

AUTHORISED OFFICERS REPORT

DEVELOPMENT APPLICATION: 10.2024.45.1
NSW PLANNING PORTAL PAN-398428
FOR: Alterations and Additions Agricultural Development to Increase Tonne Production Annually
ZONE: RU1 Primary Production
ADDRESS: 580 Swan Hill Road, Murray Downs NSW 2734
PROPERTY Lot 3 in DP238154
OWNER: Murray Downs Processing Pty Ltd
APPLICANT: Progressive Rural Solutions Pty

Section 1: Introduction

1.1 Subject Land

Progressive Rural Solutions Pty Ltd lodged a Development Application for alterations and additions to Rural Industry on land formally described as Lot 3 in DP238154, addressed as 580 Swan Hill Road, Murray Downs NSW 2734 on 5 March 2024. To increase the tonne production annually from the existing development approval (DA 10.2022.348.1) from a maximum of 30,000t Almond hulling and shelling to 140,000t.

The site subject to this Development Application (DA) is comprised of a single allotment, regular in shape with 348.87 ha in the total site area and features a rear lot reconfiguration. Onsite access is facilitated by the provision of an information local road network, unsealed and from Swan Hill Road. Following a review of the aerial photographs for the site, vegetation is scarce on the property and arranged in a random cluster within the rear portion of the site. **Figure 1** provides an aerial photograph extract that depicts the subject site.



Figure 1 – Site Aerial Photograph Extract (Spatial Viewer, 2024)

The site is not mapped as containing Bush Fire Prone Land, Flood Prone Land, Terrestrial Biodiversity (Native Vegetation), Key Fish Habitat (Aquatic Biodiversity), Wetlands, RAMSAR Wetlands, a Watercourse, Urban Release Area, mining resources or

contaminated land following a review of the Spatial Viewer. Further, the site is not identified as containing known items of environmental heritage significance.

Pursuant to the *Wakool Local Environmental Plan 2013* (LEP), the site is contained within zone RU1 Primary Production. **Figure 2** provides an extract of the LEP zoning map to detail the site zoning including the immediate surrounding areas.

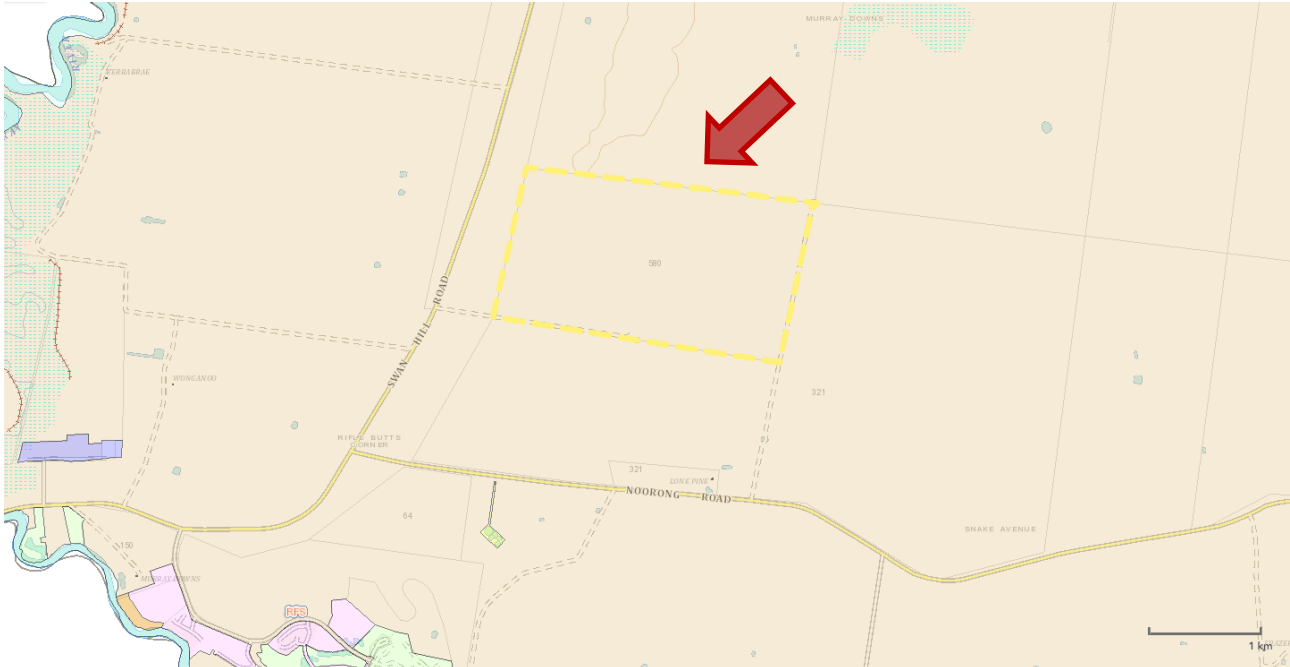


Figure 2 – LEP Zoning Map Extract (Spatial Viewer, 2024)

1.2 Commentary

The proposed development seeks to increase the production capacity of the Rural Industry from 30,000t, under the existing Development Consent (reference: DA 10.2022.348.1), to 140,000t annually. As per the lodgement material, construction and earthworks are not proposed to facilitate development. It is noted that the site works, and preparation have been completed as part of existing Development Approval over the site. The activities required to intensify the existing approval mainly relate to the provision of additional plant equipment within the approved building footprint. **Figure 3** to **4** provides an extract from the approved development plans.

