

COUNCIL ASSESSMENT REPORT

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| Panel Reference | PWES-112 |
| DA Number | 137/2009(2) |
| LGA | Griffith City Council |
| Proposed Development | Subdivision – 189 Residential Torrens Title Lots |
| Street Address | Lot 2 DP 1068127 – 77 McCarthy Rd & Lot 2 DP 1071622 – 2 Smeeth Rd Lake Wyangan |
| Applicant/Owner | J Z Management (James Scremin) on behalf of Woods Property Group P/L (now owners of land) |
| Date of DA lodgement | 23 March 2021 |
| Total number of Submissions Number of Unique Objections | <ul style="list-style-type: none"> Zero submissions |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011) | See Council's resolution 28 September 2021 to delegate determination to the Western Regional Planning Panel |
| List of all relevant s4.15(1)(a) matters | i.e. any: <ul style="list-style-type: none"> Griffith Local Environmental Plan, 2014 Griffith Residential Development Control Plan 2020 |
| List all documents submitted with this report for the Panel's consideration | i.e. any: <ul style="list-style-type: none"> Assessment Report Draft Conditions of Consent |
| Clause 4.6 requests | <ul style="list-style-type: none"> N/A |
| Summary of key submissions | <ul style="list-style-type: none"> N/A |
| Report prepared by | Habitat Planning on behalf of Griffith City Council |
| Report date | 5 July 2022 |

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

Clause 4.6 Exceptions to development standards

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

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

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

No

Section 4.55 Modification Revised Assessment Report 137/2009(2)

PART 1 – PRELIMINARY

Division 1 – Application Details

- 1.1 Griffith City Council received an application to modify Development Consent No. 137/2009(1) on 23 March 2021 from JZ Management Pty Ltd (“the developer”) & Griffith City Council (“Council”). The modification was lodged pursuant to the provisions of Section 4.55(1A) and seeks to modify 137/2009(1) for Subdivision - Torrens Title which was issued by Council on 22 February 2011.
- 1.2 The application as currently proposed, requests the following modifications be made:
 - Modify conditions M (5), M (8) that relate to road works, upgrades and their provision.
 - Modify condition M (23) to be consistent with current policy and infrastructure requirements regarding telecommunication servicing compliance.
 - Delete condition M (26) to remove requirement for developer to transfer a ‘water allocation’ to Council as there is no longer a requirement for a transfer as part of the proposed subdivision process.
 - Delete condition I (14) which requires the provision of a Phase 2 Site Investigation report.
- 1.3 Council was the landowner at the time the application was made and was the applicant for the original 2009 application (DA 137/2009) for a 189 lot residential subdivision at Lake Wyangan village and when this modification application was lodged. As a result, this assessment is undertaken by Habitat Planning as an independent consultant.
- 1.4 The land has since been sold to Woods Property Group who have purchased other development parcels in the Lake Wyangan Master Plan precinct, e.g. 50 McCarthy Rd (Lot 172 DP 751743) and the adjacent Lot 171 DP 751743 on McCarthy Road, opposite the subject land.
- 1.5 This report has been prepared and assessed by Habitat Planning in Griffith City Council’s standard development assessment template for the purposes of consistency with Council’s procedures and processes.
- 1.6 As part of the assessment of the Section 4.55 modification, the assessment is being made on the following documents provided by the applicant/Council:
 - (a) Information set out on the development application form
 - (b) Covering Letter prepared and submitted by JZ Management
 - (c) Subdivision Plan (Drawing No. 1/1 prepared by Griffith City Council dated 15 February 2010. (“approved plan”)
 - (d) Notice of Determination 137/2009(1) as marked-up by applicant
 - (e) Development Assessment Report 137/2009(1)
 - (f) Email Correspondence dated 5/10/2021 confirming that no internal referral is required.

- (g) Council's Memo of 7 July 2016 pertaining to the commencement of the application (evidence of commencement received by Council 10 February 2016 prior to lapse date of 22 February 2016);
- (h) Planning Panel briefing notes of 21 March 2022;
- (i) The applicant's request of 23 May 2022 withdrawing the offer of a Voluntary Planning Agreement in relation to the full width road construction in both Boorga & McCarthy Roads.

1.7 As the applicant has withdrawn the offer of a Voluntary Planning Agreement pertaining to the construction of Boorga and McCarthy roads, consideration is no longer given to the inclusion of conditions pertaining to a VPA and the application can be determined.

Division 2 – Background Information

- 2.1 A detailed site and locality description is set out in the original assessment report contained on file and in Council's Record Management system. Works associated with the approved development application have commenced through the undertaking of geotechnical works in relation to Condition I14.
- 2.2 Therefore it is considered the subject application is still valid and active for the purposes of Section 4.53 of the EP&A Act, Clause 96(2) of the EP&A Regs applies to the subject consent making Clause 96(1) an irrelevant matter for consideration. Correspondence on Council file discusses validity of the consent dated 7 July 2016 based upon evidence provided to Council on 10 February 2016.
- 2.3 The matter was considered at the Development Control Unit meeting on 25 March 2021 and the following matters were raised during the preliminary assessment of the application which are potential issues:
 - (a) DA to be assessed by an independent consultant planner,
 - (b) Master Plan for Lake Wyangan Village expansion has been adopted – are there any implications for the proposed modification,
 - (c) Voluntary Planning Agreement to be prepared - letter of offer to be provided.
- 2.4 Details of the development history can be found in the original assessment of the development application on file and in Council's Record Management system.

PART 2: ASSESSMENT

Division 3 – Section 4.55 Considerations

- 3.1 Section 4.55 of the Environmental Planning & Assessment Act, 1979 sets out matters the consent authority must take into consideration when assessing applications which seek modifications to development consents.
- 3.2 With regard to Section 4.55(1A)(a) of the Environmental Planning & Assessment Act, 1979 states that a consent authority may modify the consent if:
 - (a) *it is satisfied that the proposed modification is of minimal environmental impact*

Following assessment of the application it is considered that the proposal, will have minimal environmental impact and therefore satisfies the threshold test of Section 4.55(1A)(a) of the Environmental Planning and Assessment Act, 1979.

- 3.3 With regard to Section 4.55(1A) the Environmental Planning & Assessment Act, 1979 states that a consent authority may modify the consent if:

“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)” (viz. sections 4.55(1A)(b))

In the matter of *Vacik Pty Ltd v Penrith City Council* the NSW Land and Environment Court held that Council in assessing whether the consent as modified will be substantially the same development one needs to compare the before and after situations, however *“one should not fall into the trap of saying that the development was for a certain use...and as amended will be for precisely the same use and accordingly is substantially the same development. What is important is that a development...must be assumed to include the way in which the development is to be carried out.”*

The development is considered to be “substantially the same” as the proposed modification does not materially change the purpose of the intention of the original consent. The modification relates to the amendment of minor conditions that will control how the development is carried out. The proposed modification does not alter the design or intent of the consent.

In this regard Council can be satisfied that the proposed modification represents substantially the same development as to which consent was originally granted that the proposal satisfies the threshold requirements of Section 4.55(1A)(b) of the Environmental Planning and Assessment Act, 1979.

- 3.6 The provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 require the consent authority to notify the modification application in accordance with:

- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,* (viz. sections 4.55(1A)(c)(i) & (ii))

Council’s Community Participation Plan (“CPP”) sets out the obligations of Council with regard to notification processes for modification applications lodged pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979.

