

(E5) Plumbing/Drainage Certificate

Prior to the issue of the Occupation Certificate, 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) Carpark construction

The vehicle parking and manoeuvring areas being fully constructed, sealed, drained, and line marked prior to the issue of the Occupation Certificate.

Condition reason: To protect the amenity of the locality. (BW4-484)

(E7) Easements for drainage, water, sewer, and services

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

Condition Reason: To protect Council infrastructure and ensure access is maintained. (BW4-414)

(E8) Installation of grid shaker

The exit driveway shall be equipped with a grid shaker (or the like) and blower system for excessive waste material to be removed before exiting the site. All delivery traffic must be one way to ensure waste loads are appropriately treated to minimise loose plastic falling from vehicles on public roads when exiting the industrial premises.

Condition Reason: To ensure all waste material is adequately contained to prevent plastic from leaving the site.

(E9) 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)

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) 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. (F8)

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)

(F9) Signage

No sign that requires Council's approval being displayed until Development Consent is issued. All approved 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)

(F10) 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)

(F11) No external storage

No outdoor storage of uncontained plastic is permitted on site. Condition

reason: To protect the amenity of the local area.

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) 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. (1131)

(G4) Road and Public Domain Works – Council approval required

This development consent does not give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

Details plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and storm water drainage) within existing roads, must be submitted to and approved by Council under the *Roads Act 1993*, prior to any works occurring on site.

All public domain works must comply with Council's "*Engineering Guidelines for Subdivisions and Development Standards*". (1051)

(G5) Disability Discrimination Act 1992 & National Construction Code of Australia

The person with the benefit of this consent is responsible for ensuring that the building use (Building Code of Australia Classification), will satisfy the requirements of the Disability Discrimination Act 1992 and Disability (Access to Premises – Buildings) Standards 2010. (1025 modified)

(G6) No structures within easements

The owner of the land is advised that any structures located within an easement or implied easement may be required to be removed should maintenance works be required to utilities and replacement of these structures will be at the landowner's expense. (1999)

(G7) Overland Flow

The applicant is advised that the site area is located within an area that has been identified as being affected by stormwater flows during extreme weather events. In the use of this site in accordance with this consent, the applicant shall take reasonable action to minimise damage to goods or equipment or other property stored in the premises in the event of stormwater entering the premises.

(1135)

(G8) Water meter/service pipe

With exception of a side boundary fence, there is nothing permitted 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 cannot 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). (1085)

(G9) Trade waste

The following information regarding trade waste management remains outstanding:

1. Detailed Performance Data:

Detailed performance data and specific design information, including empirical evidence demonstrating compliance with the 5 mg/L TSS limit.

2. Clarity on Treatment Processes

Clarification on how the proposed treatment processes will effectively manage and mitigate the risk of micro plastics in the discharge.

3. Documentation and Specifications

It is necessary for the proponent to provide comprehensive documentation and specifications beyond standard manufacturer brochures.

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