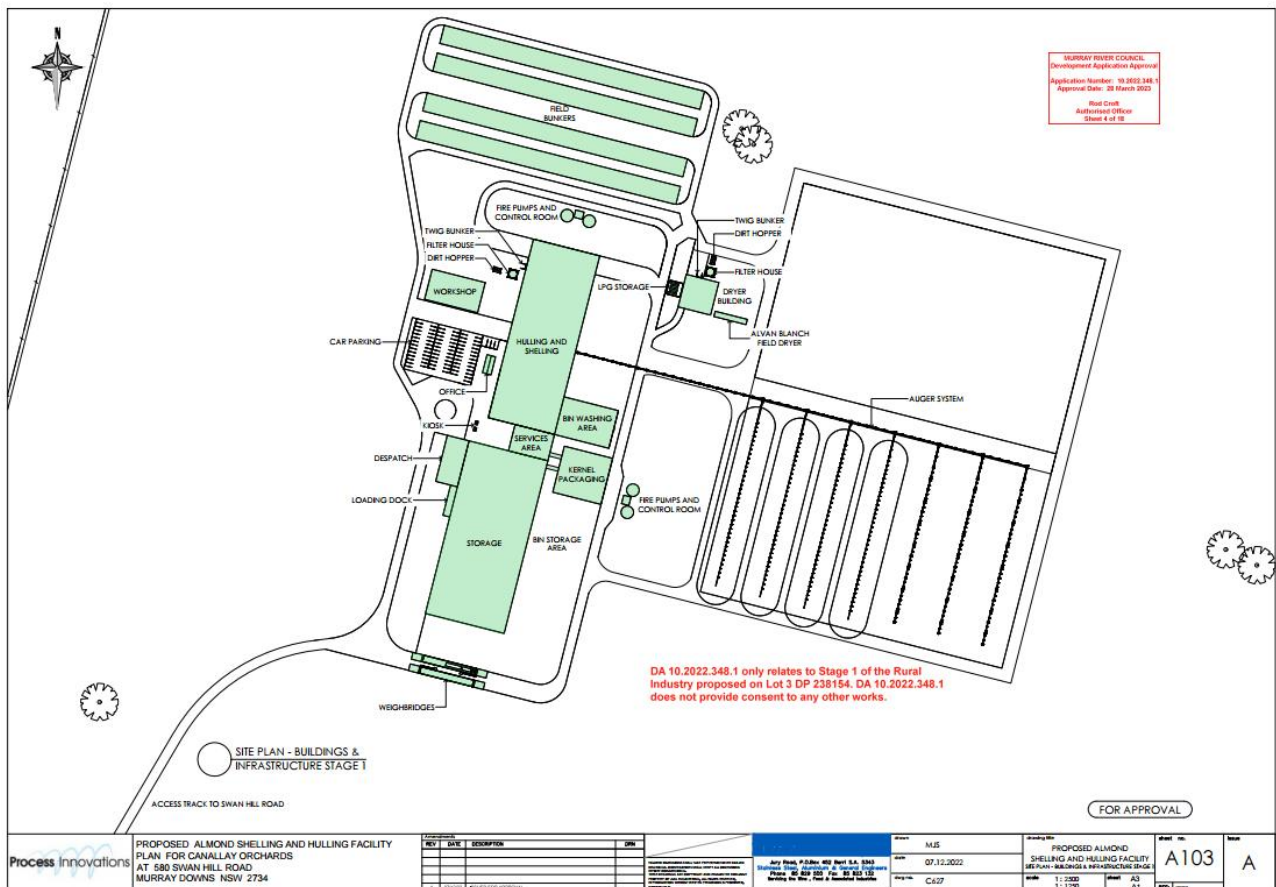


Figure 3 – Approved Development Site Plan (JMA Engineering, 2024)

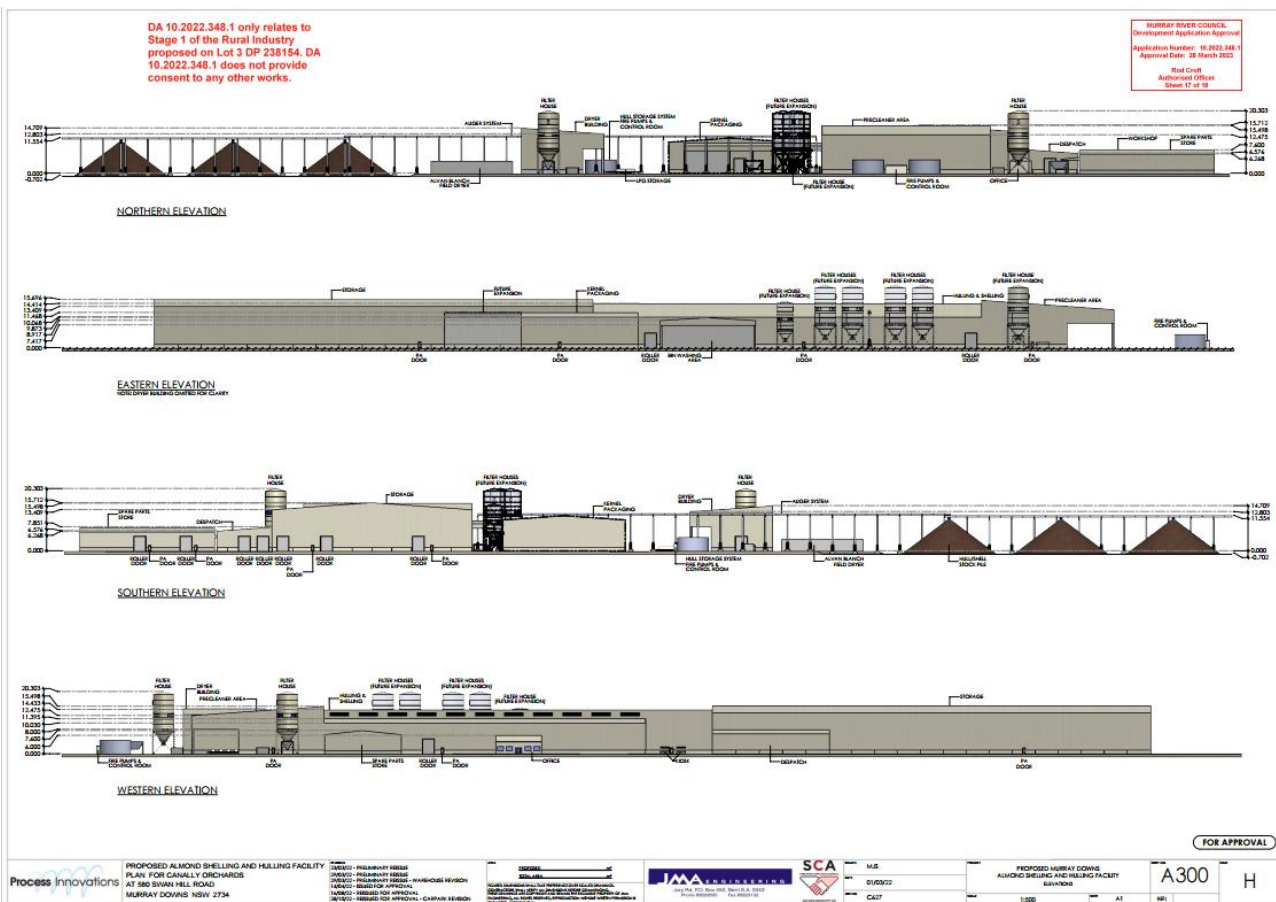


Figure 4 – Approved Development Elevation Plan (JMA Engineering, 2024)

In contrast, an extract of the current proposed development plans is provided in Figures 5 to 7 to overview the development.