With regard to the CPP notification of the subject modification application is not required given that it is of minor environmental impact; nor are there any other statutory requirement that obligate Council to notify the proposal.

In this regard Council has satisfied its obligations in terms of Section 4.55(c) of the Act.

- 3.7 The provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 require Council to consider:

“any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.” (viz. section 4.55(1A)(d))

No notification was undertaken and therefore there are no submissions to be considered.

Division 4 – Section 4.15 Evaluation

- 4.1 The provisions of Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 require the consent authority to evaluate a modification application with regard to Section 4.15 of the Act.
- 4.2 With regard to Section 4.15(1)(a)(i) of the Act in respect to the provision of any environmental planning instrument, the following evaluation has been undertaken:

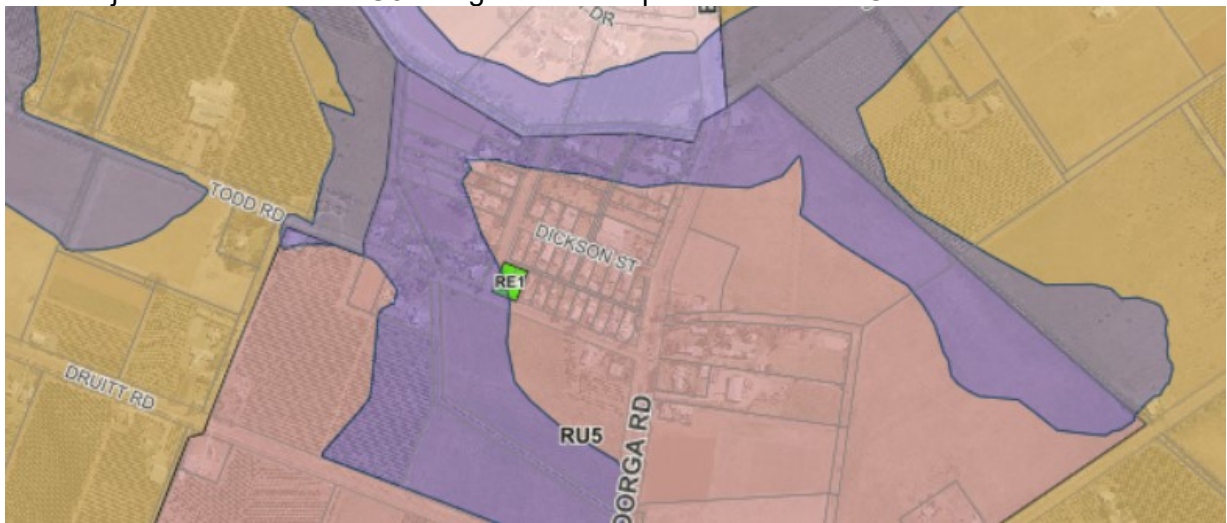
(a) Griffith Local Environmental Plan 2014

The proposed modification of Development Application No 137/2009 (2) has been assessed with regard to Griffith Local Environmental Plan 2014, being the relevant environmental planning instrument. It has been considered that:

- (i) The proposed modification does not result in any issue that would affect the permissibility of the development.
- (ii) The proposed modification does not result in any inconsistency with regards to the objectives of the zone.
- (iii) The proposed modification does not involve any breach of a development standard, nor does it involve any further breach of a development standard that had been previously considered.

An assessment against the provisions of the GLEP is provided below:

The subject land is zoned RU5 Village under the provisions of the Griffith LEP.



| Clause – Requirement - Comment |
|---|
| <p>Zone RU5 Village</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide for a range of land uses, services and facilities that are associated with a rural village. To enable development that will not hinder the future expansion of the village. To provide for a range of land uses, services and facilities that are associated with a rural village. <p>The proposal complies with the objectives of the zone. The purpose of the subdivision is to provide for village expansion. The modification proposed doesn't compromise these objectives.</p> |

2.6 Subdivision

Subdivision permitted with consent

4.1 Minimum Lot Size

Lot size map: AA: 50,000m² Area A

(3A) Despite subclause (3), the size of each lot resulting from the subdivision of land identified as “Area A”, “Area B” or “Area C” on the [Lot Size Map](#), if the lot is connected to a reticulated sewer or the consent authority is satisfied that it will be connected to a reticulated sewer, must not be less than the area shown in Column 2 of the Table to this subclause opposite the relevant area.

| | |
|--------|-------------------|
| Area A | 700m ² |
|--------|-------------------|

The modification doesn't impact upon the lot layout or the size of the lots, it pertains to construction of road width only under Council's 2008 Engineering Guidelines. Further, as there were no relevant development standard pertaining to residential subdivision at the time of the original DA, there are a variety of lot sizes ranging from 583m² – 1069m², where the lot average would be in excess of 700m².

4.6 Exceptions to development standards

N/A

5.21 Flood Planning

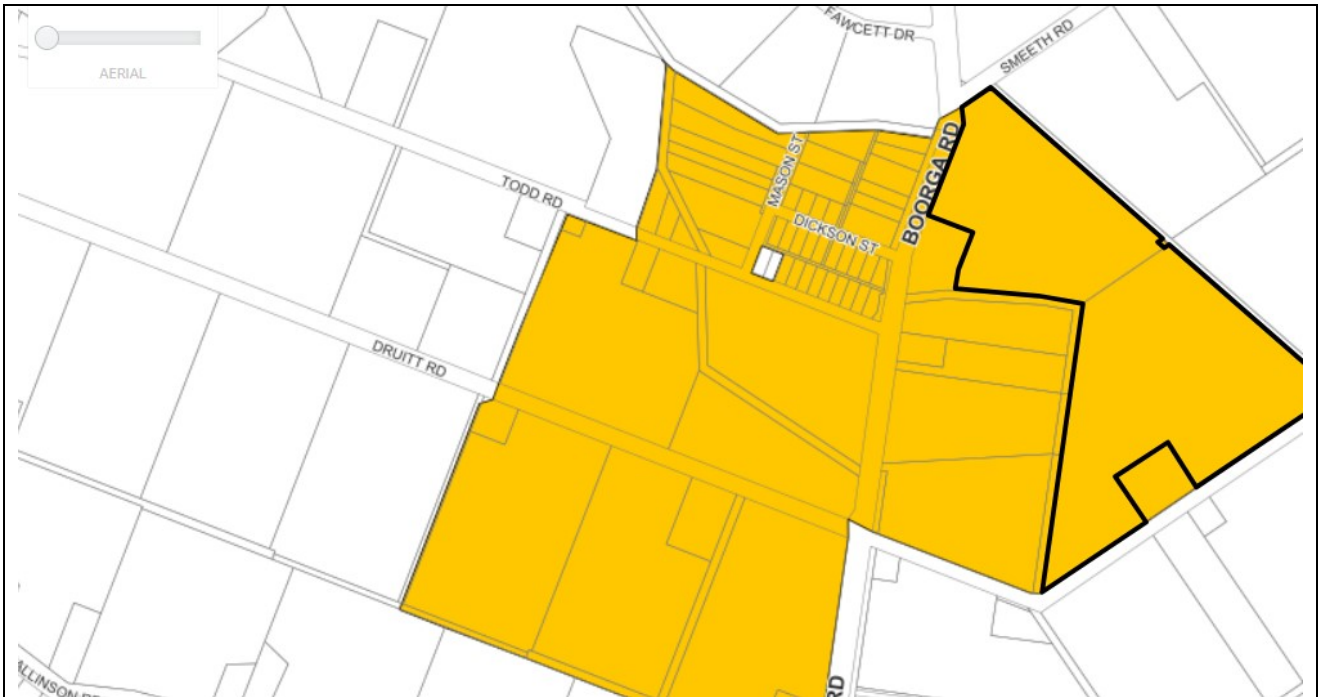
(1) The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Part of the land is below the 1% AEP, floor levels would apply to the future dwellings. The road width is not impacted by this change in the LEP. The land was mapped as flood liable under Council's flood studies in 2012 after the 2012 flood, and this application was approved prior to that flood mapping.