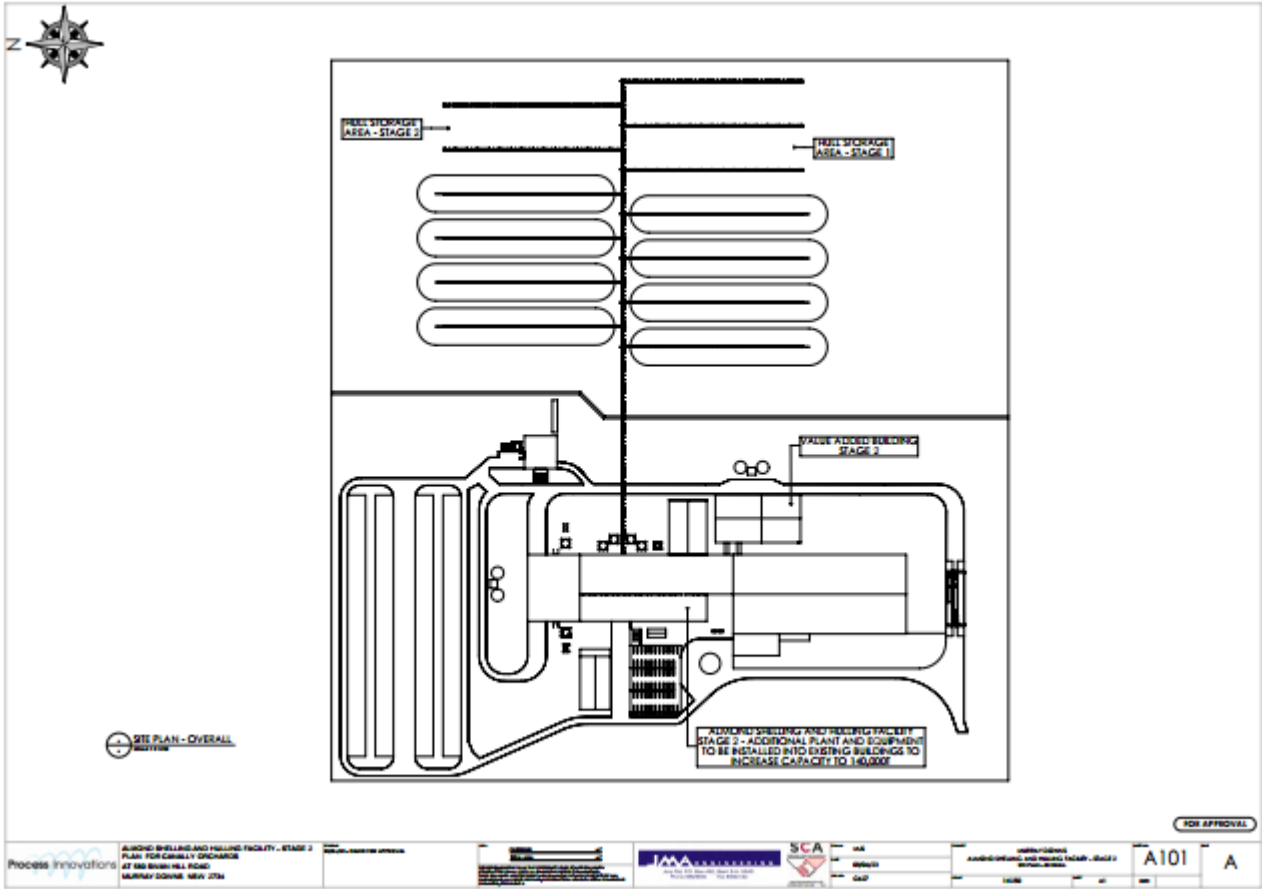


Figure 5 – Proposed development Site Plan (JMA Engineering, 2024)

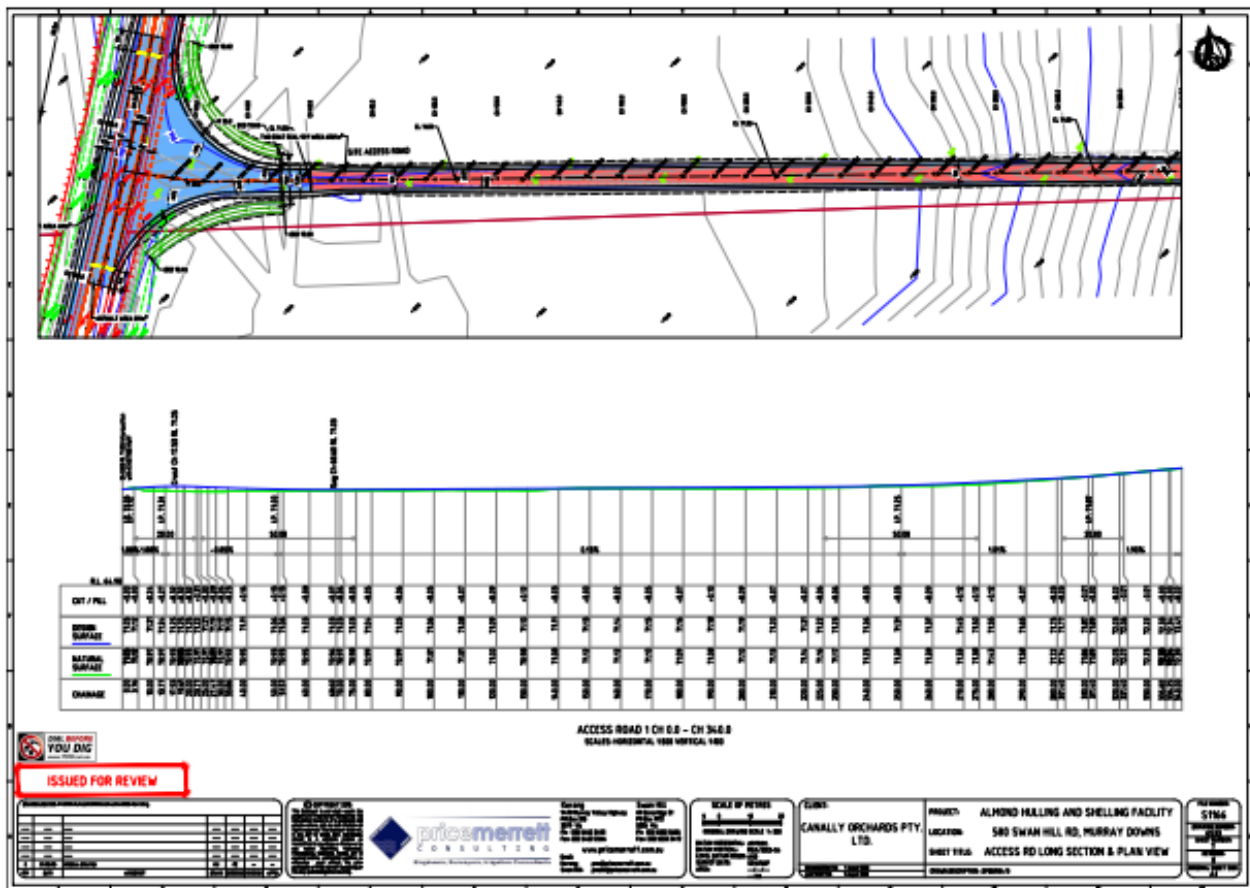


Figure 6 – Proposed development Site Plan (Price Merrett Consulting, 2024)



Figure 7 – Proposed Elevation Plan (JMA Engineering, 2024)

Section 2: Statutory Assessment Process

2.1 Environmental Planning and Assessment Act 1979

Section 1.3 Objects

Comment: The proposed development is not inconsistent with the objects of the Act by maintaining the economic welfare of the community and promoting orderly and economic use and development of the land. Further, the environmental impact considerations under the original Development Approval are maintained by the development and worsening impacts are not envisaged based on the scope of work which is wholly contained within the approved building floor plan.

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

Comment: The site is not mapped as containing biodiversity values following a review of the Biodiversity Threshold Tool. Similarly, the site is not proximate to a waterbody that requires assessment under the *Fish Management Act 1994*. It is therefore considered that the proposal is not inconsistent with the relevant provisions of the *Biodiversity Conservation Act 2016* and the *Fisheries Management Act 1994* do not apply to the site.

Section 4.14 Consultation and development consent—certain bush fire prone land

Comment: Not applicable. The site is not mapped as Bush Fire Prone Land.

Section 4.15 Evaluation

Comment: This report provides the necessary review and evaluation of the development application. See below.

Section 4.46 What is “integrated development”?

The application is classed as Integrated Development with NSW EPA.

2.2 Chronology of events and public notification and statutory referral process.

The below table provides an overview of the timeline with respect to the lodgement and assessment of the application.

Application history/timeline

Application lodged	5 March 2024
DA Panel	Regional Planning Panel
Neighbour Notification	Completed alongside the public exhibition, with submissions closing 15 May 2024. No submissions received.
Further information requested	<ul style="list-style-type: none">- 1 May 2024 (Trade Waste matter)- 3 June 2024 (Hazard and Transportation matters)
Further information received	<ul style="list-style-type: none">- 1 May 2024 (Trade Waste matter resolved)- 30 July 2024 (Hazards and Transportation matters)<ul style="list-style-type: none">o Hazards matter resolved, 31 October 2024; ando Transportation matter resolved, 21 February 2025.

Site Inspection	<ul style="list-style-type: none"> - Unknown (for assessing planner) - 12 February 2025 (Council reviewer)
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2.3 Referrals and Owners Consent

Internal Referrals	Infrastructure Department Building Team Waste Team Parks and gardens team
External Referrals	Integrated Development with EPA Concurrence required SEPP (Transport and Infrastructure) 2021 – TfNSW responded on 6 May 2024 and raised no objection. Comments were provided for the Councils consideration. Essential Energy provided a response on 8 May 2024 and provided no comments as to potential safety risks arising from the proposed development. DPHI Hazards provided final response on 31 October 2024 resolving the operation was not hazardous and confirming dust explosion impact unlikely to be beyond the site boundaries. Regional Development General Referrals
Public Exhibition	The proposed development was publicly exhibited in accordance with the Integrated Development Council's DCP requirements. The exhibition period was 12 April 2024 to 15 May 2024. No submissions were received.
Owners Consent	Provided.

2.4 Contributions

Section 7.11 (formerly Section 94) Development Contributions are not triggered by the proposed development.

In contrast, section 7.12 (formerly Section 94A) Levy Development Contributions are required.

It is noted that the application is associated with a request dated, 23 December 2023 to waive the contributions applicable to the proposed development. The matter was heard at the Ordinary Council Meeting dated 26 March 2024. In which the Council resolved that full development contributions i.e. \$439,492.00 shall apply under the Development Contributions Plan 2011. Resolution 170324.

Section 64 contributions are not triggered by the proposed development.

Section 3: Town Planning Assessment

Assessment of the development application has been undertaken with respect to relevant considerations arising from Section 4.15 of the *Environmental Planning and Assessment Act 1979* as follows:

3.1 Section 4.15 Evaluation

(1) *Matters for consideration-general*

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) 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, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) (Repealed)*
that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

Matters for consideration

3.2(a) the provisions

3.2(a)(i) Environmental Planning Instruments

3.2(a)(i) Wakool Local Environmental Plan 2013

Part 1 Preliminary

1.2 Aims of Plan

Comment: The proposed development is consistent with the aims of the Wakool LEP 2013 as outlined previously, by providing appropriate development within the locality.

1.9A Suspension of covenants, agreements and instruments

Comment: The lodgement material does not indicate the suspension of covenants, agreements and instruments to facilitate the proposed extension.

Part 2 Permitted or prohibited development

2.3 Zone Objectives and Land Use Table (development permissibility)

Zone RU1 Primary Production

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Comment: The proposed development is consistent with the objectives of the zone and seeks to intensify an approved Rural Industry use over the site.

Permissibility

Comment: The application is for Rural Industry, which is permitted with consent in the zone.

2.6 Subdivision—consent requirements

Comment: Not applicable.

2.7 Demolition requires development consent

Comment: Not applicable.

2.8 Temporary use of land

Comment: Not applicable.

Part 3 Exempt and complying development

Comment: Not applicable. The proposed development cannot be classed as exempt or complying development as it is made assessable development under the LEP and is Integrated and Designated Development.

Part 4 Principal development standards

4.1 Minimum subdivision lot size

Comment: Not applicable.

4.1AA Minimum subdivision lot size for community title schemes

Comment: Not applicable

4.1A Minimum subdivision lot size for strata plan schemes in certain rural and conservation zones

Comment: Not applicable

4.1B Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Comment: Not applicable.

4.2 Rural Subdivision

Comment: Not applicable.

4.2A Erection of dwelling houses on land in certain rural and conservation zones

Comment: Not applicable.

4.2B Subdivision for the purposes of intensive plant agriculture

Comment: Not applicable.

4.3 Height of buildings

Not adopted.

4.4 Floor space ratio

Not adopted.

4.5 Calculation of floor space ratio and site area

Not adopted.

4.6 Exceptions to development standards

Comment: Not applicable.

Part 5 Miscellaneous provisions

5.3 Development near zone boundaries

Comment: Not applicable.

5.4 Controls relating to miscellaneous permissible uses

Comment: Not applicable.

5.10 Heritage conservation

Comment: The site does not contain any known items of Environmental Heritage Significance following a review of the Spatial Viewer. It is the responsibility of the Applicant to ensure compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. Any consent issued will contain the standard condition regarding the protection of Aboriginal Cultural Heritage.

5.13 Eco-tourist facilities

Comment: Not applicable.

5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

Comment: Not applicable.

5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations

Comment: Not applicable.

5.18 Intensive livestock agriculture

Comment: Not applicable.

5.20 Standards that cannot be used to refuse consent—playing and performing music

Comment: Not applicable.

5.21 Flood planning

Comment: Not applicable. The subject land is not within the flood planning area or identified as flood-prone land.

5.22 Special flood considerations

Comment: Not adopted.

5.23 Public bushland

Not adopted.

5.24 Farm stay accommodation

Comment: Not applicable.

5.25 Farm gate premises

Comment: Not applicable.

Part 6 Additional local provisions

6.1 Earthworks

Comment: As per the lodgement application material, earthworks are not proposed to facilitate the intensification of the existing use. Earthworks have been completed under the existing Development Approval.

6.2 Repealed

Not adopted.

6.3 Terrestrial biodiversity

Comment: Not applicable. The state biodiversity mapping does not cover the subject site.

6.4 Riparian land and watercourses

Comment: Not applicable. The proposed development is not occurring on a riparian land.

6.5 Wetlands

Comment: Not applicable. The subject land is not mapped as a wetland.

6.6 Development on river front areas

Comment: Not applicable. The subject land is not classed as a riverfront area.

6.7 Development on river beds and banks

Comment: Not applicable. The proposed development is not occurring on the riverbed or bank of the Murray or Wakool Rivers.

6.8 Essential services

Comment: Complies. Adequate provisions will be made by the Applicant for water, stormwater and wastewater management, electricity infrastructure and suitable vehicular access.

3.2(a)(i) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Vegetation in non-rural areas

Comment: Not applicable.

Chapter 3 Koala habitat protection 2020

Comment: Not applicable. The subject land is not considered to be a core koala habitat or potential koala habitat for a review of the Biodiversity Threshold Map.

Chapter 4 Koala habitat protection 2021

Comment: Not applicable. The site is zoned RU1 Primary Production.

Chapter 5 River Murray lands

Comment: Not applicable. The subject site is not mapped as 'River Murray land' within the State Environmental Planning Policy (Biodiversity and Conservation) 2021 and does not meet the River Murray definition.