Any future modification or application over the land to redesign the subdivision (as discussed with the proponents earlier in 2022) will require consideration of the flood mapping.

Part 6 Urban Release Areas



6.3 Development control plan

- (1) *The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.*
- (2) *Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.*
- (3) *The development control plan must provide for all of the following—*
 - (a) *a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
 - (b) *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
 - (c) *an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
 - (d) *a network of active and passive recreation areas,*
 - (e) *stormwater and water quality management controls,*
 - (f) *amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
 - (g) *detailed urban design controls for significant development sites,*
 - (h) *measures to encourage higher density living around transport, open space and service nodes,*
 - (i) *measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
 - (j) *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*
- (4) *Subclause (2) does not apply to development for any of the following purposes—*
 - (a) *a subdivision for the purpose of a realignment of boundaries that does not create additional lots,*
 - (b) *a subdivision of land if any of the lots proposed to be created is to be reserved or*

- dedicated for public open space, public roads or any other public or environment protection purpose,*
- (c) *a subdivision of land in a zone in which the erection of structures is prohibited,*
 - (d) *development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the development would be consistent with the objectives of the zone in which the land is situated.*

A development control plan has not been adopted for the locality but is currently in preparation. Council has adopted a master plan for the Lake Wyangan precinct. The proponent has provided an overlay of the approved application plan over Council's master plan adopted in 2019, to demonstrate that the approved layout has been taken into consideration in the masterplan.

It is considered therefore, that for the purpose of Part 6 Urban Release Areas, the relevant provision is Clause 6.3(4) and that as the modifications sought are to a consent issued prior to the current LEP and imposition of the URA and that the development is of a minor nature. This modification it will not compromise the URA provisions or the development control plan that is yet to be finalised for the Lake Wyangan village expansion.

LAKE GARDENS

APPROVED DAs OVERLAY ON
COUNCIL 2019 MASTER PLAN



7.1 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The wider subdivision and the public road upgrade will be subject to road works.

7.3 Terrestrial Biodiversity

The objective of this clause is to maintain terrestrial biodiversity by:

- (a) *protecting native fauna and flora, and*
- (b) *protecting the ecological processes necessary for their continued existence, and*

| |
|---|
| <p>(c) <i>encouraging the conservation and recovery of native fauna and flora and their habitats.</i></p> <p>No terrestrial biodiversity mapping affects this property</p> |
| <p>7.4 Groundwater vulnerability</p> <p><i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to maintain the hydrological functions of key groundwater systems,</i></p> <p>(b) <i>to protect vulnerable groundwater resources from depletion and contamination as a result of development.</i></p> <p>The land is not mapped as being in a ground water vulnerability location</p> |
| <p>7.5 Riparian Lands and water courses</p> <p><i>The objective of this clause is to protect and maintain the following:</i></p> <p>(a) <i>water quality within watercourses,</i></p> <p>(b) <i>the stability of the bed and banks of watercourses,</i></p> <p>(c) <i>aquatic and riparian habitats,</i></p> <p>(d) <i>ecological processes within watercourses and riparian areas.</i></p> <p>The land is not mapped as containing a watercourse or riparian corridor</p> |
| <p>7.10 Essential Services</p> <p><i>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:</i></p> <p>(a) <i>the supply of water,</i></p> <p>(b) <i>the supply of electricity,</i></p> <p>(c) <i>the disposal and management of sewage,</i></p> <p>(d) <i>stormwater drainage or on-site conservation,</i></p> <p>(e) <i>suitable vehicular access.</i></p> <p>Sewer and water will be made available to the development and land through the subdivision process, as will electricity & telephone. The sewer pump station has been constructed.</p> <p>Stormwater infrastructure is proposed with connection to Council's drainage infrastructure in the road network.</p> |

(c) State Environmental Planning Policies

The original application was assessed with regard to the relevant State Environmental Planning Policies that applied at the time. The proposed modification does not result in any inconsistency with the previous assessment or alter compliance with these planning instruments.

- 4.3 With regard to Section 4.15(1)(a)(ii) there are no draft environmental planning instruments applicable to the Griffith Local Government Area or to the proposed development.
- 4.4 Council considered the relevant development control plans as part of the original assessment of the development application in accordance with section 4.15(1)(a)(iii). The modified development has been assessed with regard to those development control plans

and the modifications do not alter compliance with these plans. It is noted that the Lake Wyangan Masterplan and a yet to be finalised DCP relate to the site, whilst these documents are relevant to the subject site, they have no bearing on when considering the subject modification as they were not adopted at the time of the original determination date. It is also noted the conditions sought to be modified would not alter compliance with these documents either.

Residential Development Control Plan 2020 was adopted 17 August 2020 and that provides the requirements for urban subdivision. However in regard to road construction standards the DCP references Council *Engineering Standards: Subdivision and Development (as amended)*. These Engineering standards are currently under review but a revised edition has not yet been adopted.

- 4.5 There are no existing planning agreements which apply to this development and therefore the provisions of Section 4.15(1)(a)(iiia) do not apply.

Section 4.15(1)(a)(iiia) states that a consent authority have consideration to “*any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,*”

No planning agreement has been or is to be entered into under section 7.4 of the EP&A Act.

The developer originally indicated that they proposed to enter into a voluntary planning agreement under section 7.4. However, this offer has since been rescinded and is no longer relevant to consider as part of the subject modification application.

- 4.6 The provisions of clauses 61, 62, 63 and 64 of the *Environmental Planning and Assessment Regulations, 2021* have been considered as part of this development in accordance with Section 4.15(1)(a)(iv) of the Act.
- 4.7 Considering the provisions of Section 4.15(1)(b) of the Act, and based on the assessment carried out thus far, Council can be satisfied the proposed modification to the original development is unlikely to result in any adverse (or additional) environmental, social or economic impact.
- 4.8 The proposed modification development does not alter the suitability of the site, which was considered appropriate when the original development application was determined. In this regard Council is satisfied the development accords with Section 4.15(1)(c) of the Act.
- 4.9 No submissions were made in accordance with the Act or the Regulations.
- 4.10 The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment. The proposed modification has been considered in relation to relevant Environmental Planning Instruments and deemed to be acceptable. On this basis, the proposal is not considered to be contrary to the public interest.

Division 5 – Discussion of proposed modification to conditions of consent

The subject application proposes the following modifications be made as part of the application:

- 5.1 Condition M (23) be updated to be consistent with current day policy and infrastructure requirements regarding telephone and internet servicing compliance.