Part 5.3 Planning requirements and consultation

5.12 Planning Control and Consultation Table

Comment: The application was not required to be referred under this Chapter.

5.13 Building setbacks—special provisions

Comment: The site is not identified as River Murray Lands.

Chapter 6 Water catchments

Comment: Not applicable to Murray River Council.

Chapters 7-12 (Repealed)

Comment: Not applicable.

Chapter 13 Strategic conservation planning

Comment: Not applicable to Murray River Council.

3.2(a)(i) State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Standards for residential development—BASIX

Comment: Not applicable. The proposal seeks an intensification of Rural Industry use.

Chapter 3 Standards for non-residential development

Comment: Not applicable. The proposal is an intensification of Rural Industry Use.

Chapter 4 Miscellaneous

Comment: Noted.

3.2(a)(i) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Comment: The proposed development cannot be classed as exempt or complying development as it does not meet all development controls and is categorised as Integrated and Designated Development.

3.2(a)(i) State Environmental Planning Policy (Housing) 2021

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Industry and Employment) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 3 Advertising and signage

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Planning Systems) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 State and regional development

Part 2.2 State significant development

Comment: Not applicable. As per the lodged application material, the Applicant sought advice from the Department of Planning and Environment on the State Significance of the proposal. Confirmation was received from the Department which advised that the proposal is not categorised as State Significant Development.

Part 2.4 Regionally significant development

Comment: Pursuant to Schedule 6, the development is categorised as a Regionally Significant Development given the estimated development cost of more than \$30 million.

Chapter 3 Aboriginal land

Comment: Not applicable to Murray River Council.

Chapter 4 Concurrences and consents

Comment: Proposed development is categorised as a Regionally Significant Development. Concurrence Agency response has been sought for the application as per the relevant provisions of the Act. Should the Concurrence Agency responses not be received within the relevant period, the Planning Secretary may elect to act in the place of the relevant agency.

3.2(a)(i) State Environmental Planning Policy (Primary Production) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Primary production and rural development

Part 2.1 Preliminary

Comment: Noted.

Part 2.2 State significant agricultural land

Comment: Not applicable.

Part 2.3 Farm dams and other small-scale and low risk artificial waterbodies

Comment: Not applicable.

Part 2.4 Livestock industries

Comment: Not applicable.

Part 2.5 Sustainable aquaculture

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Coastal Management

Comment: Not applicable.

Chapter 3 Hazardous and offensive development

Part 3.1 Preliminary

Comment: The proposal is not inconsistent with the requirements of this Part. Specifically, the development is not associated with hazardous or offensive components as per the lodged application material.

Part 2 Hazardous or offensive development

Comment: The proposal is not inconsistent with the requirements of this Part. As per the lodged application material, the development is not associated with hazardous or offensive components.

Part 3 Potentially hazardous or potentially offensive development

Comment: The proposal is not inconsistent with the requirements of this Part.

Chapter 4 Remediation of land

4.1 Object of this Chapter

Comment: Noted.

4.6 Contamination and remediation to be considered in determining development application

Comment: The subject land is not listed on Council's Contaminated Land Register. Notwithstanding this, it is noted that the current and historic use of the premises is for rural production uses. In accordance with the requirements of this Policy, it is considered that the land is suitable in its current state for the purpose for which the development is proposed to be carried out. As additional works are not proposed beyond the approved building footprint.

3.2(a)(i) State Environmental Planning Policy (Resources and Energy) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Mining, petroleum production and extractive industries

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Infrastructure

2.122 Traffic-generating development

Comment: The proposed development is categorized as a traffic-generating development based on the proposed use for Rural Industry and size that exceeds 20,000 sqm. As per clause 2.122 (4), a written notice has been given to TfNSW after the lodgement of the application. Additionally, road extension works are maintained as per the approved development plans to improve the efficiency of the movement of people and freight to and

from the site. Similarly, the use is proposed to be operated from 7 am to 7 pm; and 7 pm to 7 am which is considered to maximise movement of freight in containers.

Further, the application is supported by a Traffic Impact Assessment (TIA) prepared by Trafficworks Pty Ltd which demonstrated that traffic-related reasons would not prevent the development from occurring subject to the recommendations. Specifically, the TIA demonstrated that the proposal satisfies the parking requirements and recommendations were made for the construction of Swan Hill Road to ensure simultaneous ingress and egress for B-triples.

Submissions have not been received from the RMS during the assessment of the application.

Chapter 3 Educational establishments and child care facilities

Comment: Not applicable.

3.2(a)(ii) Proposed instruments

Comment: No relevant proposed instruments apply to the site.

3.2(a)(iii) Any development control plan

Comment: Wakool Shire Development Control Plan 2013 applies to the proposal.

A Introduction

Comment: Noted.

B Land Use Types

B.2 Industrial & Higher Impact Uses

Comment: Assessment against the relevant provisions for industrial and high-impact uses is provided below.

Subchapter	Objectives	Controls	Comment
B.2.1 Site Planning	Consistent	Consistent	As per the lodgement material, the original site planning considerations have been maintained by the development.
B.2.2 Site Selection & Land Use Conflict	Consistent	Consistent	The development seeks an extension of the approved Rural Industry use over the site and the site selection and land use conflict consideration are deemed to be maintained by the proposal as per the existing Development Approval.
B.2.3 Building setbacks	Consistent	Consistent	The development proposes a front boundary setback of 234m, a side boundary setback of 358 (south) and 435m (north), and a rear boundary setback of 1474m which complies with the controls for building setbacks.
B.2.4 Building Articulation, Design & Materials	Consistent	Consistent	The site is approximately 342.97 hectares in total and the development proposes a GFA of 25,164 sqm (2.52 hectares) over the site. As per the proposed development plans, building articulation, design and finished building material

			considerations are maintained as per the existing Development Approval.
B.2.5 Access & Parking	Consistent	Consistent	<p>As per the lodge application material, all access parking and road upgrades are maintained as per the current approval. It is recommended that a condition be imposed to ensure ongoing compliance.</p> <p>Car parking areas are setback 283m from the front property boundary.</p> <p>Landscaping is proposed along the front property boundary and is comprised of screen planting. As such, although the car parking is located in front of the building line, adverse amenity impacts are not envisaged for the proposal based on the proposed setback and screen planting.</p> <p>Further, the lodgement material includes a TIA which demonstrates that the proposed development is not considered to result in a worsening outcome for traffic.</p>
B.2.6 Outdoor Lighting, Advertising & Signage	N/A	N/A	The proposed development plans do not illustrate outdoor lighting, advertising or signage. It is recommended that a condition be imposed to ensure outdoor lighting provisions comply with the relevant standards.
B.2.7 Outdoor Storage Areas	Consistent	Consistent	Outdoor storage is proposed and comprised of stockpile areas which are located within the rear portions of the site and building line as per the proposed development plans. Given the proposed setback and screen planting, it is considered that outdoor storage areas are adequately screened. Additionally, the existing approval over the site includes earthworks for cut and fill. As such, it is considered that the outdoor storage areas are suitably surfaced and drained.
B.2.8 Fencing	N/A	N/A	The proposed development plans do not illustrate the provision of fencing along the road frontage and in front of the building line facing the street network.
B.2.9 Landscape & Tree Preservation	Consistent	Consistent	As part of the lodgement material, the Applicant provided a landscaping plan that included plant species for consideration.