Whilst not explicitly required to be modified as the current day provisions of any infrastructure policy would override this, it is noted that there is an opportunity via the current modification to update the consent to reflect current policy. As such it is recommended that the condition is replaced with updated standard condition as follows:

Condition M (23) be replaced as follows;

“Fibre Ready Facilities

Prior to the issue of the Subdivision Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and*
- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.”*

- 5.2 Condition M (26) be deleted to remove requirement for developer to transfer a ‘water allocation’ to Council. It is requested this is removed as Council no longer require such a “transfer” as part of their subdivision or development application processes and procedures.

Advice received from Council provided clarification and context to this request as follows:

“The Water - Volumetric Contributions Policy WS-CP-208 was rescinded by Council on 24th May 2019 from which date Council will:

- accept DA modification applications for the removal of a consent requiring the transfer/payment of a volumetric water allocation, where contributions have not been made prior to and after 24th May 2019*
- refund volumetric water contributions made to Council on or after 24th May 2019”*

It is considered that the request to remove this condition be supported based on the policy rescission.

- 5.3 Conditions M (5), M (8) that relate to road works, upgrades and their provision be amended as follows;

Note: deletions are struck-through and additional text is italicised and underlined for clarity.

(5) Prior to the lodgement of a Subdivision Certificate application for Stage 1 Boorga Road is to be widened from the intersection of Boorga Road and Smeeth Road to the south of the Main Avenue into the development. ~~The road is to be widened to a full constructed width of thirteen (13) meters.~~ *The eastern lane of the road is to be widened to a full constructed width of 6.5 m and the western travel lane is to be maintained at 3.75m.* Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

(8) Prior to the lodgement of a Subdivision Certificate application for Stage 2 and 3, McCarthy Road is to be widened for the full frontage of the development up to the intersection of Boorga Road and McCarthy Road. The road is to be widened to a full constructed width of eleven (11) meters. As part of the Stage 2 works McCarthy Road is to be widened for the full frontage of stage 2 up the intersection of Boorga Road and McCarthy Road. The northern lane of the road is to be widened to a full constructed width of 5.5 metres and the southern travel lane is to be maintained at 3 metres. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

It is understood that the modifications proposed to these conditions are as a result of ongoing negotiations between Council and the proponent. The conditions to be amended were referred to Council's Engineering Design & Approvals Manager and they were satisfied with the proposed changes. The construction of half width public road on the side of the development, is standard practice and in accordance with Council's current *Engineering Guidelines – Subdivision and Development Standards, 2008*. Boorga Road is noted in the guidelines as a distributor road to have a pavement width of 13m and McCarthy Road is a collector road, with a width 11m under the current standards. That may however alter as part of the current investigations for the contributions plan for infrastructure and DCP preparation.

- 5.4 Condition I (14) be deleted that requires the provision of a "Phase 2 Site Investigation report", as the developer understands this has been undertaken by Council.

It is understood that the intention for deleting this condition is because the report has already been completed by way of the *Limited Phase 2 Investigation "Bordignon Farm" 2 Smeeth Road, Lake Wyangan* prepared by Aitken Rowe in February 2016. Whilst it is noted that the completion of this report fulfils the obligation of that part of the condition requiring the report to be prepared, there is remaining components of the condition that are operational and ensure ongoing certainty of compliance with *State Environmental Planning Policy No.55 (Remediation of Land)*, now Chapter 4 of *State Environmental Planning Policy (Resilience & Hazards) 2021*.

In particular, condition I (14) states in part that "*Should identify that remediation is required then the site shall be remediated in accordance with the provisions of State Environmental Planning Policy No.55 (Remediation of Land)*" prior to the issuance of an *Occupation Certificate*". The Aitken Rowe report at Section 5 contains a number of recommendations for the site around further testing and management plan obligations.

Given that the existing conditions include ongoing requirements and obligations surrounding potential contamination, it is not recommended that the condition be deleted as requested. There remains an obligation for Council to be satisfied that the proposal will be consistent with SEPP Resilience & Hazards and removal of this condition is considered to be contrary to the provisions and objectives of SEPP Resilience & Hazards. The condition is to be amended to reflect the recommendations of that Aiken Rowe report.

- 5.5 In addition to the considerations of Condition I (14) it is understood that the 'validity' of the consent relies on this condition to remain an 'active' consent. Removal of this condition would as a result render the consent expired. It is therefore recommended that in addition to the matters raised in 5.4 above, that this condition not be deleted.

PART 3: CONCLUSION AND RECOMMENDATION

Division 6 - Conclusion

- 6.1 This application has been assessed under Section 4.55 of the Environmental Planning and Assessment Act, 1979 and it is considered that the proposed modification has merit and can be supported for the following reasons:
- (a) The modification is of minor environmental impact (viz. Section 4.55(1A)(a))
 - (b) The modification is considered to be substantially the same development.
 - (c) The modification has not been required to be notified in accordance with the provisions of the Act and regulations and that no submissions were received.

Division 7 - Recommendation

- 7.1 It is recommended that the Western Regional Planning Panel as the relevant consent authority determined pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979 to modify the previous Development Consent No: 137/2009(1) in the following way:

- (a) All conditions in Part I be modified to remove the wording **Construction Certificate for Civil Works** and replace with **Subdivision Works Certificate**

(modified on)

- (b) Insert new condition I (15) which reads:

Evidence of the completion, of the recommendations of the Aitken Rowe Testing Laboratories Pty Ltd "Limited Phase 2 Investigation" GS15-133, (submitted to Griffith City Council February 2016 as evidence of commencement) including remediation validation reports, be submitted to Council prior to the issue a Subdivision Works Certificate for Stage 1 of the subdivision.

(Inserted [insert date])

- (c) That condition "Condition M (23)" be deleted and replaced as follows:

"Fibre Ready Facilities

Prior to the issue of the Subdivision Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) *The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and*
- (ii) *The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier."*

(Modified on [insert date])

- (c) That "Condition M (5)" be deleted and replaced as follows:

(5) Prior to the lodgement of a Subdivision Certificate application for Stage 1 Boorga Road is to be widened from the intersection of Boorga Road and Smeeth Road to the south of the Main Avenue into the development. The eastern lane of the road is to be widened to a full constructed width of 6.5 m and the western travel lane is to be maintained at 3.75 m. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

(Modified on [insert date])

- (d) That "Condition M (8)" be deleted and replaced as follows:

(8) Prior to the lodgement of a Subdivision Certificate application for Stage 2 and 3, McCarthy Road is to be widened for the full frontage of the development. The northern lane of the road is to be widened to a full constructed width of 5.5 metres and the southern travel lane is to be maintained at 3 metres. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

(Modified on [insert date])

- (e) That condition "Condition M (26)" be deleted

ASSESSING OFFICER

| | | |
|-------------------|-------------------------|------------|
| Name: | Matthew Yeomans | Date |
| Position: | Consultant Town Planner | 05/07/2022 |
| Signature: | | |

REVIEWING OFFICER

| | | |
|-------------------|-------------------------|------------|
| Name: | David Hunter | 05/07/2022 |
| Position: | Consultant Town Planner | |
| Signature: | | |

**Council
OFFICER**

Reviewing

| | | |
|-------------------|---|------------------|
| Name: | Kerry Rourke | |
| Position: | Acting Development Assessment Coordinator | |
| Signature: | | 2 September 2022 |



DRAFT CONDITIONS OF CONSENT

Attachment 'A'

Part B - Administrative or General Conditions

This Part includes general background controls and minor administrative matters or procedures that ensure the development is clearly identified and specified.

(1) Approved Plans

The Development must be implemented substantially in accordance with Development Application No. 137/2009 received by Council on 21 May 2009 as amended 23 March 2021 and the below mentioned plans and/or documents, except where amended in red on the attached plans or modified by the conditions of this consent.

| Drawing No. or Document | Date Received by Council | Prepared or Drawn By |
|---|--------------------------|-----------------------|
| Lake Wyangan Residential Development for Subdivision of Lot 2 DP 1068127 and Lot 2 DP 1071622 Drawing 1/1 | 20 April 2010 | Griffith City Council |
| Statement of Environmental Effects | 20 April 2010 | GHD |
| Master Plan | 20 April 2010 | |

(modified date 2022)

(2) Scope of Consent

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate for building and engineering works. These Certificates can be issued either by Council or an appropriately qualified 'Accredited Certifier'. A separate application, complete with detailed plans and specifications, shall be submitted to Council for these Construction Certificates.

(3) Lapsing of Consent

This Consent is valid for a period of five years from the date of consent. It will lapse if the approved use of any land or construction work has not commenced prior to that date. No further extensions will be granted.

(4) This approval is for the subdivision of Lot 2 DP 1068127 and Lot 2 DP 1071622 into 184 residential lots, (one) 1 lot for the purpose of a park, two (2) lots for the purpose of

stormwater detention and one (1) residue lot and the creation of road; and associated infrastructure in three (3) stages. The stages being:

- (a) Stage 1 being the creation of 49 residential lots in the northern section of the site adjacent to the Boorga Road and Smeeth Road intersection.
- (b) Stage 2 being the creation 47 residential lots and the development of the recreational facilities.
- (c) Stage 3 being the development of the remaining residential lots.

No approval is given for the development of the residue lot (shown as hatched on the approved plan) and its use will be subject to a separate development application to Council.

Part C - Protection of the Environment

This part includes conditions that relate to control or management of impacts on the environment. It includes special requirements that may relate to protection and safety of residents or the wider community and special controls that do or may relate to interactions between the environment and the development.

- (1) Imported waste derived fill material
 - a. The only waste derived filled material that may be received at the development sit is:
 - i. Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997),
 - ii. Any other waste derived material the subject of resource recovery exemption under clause 51A of the Protection of the Environment Operations (waste) regulation 2005 that is permitted to be used as fill material.
 - b. Any waste derived material the subject of a resource recovery exception received at the development site must be accompanied by documentation as the material's compliance with the exception conditions and must be provided to Council on request.
- (2) No waste or refuse shall be burned on site. All building waste, excavated material, broken concrete, undergrowth, foliage, building refuse or the like, shall be removed from the site and disposed of at an approved waste management depot.
- (3) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.
- (4) A rehabilitation programme shall be implemented in conjunction with any landscape design on a progressive basis. The rehabilitation programme should be designed and implemented in conjunction with streetscape and green planning for the subject site and should include planting of local native species that will encourage local native wildlife to utilise the suburban and surrounding agricultural landscape (Note: the Assessment provides a table of suitable species to be used in the landscape design and these should be incorporated into the landscaping for the site). Details shall be submitted with the construction certificate for civil works.

Part I - Prior to the Issue of the Subdivision Works Certificate

If the development involves construction work (for example a building, road or stormwater drainage system for a subdivision), you will need a Subdivision Works Certificate issued either by Council or an Accredited Certifier before work can commence on your project. Before a Subdivision Works Certificate can be issued, you will have to satisfy the following conditions.

- (1) Control measures are to be utilised to improve the quality of stormwater entering the Lake Wyangan catchment and should be designed in accordance with the principles of Water Sensitive Urban Design. Details of the proposed method of stormwater quality improvements are to be submitted to Council for approval **prior to the lodgement of any Subdivision Works Certificate application.**

(Modified on)

- (2) Where swale drains and roadways are to be utilised as overland flow paths, design and calculations must be submitted to Council to demonstrate that the adopted profile is adequate for the desired waterway area based on a 1 in 100 year Average Recurrence Interval (ARI). Design details and calculations shall be submitted to Council for approval **prior to the lodgement of any Subdivision Works Certificate application.**

(Modified on)

- (3) Stormwater run off from the proposed development, up to and including the 1 in 100 year event, shall not be permitted to flow over the property boundaries onto the adjoining properties unless permitted through an easement or drainage reserve.

It must be proven by the developer that the downstream drainage system can cater for the 1 in 100 year stormwater runoff from the developed site (including cumulative effects from other areas within the catchment) or alternatively onsite detention may be required.

Design drawings of the stormwater system together with hydraulic calculations complying with *Council's Engineering Guidelines - Subdivisions and Development Standards December 2008* shall be submitted to Council for approval **prior to the lodgement of any Subdivision Works Certificate application.**

(Modified on)

- (4) The designs for pipelines, manholes, pump stations and other associated components normally associated with sewerage main installations are to conform to the standards prescribed in *Council's Engineering Guidelines for Subdivisions and Development Standards – December 2008*. A design of the reticulated sewerage system is to be submitted to Council and approved **prior to the lodgement of a Subdivision Works Certificate application for each stage.**

(Modified on)

- (5) The design of all new mains and other associated components normally associated with water main installations are to conform to *Council's Engineering Guidelines for Subdivisions - Development Standards December 2008*. Designs are to be submitted to Council and a **Subdivision Works Certificate** issued prior to work commencing.

(Modified on)

- (6) **Prior to the lodgement of a Subdivision Works Certificate for Stage 1** the proposed cul-de-sac in the northern corner of the development is to be relocated so that it is not located adjacent to Boorga Road. Amended design drawings are to be submitted to Council for approval and are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*, AUSTRROADS and the Roads and Traffic Authority's *Road Design Guide*.

(modified on)

- (7) **Prior to the lodgement of a Subdivision Works Certificate application** detailed design plans for the proposed round-a-bouts, centre medians, intersection treatments, footpaths and cycle ways shall be submitted to Council for approval. The requirements are to conform to Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*, AUSTRROADS and the Roads and Traffic Authority's *Road Design Guide*.

(Modified on)

- (8) **Prior to the lodgement of a Subdivision Works Certificate application** all internal roads are to be designed so as to comply with the standards as specified in *Council's Engineering Guidelines – Subdivisions and Development Standards December 2008*, Part 2 Roads Design, Table 1 – Road Standards for the Urban Street Specific to Griffith City.

(modified on)

- (9) A traffic control plan is to be submitted to Council **prior to the lodgement of a Subdivision Works Certificate application for each stage**. The plan should satisfy the provisions of Australian Standard 1742.3, for acceptance prior to the commencement of work. Strict compliance to the traffic control plan is to be maintained throughout the duration of the construction work.

(modified on)

- (10) **Prior to the lodgement of a Subdivision Works Certificate application for each stage** all design plans shall be prepared in accordance with *Council's Engineering Guidelines for Subdivisions and Development Standards – December 2008* and signed by a person, either holding qualifications acceptable for Corporate Membership of the Institution of Engineers, Australia, and/or accreditation by the Institution of Surveyors under the Survey Practice Accreditation Scheme for Subdivisional Civil Works 1996 (SPAS 1996).

Where no recognised Engineering or Surveying qualifications are provided, Council may give consideration to providing **limited** approval to submit plans and documentation, however this will be restricted to a case by case assessment.