			<p>The proposed plans illustrate landscaping provisions along the front property boundary and the driveway. Including foot traffic, car parking areas and building entrances.</p> <p>open storage areas, car parks, loading docks, garbage storage areas including other unsightly components associated with the proposed development are screened by the proposed landscaping plan.</p>
B.2.10 Utilities	Consistent	Consistent	<p>The site is associated with an existing approval for Rural Industries. Following the lodged application material, the development is not proposed to connect to reticulated water and sewer infrastructure. A potable water and onsite sewerage management system is proposed to service the proposed development.</p> <p>As per the lodgement material, stormwater runoff is proposed to be captured in a stormwater drainage and detention system comprised of tanks and a stormwater dam. Further, it is noted that construction activity with soil disturbance potential is not proposed as part of this development.</p>

B.4 Agricultural Uses

Comment: Assessment against the relevant provisions for agricultural uses is provided below.

Subchapter	Objectives	Controls	Comment
B.4.1 Site Planning	Consistent	Consistent	Addressed above
B.4.2 Higher Impact Uses & Guidelines	Consistent	Consistent	The development complies with the relevant controls for industrial uses in section B2 – Industrial Uses and is not associated with an agricultural activity being conducted on the subject site.
B.4.3 Water	Consistent	Consistent	As per the lodged application material, changes are not proposed to water consideration to service the development.
B.4.4 Environment	Consistent	Consistent	It is noted that the proposed development is wholly contained within the approved building footprint as per the existing Development Approval over the site.
B.4.5 Chemical & Waste	Consistent	Consistent	Noted

Section C

Comment: Assessment against the relevant provisions under section C is provided below.

C Site-Specific Controls			
C.1 Natural Environment			
Subchapter	Objectives	Controls	Comment
B.1.1 Significant Vegetation & Biodiversity	N/A	N/A	As per the Biodiversity Values Maps and Threshold Tool, the site is not mapped as containing significant vegetation and biodiversity. Additionally, the development does not propose to increase the approved building footprint.
B.1.2 Watercourse & Wetlands	N/A	N/A	Following a review of the Spatial Viewer, the site is not mapped as containing a watercourse or wetlands.
B.1.3 Groundwater	Consistent	Consistent	Impacts on groundwater are not envisaged. As per the lodgement material, the development is not associated with additional cut and fill and is wholly contained within the approved building footprint. Further, onsite stormwater management infrastructure is proposed and comprised of channels, storage tanks and dams for stormwater.
B.2 Hazards			
B.2.1 Geology & Salinity	Consistent	Consistent	Geology and salinity considerations are maintained as per the existing approval and the development does not propose additional cut and fill. In this regard, it is considered unnecessary to provide a Geo-Technical Report.
B.2.2 Contamination & Pollution	Consistent	Consistent	Contamination and pollution considerations are addressed as part of the original Development Approval over the site. Additionally, the proposed development does not seek to increase the approved building footprint as per the lodgement material. Further, the proposal is not identified as a hazardous and polluting development as it is not associated with the use of explosives or chemicals based on the lodgement material. Further, the Applicant has indicated that waste associated with the operation of the use is proposed to be designated for recycling and returned to the farm.

B.2.3 Stormwater & Drainage	Consistent	Consistent	The lodgement material does not illustrate changes to the approved stormwater detention basin plan to manage all surface water run-off from the site and internal access roads and dual weighbridge system. Additionally, the proposed development does not propose to extend the approved development footprint. As such, the proposal is not considered to result in a worsening outcome for stormwater quality and quantity upstream or downstream.
B.2.4 Flood Planning	Consistent	Consistent	The site is not mapped as containing flood hazards pursuant to the Spatial Viewer. Similarly, changes are not proposed to the approved building footprint including finished floor levels as per the lodged development plans.
B.2.5 Bushfire	N/A	N/A	It is noted that the site is not identified as a bushfire-prone land following a review of the Spatial Viewer.
B.2.6 Noise & Vibration	Consistent	Consistent	As per the lodged Acoustic Report, the development is not associated with the use of vibration and impact-generating equipment onsite. The immediate locality is comprised of large primary production land with ancillary low-density living. As per the finding of the Acoustic Report, a minimal increase in cumulative impact is envisaged for the proposed development in this regard the development complies. It is recommended that a condition be imposed to ensure compliance with the relevant noise and vibration guidelines are maintained at all times during the operation of the use.
B.2.7 Odour	Consistent	Consistent	The site is not proximate to significant odour sources. Immediate surrounding land uses include primary production. Additionally, the Applicant has indicated that odour-generating activities will not be conducted on the premises. It is recommended that a condition be imposed to ensure that compliance with air quality guidelines is maintained at all times during the operation of the use. Therefore, the development complies.
B.3 Heritage & Culture			
B.3.1 Indigenous Heritage and Archaeology	Consistent	Consistent	Not applicable. As per the AHIMS register, the site is not identified as containing matters of indigenous heritage and archaeology. Further, earthworks or

			building works are not proposed as part of this development application as per the lodgement material.
B.3.2 Non-indigenous Heritage.	Consistent	Consistent	Not applicable. The site is not identified as containing matters of non-indigenous heritage following a review of the AHIMS register.
B.4 Access & Parking			
B.4.1 General Controls	Consistent	Consistent	Complies. The proposed development is not associated with changes to the access and parking consideration under the existing approvals over the site. Further, the lodgement development plans include detailed engineering plans for the proposed road and access extension to accommodate the largest vehicle entering and exiting the site. It recommended that a condition be imposed to ensure that all access and parking must meet Australian Standards AS2890.1 Parking Facilities.
B.4.2 Off-street Car Parking	Consistent	Consistent	Complies. Car parking is maintained as per the existing Development Approval and this application does not propose extensions to the existing building footprint. The development plans illustrate the provision of 80 car parking spaces. Further, the development is unlikely to attract cycling given the primary production use of the locality and proposed Rural Industry.
Other Land Uses			
B.4.3 Road Design	Consistent	Consistent	Complies. The TIA provided as part of the lodgement material illustrates road widening works along the T-junction between Swan Hill Road and an unsealed local road which provides site access as per the existing approval. For largest design vehicle entering and exiting the site. Road design consideration is maintained as per the existing approval.
B.5 Urban Area Character Settlement			
B.5.1 Introduction	Noted	Noted	
B.5.5 Murray Downs	N/A	N/A	Not applicable. The site is not contained within the Moulamein Road

3.2(a)(iia) Any Planning Agreements

Comment: The application material and Council's record do not indicate Planning Agreements applicable to the site. Council met to discuss the Applicant's request to waive

the contributions applicable to the development and resolved to refuse the waiver request. Resolution 170324, dated 26 March 2024.

3.2(a)(iv) The regulations

Comment: The regulations have been considered in the assessment of this application. It is considered that the application is consistent with the objectives of the regulations based on the scale of the development which is within the parameters of the existing approval over the site.

Section 42 consent authority to seek general terms of approval

Comment: General terms of approval have been sought and obtained as per the lodged application material.

Section 56 Notice of development applications

Comment: The application was notified on the portal and Council's notification platform as soon as practicable after the lodgement of the development application.

Section 61 Additional matters that consent authority must consider

Comment: Not applicable.