(modified on)

- (11) An application for a Construction Certificate for Civil Works shall be submitted to Council and approved for the proposed road works, drainage, water & sewer for each proposed stage. Detailed engineering design plans shall be submitted and approved by Council and a **Subdivision Works Certificate is to be obtained prior to any works commencing**. Such plans shall include designs, calculations and specifications for all proposed works as required for acceptance and approval by Council. The requirements should conform to *Council's Engineering Guidelines for Subdivisions and Development Standards – December 2008*.

(modified on)

- (12) Murrumbidgee Irrigation's written approval for the subdivision, raw water supply and drainage should be submitted to Council **prior to the lodgement of a Subdivision Works Certificate application.**

(modified on)

- (13) The applicant is required to pay for all inspections carried out by Council's Engineers for construction of all water infrastructure, sewer infrastructure, drainage infrastructure, roadworks and landscaping. Payment must be paid for one hundred and twenty (120) inspections as per Council's current Revenue Policy **prior to the lodgement of a Subdivision Works Certificate application.** Any adjustments to the total amount must be paid in full **prior to the lodgement of the Subdivision Certificate application for Stage 3.**

(modified on)

- (14) **Prior to the lodgement of a Subdivision Works Certificate for Stage 1**, a Phase 2 Site investigation report is to be prepared in accordance with the provisions of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) and submitted to Council identifying any site contamination on the entire site and means to remediate the land to make it suitable for the proposed development.

Should the report identify that remediation is required then the site shall be remediated in accordance with the provisions of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) **prior to the issue of a Subdivision Certificate.**

(modified on)

- (15) Remediation and Validation Reports

Evidence of the completion, of the recommendations of the Aitken Rowe Testing Laboratories Pty Ltd "Limited Phase 2 Investigation" GS15-133, (submitted to Griffith City Council February 2016 as evidence of commencement) including remediation validation reports, be submitted to Council **prior to the issue a Subdivision Works Certificate for Stage 1** of the subdivision.

(Inserted [insert date])

Part J - Prior to Commencement of Work

There are a number of matters that need to be done before your project can physically commence. These are set out in the following conditions.

- (1) Appointment of Principal Certifying Authority

Site works are not to commence until the person having the benefit of the development consent has appointed a Principal Certifying Authority (PCA) (Note:- this can be Council or an Accredited Certifier) and has notified Council of the appointment. Should the applicant elect to nominate Council as the PCA it will be necessary to complete Form 7 and pay the required inspection fees.

An Accredited Certifier who has been appointed as a Principal Certifying Authority (PCA) must not be replaced, except with the approval of the relevant accreditation body. A

replacement PCA must ensure that notice of his or her appointment, together with the relevant Accreditation Body's approval of the appointment, is given to Council within 2 days of the appointment.

(2) Notice of Commencement of Work

At least 2 days written notice must be given to Council **prior to the commencement of any work** on the property.

(3) Notification of Commencement

A copy of Notification of PCA/Commencement of Work; and Occupation Certificate (enclosed) **must be completed and submitted to Council when the project is ready to proceed.**

(4) Roads Act Approval

Before work commences in Council's roads, plans and specifications are to be submitted to and approved by council under the Roads Act 1993. All works in Council's road are to be at no cost to Council.

(5) Weed Removal

To ensure that weeds are removed from the site in a site responsive manner, a detailed weed removal and management plan is to be provided to Council for approval by Council's Noxious Weeds Officer **prior to commencement of any works on site.** Details shall include but not be limited to the following:

- Method and timing of removal;
- Types of weeds to be removed;
- Ongoing management details; and
- Details of any proposed stabilisation works.

(6) All plant and equipment must be sterilised using appropriate methods prior to entering the subject site to ensure no foreign disease, soil or organic matter including seeds are transported into the subject site.

Part K - During Construction

The development will need to meet certain standards. The following conditions set out matters that need to be done during the construction or implementation process.

(1) Services such as electricity, telephone and natural gas are to be provided and common trenched in accordance with the Shared Trenching Agreement.

(2) The following works shall be inspected by Council Officers or Council Nominee during normal office hours:

- (i) Completion of form work, string lines etc prior to pouring of concrete;
- (ii) Placing of pipes in trenches prior to back filling;
- (iii) Testing of water and sewer mains;

- (iv) Completion of sub grade preparation before placing of pavement;
- (v) Completion of each pavement layer ready for density testing and proof rolling;
- (vi) Sealing of road works.

All requests for inspection are to be made to Council's Development Engineers.

Apart from these inspections various tests are to be conducted in conjunction with the works. Test guidelines and type of tests required are identified in Council's *Engineering Guidelines for Subdivisions and Development Standards December 2008*.

- (3) The applicant is to be responsible for all amplification, extension and adequate provision for connection to services at their own expense. The work is to be in accordance with Council's Engineering Guidelines for Subdivisions and Development Standards and relevant authorities specifications.
- (4) Effective dust/noise/erosion control measures are to be maintained during construction to maintain public safety/ amenity.
- (5) If any damage is occasioned to Council property during construction, the cost of repairs will be recoverable. It is therefore requested that any damage which is obvious before construction be immediately notified to Council to avoid later conflict.

(6) Hours of Work

All building, excavation and demolition work is to be carried out between 7:00am and 6 pm Monday to Saturday with no work to be undertaken on Sundays or Public Holidays. Variation to these times may be permitted on submission of a written request to Council indicating the date/s and time/s of the proposed work.

It is also recommended that you liaise with occupants of any surrounding dwellings prior to carrying out work outside these hours.

(7) Work Cover Authority

The developer is required to comply with any and all requirements of the NSW Work Cover Authority.

(8) Signage

To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:

- The statement "*Unauthorised access to the site is not permitted*".
- The names of the builder or another person responsible for the site along with an out of hours contact number.
- Lot or Street number.

(9) Workers Amenities

Before work starts, toilet facilities must be provided for construction personnel on the site on the basis of 1 toilet for every 20 workers. Amenities are to be installed and operated in an environmentally responsible and sanitary manner. Toilets cannot remain on site for any longer than 12 months, without the further approval of Council.

(10) Site to be kept neat and tidy during the construction phase

The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of Council. Suitable and effective builders' refuse and waste storage facilities are to be provided on the development site for the duration of the construction work.

(11) **Soil Erosion and Sedimentation Control**

To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. 'Site works' includes any service extension works or road and drainage works outside the property boundary.

This is to include the installation of a sediment fence with returned ends across the low side of the works. These shall be maintained at no less than 70% capacity at all times. All drains, gutter, roadways etc. shall be kept clean of sediment. Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving and re-vegetation.

Part M - Prior to Issue of the Subdivision Certificate

If all the conditions set out above have been satisfied, you may now submit your subdivision plans (prepared by a registered surveyor) to Council with an application for a subdivision certificate. Once the plan has been checked and signed by Council, it will be released for you or your selected consultant/solicitor to register with the Department of Lands Land Titles Office.

Before Council will release the plan, the following conditions need to be satisfied.