Section 62 Consideration of fire safety

Comment: Complies. Whilst the proposal seeks a Change of Use of the premises to increase the approved annual production rate for the Rural Industry use, a Change of Use of building is not proposed. The changes sought relate to the annual production rate and existing considerations for fire safety are maintained as per the lodged application material.

Section 63 Considerations for erection of temporary structures

Comment: Not applicable. The application material does not suggest the erection of temporary structures to facilitate the proposed development.

Section 64 Consent authority may require upgrade of buildings

Comment: Not applicable. As mentioned above, building works are not required to facilitate the proposed increase in the annual production turnover. The Applicant has indicated that upgrades are only required to the production equipment.

3.3(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Environmental Impacts

Water

The operational changes are projected to increase annual water usage by 2.34ML.

Additional impacts on the hydraulic arrangements for the site are not envisaged for the proposed development. As per the Applicants response, rainwater is proposed to be collected for internal use and directed into a stormwater drainage system.

Construction activity including alterations to the existing drainage system is not proposed as per the application material.

Water stored in the detention dam is proposed to be utilized for dust suppression and fire control. In this regard, interaction with local groundwater and ecosystems is minimal due to mitigation measures.

Further, the application material has indicated that a water balance analysis confirms sufficient water availability for operations, excluding extreme events and drinking water needs.

Soil

Further works are not proposed in relation to construction and earthworks on the site. In this regard, impacts to soils are not proposed or likely. The development maintains the findings and recommendations following the detailed investigation conducted on the soils within the area and their use within the facility.

Biodiversity

Impacts on native vegetation within the or adjoining the site is not envisaged. As per the Biodiversity Threshold Maps, the site is not mapped as containing biodiversity values and the development does not propose to remove native vegetation as part of the existing or proposed operation.

Air quality

As per the Environmental Impact Statement (EIS), minor air emissions from the plant and equipment utilised within the installation activities are likely. During the operational phase, activities such as the movement, drying, and separation of harvested almonds may generate dust on-site when unloading and transferring processes. Potentially leading to localized dust within these specific areas.

The EIS has indicated that, due to the nature of the particles, the dust tends to settle rapidly within the activity zones.

Nonetheless, it is recommended that a condition be imposed to ensure that air quality objectives are maintained by the proposed development.

Noise and Vibration

The lodgement material includes an Acoustic Report prepared by Waveform Acoustics which includes a model of the impacts at each of the receivers with various combinations of equipment. As per the findings of the Acoustic Report, noise exposure at all Noise Sensitive Receivers (NSR) will be below the project trigger levels in operating periods if all items of machinery were operating on the site simultaneously.

Further, the Applicant has indicated that vibration or impact-generating equipment such as piling machines or rock-breaking equipment and alike are not proposed to be used onsite.

Built Environment

Built environment considerations are maintained by the proposed development as per the existing Development Approval over the site. Additional construction activities, including earthworks, are not proposed to facilitate the intensification of the existing approval.

The works required to intensify the use relate to the internal plant equipment.

In this regard, the development is not considered to impact on the built environment.

Social Impacts

Negative social impacts are not triggered by the proposal to intensify the existing approval. As discussed, the intensification is wholly contained within the approved building footprint and is comprised of the installation of additional plant and equipment within the existing facility.

In contrast, positive social impacts can be generated by the proposal through the creation of more jobs in the area. This can attract workers from neighbouring suburbs, local

government areas and states. In this regard, positive benefits can also be expected in housing through the need for both permanent and temporary accommodation.

Economic Impacts

Positive economic impacts can be generated by the proposal by increasing the plants' annual production rate to provide annual products to address a market need. The creation of additional jobs within the area is also considered to provide positive economic benefits by reducing the unemployment rate. Further, the creation of additional jobs within the area is likely to attract a need for permanent and temporary housing which can reduce the vacancy rate and trigger additional housing developments within the immediate area.

- **Traffic and Parking:** Complies. Traffic and parking considerations have been addressed above. As per the TIA, the development is not considered to result in a worsening outcome for traffic and parking.
- **Noise:** Complies. Noise exposure at all NSR has been demonstrated to be below the project trigger levels in operating periods including if all items of machinery were operating on the site simultaneously.
- **Amenity:** Complies. The proposal is not considered to have an adverse impact on the amenity of the immediate locality.
- **Waste:** Complies. Waste consideration for the site is generally maintained as per the existing approval over the site. The Applicant has indicated that the increased operation will produce minimal waste of which the majority is designated for recycling and returned to the farm. Shells and hulls will be temporarily stored on-site prior to export off-site as a secondary and highly sought-after by-product. It is however noted that the proposed installation and fit-out works as well as the additional process volume are expected to generate additional waste. As per the EIS, all contractors undertaking works on site will be inducted to ensure any waste derived on the site during fit-out and installation will be suitably removed and managed in accordance with recycling and reuse policies. It is recommended that a condition be imposed to ensure compliance.
- **Non-Aboriginal Heritage:** Not applicable. The site is not subject to any heritage conservation provisions. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.
- **Aboriginal Cultural Heritage:** Not applicable. Known items of Aboriginal Cultural Heritage are not identified on the subject land. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.
- **Bushfire Hazard:** Not applicable. The site is not mapped as containing bushfire hazard or bushfire-prone land under the Spatial Viewer.
- **Water Quality and Stormwater:** complies. The development is within the parameter of the water quality and stormwater consideration of the existing Development Approval over the site.
- **Soils, soil erosion:** Complies. The proposed development is not associated with construction including earthworks.
- **Flora & Fauna:** Complies. The site is not identified as containing mapped biodiversity values. Native vegetation clearing is not proposed as per the existing and post-development site conditions.

- **Utilities:** Complies. Changes are not proposed to utility provisions to service the site and existing approved development over the site.
- **Signage:** Not applicable. The lodgement material does not include the provision of signage.
- **Safety, security & crime prevention:** Complies. Changes are not proposed to the safety, security and crime prevention arrangement for the site and approved development. Further, the nature of the changes proposed is not considered to trigger additional safety, security, and crime prevention.

3.4(c) The suitability of the site for the development

Comment: The site is associated with an existing Development Approval for Rural Industry which is permitted with consent under the land use table for the zone. The proposal is to intensify the existing Development Approval to increase the approved annual production rate. In this regard, the site is deemed suitable for development.