- (1) **Prior to the lodgement of a Subdivision Certificate application for each stage** the developer shall provide a reticulated sewerage system to service all created allotments in accordance with *Council's Engineering Guidelines for Subdivisions and Development Standards – December 2008*.
- (2) The developer is to provide a water service to each allotment within the development. Installation and location must be to Council's requirements. All works must be completed **prior to the lodgement of a Subdivision Certificate application for each stage**.
- (3) **Prior to the lodgement of a Subdivision Certificate application for each stage** the developer shall provide a reticulated potable water supply to all created allotments in accordance with *Council's Engineering Guidelines - Subdivisions and Development Standards December 2008*.
- (4) **Prior to the lodgement of a Subdivision Certificate application for Stage 1** road works will be required at the intersection of Boorga Road and the Main Avenue for the proposed development. As a minimum a Type "AUR" (Auxiliary lane Right turn) treatment is to apply to the intersection. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008* and the RTA's *Road Design Guide*.
- (5) ~~**Prior to the lodgement of a Subdivision Certificate application for Stage 1** Boorga Road is to be widened from the intersection of Boorga Road and Smeeth Road to the south of the Main Avenue into the development. The eastern lane of the road is to be widened to a full constructed width of 6.5 m and the western travel lane is to be maintained at 3.75 m. Design and details are to comply with Council's *Engineering Guidelines – Subdivisions and Development Standards December 2008*.~~

(Modified on [insert date])

- (5) **Prior to the lodgement of a Subdivision Certificate application for Stage 1** Boorga Road is to be widened from the intersection of Boorga Road and Smeeth Road to the south of the Main Avenue into the development. The eastern lane of the road is to be widened to a full constructed width of 6.5 m and the western travel lane is to be maintained at 3.75 m. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

(Modified on [insert date])

- (6) **Prior to the lodgement of a Subdivision Certificate application for Stage 1** kerb and gutter is to be constructed along the eastern side of Boorga Road for the full frontage of the development. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.
- (7) **Prior to the lodgement of a Subdivision Certificate application for Stage 2** road works will be required at the intersection of Boorga Road and McCarthy Road. As a minimum a Type "AUR" (Auxiliary lane Right turn) treatment is to apply to the intersection. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008* and the RTA's *Road Design Guide*.

- ~~(8) **Prior to the lodgement of a Subdivision Certificate application for Stage 2 and 3,** McCarthy Road is to be widened for the full frontage of the development. The northern lane of the road is to be widened to a full constructed width of 5.5 metres and the southern travel lane is to be maintained at 3 metres. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.~~

~~**(Modified on [insert date])**~~

- (8) **Prior to the lodgement of a Subdivision Certificate application for Stage 2 and 3,** McCarthy Road is to be widened for the full frontage of the development. The northern lane of the road is to be widened to a full constructed width of 5.5 metres and the southern travel lane is to be maintained at 3 metres. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

(Modified on [insert date])

- (9) **Prior to the lodgement of a Subdivision Certificate application for Stage 2 and 3,** kerb and gutter is to be constructed along the north-western side of McCarthy Road for the full frontage of each stage. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.
- (10) **Prior to the lodgement of a Subdivision Certificate application for each of the stages,** a footpath is to be constructed along the eastern side of Boorga Road and the north-western side of McCarthy Road for the full frontage of each stage. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.
- (11) **Prior to the lodgement of a Subdivision Certificate application for Stage 3,** crossing facilities for school children shall be provided across the Main Avenue of the development at suitable intervals. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.

- (12) **Prior to the lodgement of a Subdivision Certificate application for Stage 1**, the existing school bus drop off and pick up location from Boorga Road is to be relocated to a specifically designed and constructed bus bay on the new road adjacent to the northern boundary of the school. Design and details are to comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*.
- (13) **Prior to the lodgement of a Subdivision Certificate application for Stage 2**, an application shall make formal written application to Council's Traffic Engineer to apply for the speed limit along McCarthy road to be lowered for the full frontage of the development.
- (14) **Prior to the lodgement of a Subdivision Certificate application for Stage 2**, the curve on McCarthy Road shall be realigned and widened to Council's satisfaction. Design principals shall comply with Council's *Engineering Guidelines - Subdivisions and Development Standards December 2008*, AUSTRROADS and the Roads and Traffic Authority's *Road Design Guide*. This is due to the road being sub-standard and sight distance concerns for traffic using McCarthy Road.
- (15) Separate written application shall be made to Council requesting approval for naming of internal roads. Application will be made by Griffith City Council to the Geographical Names Board of New South Wales seeking approval for the road names, these approvals should be given **prior to the lodgement of a Subdivision Certificate application for Stage 1**.
- (16) **Prior to lodgement of the Subdivision Certificate** the applicant shall submit a list of park name(s) for consideration and approval by Council.
- (17) **Prior to the lodgement of the Subdivision Certificate application for each stage** provision is to be made for the installation of street lighting along the roadways and intersections in accordance with Australian Standard 1158 and any prescribed requirement of Country Energy. Details shall be submitted to Council for approval.
- (18) **Prior to the lodgement of a Subdivision Certificate application for each stage** all new internal roads should be 40mm Asphaltic Concrete (AC) with a primer seal applied prior to surfacing as specified in Council's *Engineering Guidelines for Subdivisions and Development Standards – December 2008*.
- (19) Works As Executed plans for approved Civil Engineering works are to be submitted to Council upon completion of the development **prior to the lodgement of a Subdivision Certificate application for each stage**. Works As Executed plans should conform to *Council's Engineering Guidelines for Subdivisions and Development Standards – December 2008*.
- (20) **Prior to the lodgement of a Subdivision Certificate application for each stage**, arrangements are to be made to provide a twelve (12) month maintenance period for engineering works. It is the applicant's responsibility to notify Council regarding the commencement and finish of the maintenance period and adequate arrangements are to be made regarding any relevant inspections required.

NOTE: If any of the above works are bonded, an extra five percent (5%) is to be included for maintenance purposes. In the case where works have been carried out, a five percent (5%) bond is to be submitted to Council for the works that need maintenance.
- (21) Suitable arrangements being made for the provision of natural gas reticulation to each lot. Documentary evidence from AGL is to be submitted to Council, **prior to the lodgement of**

a Subdivision Certificate application for each stage, confirming that satisfactory arrangements have been made for the provision of a natural gas service.

- (22) The subdivision must be provided with power to service each lot. Documentary evidence from Country Energy is to be submitted to Council, **prior to the lodgement of a Subdivision Certificate application for each stage**, confirming that satisfactory arrangements have been made for the provision of an adequate electricity supply.
- (23) ~~Suitable arrangements being made for the provision of telephone services to each lot. Documentary evidence from NBN Co is to be submitted to Council, **prior to the lodgement of a Subdivision Certificate application for each stage**, confirming that satisfactory arrangements have been made for the provision of an internet service.~~
- (23) Fibre Ready Facilities

Prior to the issue of the Subdivision Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (iii) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and
- (iv) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier."

(modified date 2022)

- (24) Section 94 Environmental Planning and Assessment Act 1979 - Community Facilities, Recreation and Open Space, Roads and Traffic Management

As a consequence of this development, Council has identified an increase in demand for Community Facilities, Recreation and Open Space Roads and Traffic Management. The contribution rate required for each item has been identified in the *Development Contributions Plan* prepared under Section 94 of the Environmental Planning and Assessment Act 1979. Copies of relevant plans may be viewed or purchased from Council's Customer Services Unit during normal business hours.

The amount payable at the time of issue of this consent is set out in the table below.

Table of Section 94 Contributions Required

| Type of Contribution | Precinct No. | Value per Tenement or Lot | Number of Tenements or Lots | Total Amount to be Paid |
|---|--------------|---------------------------|-----------------------------|-------------------------|
| Community Facilities | 4 | \$306.00 | 184 | \$56,304.00 |
| District Open Space and Recreation Facilities | 4 | \$1050.00 | 184 | \$193,200.00 |

| Type of Contribution | Precinct No. | Value per Tenement or Lot | Number of Tenements or Lots | Total Amount to be Paid |
|-----------------------------|--------------|---------------------------|-----------------------------|-------------------------|
| Road and Traffic Management | Residential | \$680.00 | 184 | \$125,120.00 |
| Total | | | | \$374,624.00 |

The total amount payable will be subject to review in accordance with Council's Revenue Policy current at the time of payment.

The contribution is to be paid **prior to the lodgement of the Subdivision Certificate** unless other arrangements acceptable to Council are made.

Payment is to be in the form of cash or bank cheque. Where bonding is accepted a bank guarantee is required.

NB: The hatched lot indicated on the approved plans has not been nominated for a particular use. This residue lot has not been included for the purpose of calculating Section 94 contributions.

(25) S64 Local Government Act 1993 – Water Supply and Sewerage

Pursuant to Section 64 of the *Local Government Act 1993* and the *Water Management Act 2000*, the applicant is required to apply to Council for a Compliance Certificate under the provisions of S305 of the *Water Management Act 2000*. Council shall issue a certificate of compliance pursuant to S307 of this Act upon the applicant making a payment in accordance with S306 of this Act. The amount payable at the time of issue of this consent is set out in the table below.

Table of Contributions Required – Water, Sewerage and Drainage

| Type of Contribution | Precinct Location | Amount per Tenement or Lot | Number of Tenements or Lots | Total Amount to be Paid |
|------------------------|-------------------|----------------------------|-----------------------------|-------------------------|
| Water Supply Headworks | DSP 1 | \$3,295.00 | 184 | \$606,280.00 |
| Sewerage Headworks. | DSP 1 | \$1903.00 | 184 | \$350,152.00 |
| Totals | | | | \$956, 432.00 |

The total amount payable will be subject to review in accordance with Council's Revenue Policy current at the time of payment.

The contribution is to be paid **prior to the lodgement of the Subdivision Certificate** unless other arrangements acceptable to Council are made.

The contribution is exclusive of the fees for the connection of water services to the individual allotments. Payment is to be in the form of cash or bank cheque. Where bonding is accepted a bank guarantee is required.

NB: The hatched lot indicated on the approved plans has not been nominated for a particular use. This residue lot has not been included for the purpose of calculating Section 64 contributions.

(26) ~~Water Allocation Transfer~~

~~The applicant is to arrange for the transfer to Council of a water allocation of 166ML (0.6ML per tenement plus 20ML per hectare of open space). Documentary evidence of the transfer~~

~~must be submitted to Council prior to the issue of the Subdivision Certificate for subdivision works.~~

~~The contribution is exclusive of the fees for the connection of water services to the individual allotments.~~

~~NB: The hatched lot indicated on the approved plans has not been nominated for a particular use. The residue lot has not been included for the purpose of calculating the water allocation transfer.~~

(Deleted on [insert date])

- (27) Easements are to be provided over all utility services (eg water, sewer, drainage, electricity etc). This requirement shall be reflected in an 88B Instrument pursuant to the Conveyancing Act to be submitted to Council for approval **prior to the lodgement of a Subdivision Certificate application for each stage.**
- (28) To ensure the adequate provision of stormwater design/disposal throughout the development and from surrounding allotments, easements pursuant to Section 88B of the Conveyancing Act shall be created where stormwater crosses over property boundaries **prior to the lodgement of a Subdivision Certificate application for each stage.** Matters to be addressed in the instrument should include the width and location of the easements. This is for the purpose of identifying and protecting the drainage infrastructure.
- (29) Easements pursuant to Section 88B of the Conveyance Act are required over all gravity sewer and pressure sewer rising mains and must be shown on the final plans of subdivision **prior to the lodgement of a Subdivision Certificate application for each stage.** Matters to be addressed in the instrument should include the width and location of the easements. This is for the purpose of identifying and protecting the sewer infrastructure.
- (30) Noise Attenuation - 88B Instrument

A restriction-as-to-user shall be placed on all lots, pursuant to Section 88B of the Conveyancing Act, 1919 requiring any future dwelling to be provided with noise attenuation measures so as to minimise the impacts from existing frost fans on nearby farms.

The 88B Instrument shall also contain a provision that it may not be extinguished or altered except by Griffith City Council.

- (31) Disconnection of Tile Drainage System
- Prior to the lodgement of the Subdivision Certificate,** documentation shall be submitted to Council confirming Murrumbidgee Irrigation's requirements for the existing tile drainage system to either remain or be removed or isolated.
- Should Murrumbidgee Irrigation require the tile drainage system to remain, an easement shall be created in accordance with Section 88 of the *Conveyancing Act 1919*, to burden the proposed lots. Matters to be addressed in the instrument shall include the width and location of the easement.
- Should Murrumbidgee Irrigation require the tile drainage system to be made redundant, the tile drainage shall be either removed or disconnected to the satisfaction of Murrumbidgee Irrigation.

- (32) To minimise the risk of salt damage on building materials used in construction all proposed dwellings and buildings are to comply with Council's Building in a Saline Environment Booklet. This requirement is to be placed on a Section 88E Instrument for all new allotments prior to the lodgement of the Subdivision Certificate application.
- (33) **Prior to lodgement of the Subdivision Certificate Application**, provide Council subdivision plans incorporating a vegetated buffer between adjacent agricultural land so the impact of agriculture spray drift on amenity and health is avoided. The buffers are to be planted along the south-western boundary of the site adjacent to McCarthy Rd and along the north-eastern boundary of the development.
- (34) Should Condition I(14) identify that remediation in accordance with the provisions of State Environmental Planning Policy No.55 - Remediation of Land (SEPP 55) is required then the applicant shall:
- (a) Within 30 days after the completion of the remediation works, provide a notice of completion, including a validation and/or monitoring report is to be submitted to Council. This notice must be consistent with clause 18 of SEPP 55.

The validation and/or monitoring report is to be independently audited and a Site Audit Statement issued. The audit is to be carried out by an independent auditor accredited by the New South Wales Environment Protection Authority. Any conditions recorded on the Site Audit Statement are to be complied with prior to the lodgement of the Subdivision Certificate application.

(35) Subdivision Certificate

An application for a subdivision certificate is required on completion of all conditions of Development Consent. The application is to be lodged with and approved by Council as the consent authority. The application should include the original plan of subdivision plus six (6) copies.

Part N - Demolition Management

This section relates specifically to demolition. It provides conditions designed to address the complex matters associated with demolition (eg. asbestos removal).

(1) Removal of Hazardous Waste

Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).

- Only competent persons, or competent and registered persons shall carry out removal.
- Removal of asbestos or materials containing asbestos fibres, shall be in accordance with the National Occupational Health and Safety Commission code of practice.
- All demolition works and asbestos handling/removal is to be carried out in accordance with NSW WorkCover requirements.
- Precautions to be observed and procedures to be adopted during the removal of dangerous or hazardous materials other than asbestos, shall be in accordance with the relevant State regulations pertaining to those materials.

Note V - Advisory Notes

These notes and schedules are provided for advisory purposes only. They do not form part of the consent and are not conditions that need to be satisfied at any stage of this development nor of its on-going operation.

You should study these advices and take special note if they apply to your development or any associated activities.

- (1) It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.