3.5(d) any submissions made in accordance with this Act or the regulations

Agency	Response
NSW EPA	No objections were raised subject to general terms / conditions. An Environmental Protection License from EPA will be sought by the applicant for this operation that will address any necessary concerns.
Transport for NSW – Roads	No objection was raised in the response. The response however identified need for a vehicle movement plan to confirm impact on the wider road network, and deferred to MRC Engineers for assessment. MRC Engineers confirm no further impact as the original consent addressed the future expansion scenario i.e. when production is at 140,000 tonnes per year.
Essential Energy	No objections are raised subject to conditions.
Department of Planning Housing and Infrastructure – Hazards (Industry Assessments) (DPHI)	DPHI review identified incorrect identification of the development as not potentially hazardous under State Environmental Planning Policy (Resilience and Hazards) 2021 due to storage of Profume exceeding the 100kg for this Dangerous Goods class with storage of 1,361 kg proposed. The development is potentially hazardous under this SEPP due to potential dust explosion risks. Of importance is shelling, hulling, storage, bunkering and handling of almond related dust could generate combustible dusts under specific conditions. With this, design and

	<p>implementation of suitable control measures are necessary.</p> <p>Applicant's response provided details on the removal of the volume of Profume to be stored on site as a result of the securing of a contractor to undertake this work. This reduced the volume on site to below the screening level identified within the SEPP.</p> <p>The applicant also submitted additional information relating to concerns on the potential of explosive grain dust and fire at the site.</p> <p>Subsequently, direct consultation occurred with DPHI, and at the close of the meeting with the applicant, it was understood that:</p> <ul style="list-style-type: none"> • <i>there will be no further separation nor sieving processes which would further separate components of almond hulls; and</i> • <i>there will be no grinding of almond kernels or production of almond meal.</i> <p>Based on this, DPHI was satisfied that <i>almond huller dust would not be generated nor accumulated at the expanded facility in a manner that could cause a dust explosion impacting beyond the site boundary.</i></p> <p>With this, the development was confirmed as non-hazardous under the SEPP.</p> <p>Conditions are included to ensure the operation remains compliant.</p>
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Public Submissions

As per the Council record, public submissions have not been received against the proposed development.

3.6(e) The public interest

The public's interest has been taken into consideration in the assessment of this Development Application. It is considered the proposed development will have a net community benefit.

3.7 Summary

The proposed development has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. In this regard, the proposal to intensify the existing approval over the site for Rural Industry is considered to comply with the statutory assessment benchmarks applicable to the site and the proposed development. It is therefore recommended that the proposed development for extension to Rural Industry be approved subject to relevant and reasonable conditions of Development Consent.

Section 4. Recommendation

It is **recommended**:

1. Development consent be granted; and
2. The following conditions be included with the development consent.

GENERAL CONDITIONS WHICH MUST BE FULFILLED

1. Approved plans

The development must be carried out in accordance with the plans and information submitted to and approved by Council.

All conditions of consent must be fulfilled at the expense of the Applicant.

The development must comply with the definition of 'rural industry' as outlined within the Wakool Local Environmental Plan (LEP) 2013. Under the Wakool LEP 2013:

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

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

Note—

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

No other use is permitted unless prior consent by Council is obtained.

No washing of vehicles permitted to occur on the site at any time.

All relevant Australian Standards must be complied with throughout the life of the development.

DA 10.2022.348.1 relates to 'Stage 1' of the development, approved 28 March 2023.

Reason: To ensure the development is carried out as assessed.

2. Operation

The development must not process more than **140,000 tonnes** of agricultural produce per year. Any increase to this amount requires the consent of Council, and may trigger approval with NSW EPA.

Reason: To ensure the development is carried out as assessed, and to comply with NSW EPA requirements.

3. **Hours of construction**

The hours of construction are:

- a) Mondays to Fridays, 7.00am to 6.00pm;
- b) Saturdays, 8am to 1pm
- c) Sundays and public holidays, no work permitted.

Reason: To reduce any adverse impacts of the construction works on neighbouring properties.

4. **Hours of business operation**

The hours of operation during harvest season are:

- a) Harvest season generally between March to July, 24 hours a day, seven days a week.
- b) Post harvest season i.e. remainder of the year, generally between August and February, 6am to 6pm.

The hours of operation in 4(a) and (4(b) may be varied with written consent if the EPA is satisfied that the amenity of residents in the locality will not be adversely affected.

Reason: To reduce any adverse impacts of the business on neighbouring properties.

5. **Essential fire safety measures**

In granting this consent, Council requires the essential fire safety measures, as determined by the Principal Certifier upon assessment of the Construction Certificate, to be installed and maintained to comply with the requirements of the Building Code of Australia.

Prior to the issue of an Occupation Certificate the owner must cause the Council to be given a fire safety certificate. The fire safety certificate must state in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated:

- a) The measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so; and
- b) As at the date of the assessment the measure was found to be capable of functioning at a standard not less than required by the Schedule attached to the Construction Certificate.

Note: Annual Fire Safety Statements must be submitted to Council within each twelve- month period certifying the maintenance standard of the Essential Fire Safety Measure installed on the property.

Reason: To comply with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

6. **Water supply work, sewerage work and stormwater drainage work**
Water supply work or sewerage work which is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act.

Any water supply work or sewerage work which is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.

Reason: Council and Statutory requirement of Local Government (General) Regulation 2021.

7. **Loading and unloading**
All loading and unloading associated with the development must be carried out within the site.

Reason: To ensure such operations do not interfere with use of the adjoining road reserve.

8. **Noise control**
The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment must comply with all standards outlined in the Noise Policy for Industry 2017 (NSW EPA) & A Guide to the Noise Policy for Industry (NSW EPA).

Noise created by the use on the site must not exceed the sound pressure level (noise) limits at the property boundaries presented below:

- a) 40dB(A) LAeq(15minute) during the day (7am to 6pm) Monday to Friday
- b) 35dB(A) LAeq(15 minute) during the evening (6pm to 10pm) Monday to Friday; and
- c) At all other times an LAeq(15minute) noise emission criterion of 35dB(A).

The noise limits set out above apply under specific meteorological conditions set out in the NSW EPA General Terms of Approval, attached to this Development Consent as **Appendix 1**.

In the event the use exceeds permitted levels, the person in control of the premises must arrange for an acoustic investigation to be carried out by an accredited acoustic engineer and implement those measures to reduce noise to acceptable levels.

Additional ongoing mitigations will be required to be installed and maintained for the life of development.

Reason: To protect the amenity of the area and to comply with the Protection of the Environment Operations Act 1997 and Noise Policy for Industry 2017.

9. Amenity protection

The approved development must not adversely affect the amenity and environment of the neighbourhood in any way including:

- a) The transporting of materials or goods to or from the site.
- b) Noise, air and water discharges from the site.
- c) Electrical interference.
- d) The storage and handling of garbage, fuels, chemicals, pesticides, gasses, waste products or other materials.
- e) Emissions or discharges into the surrounding environment including, from wastewater, sediment, dust, vibration, odours or other harmful products.

The Applicant must notify, at the earliest opportunity, Murray River Council of any incident that has caused, or threatens to cause, material harm to the environment or affect the amenity of the neighbourhood. Within 7 days of the date of the incident, the Applicant must provide Murray River Council with a detailed report on the incident, and such further reports as may be requested.

Reason: To protect the amenity of the adjoining area.

COMPLIANCE WITH GOVERNMENT DEPARTMENT CONDITIONS OF CONSENT

10. NSW EPA

The Applicant must comply with all NSW EPA comments and general terms of approval dated 2 May 2024, attached to this Development Consent as **Appendix 1**.

Reason: To ensure compliance with EPA requirements.

11. Essential Energy

The Applicant must comply with all comments and requirements outlined in Essential Energy correspondence dated 8 May 2024, attached to this Development Consent as **Appendix 2**.

Reason: To ensure compliance with Essential Energy requirements.

12. Transport for NSW

The Applicant must comply with all comments and requirements outlined in Transport for NSW correspondence dated 6 May 2024, attached to this Development Consent as **Appendix 3**.

Reason: To ensure compliance with TfNSW requirements.

13. DPHI Hazards

The Applicant must comply with all DPHI Hazards comments and conditions dated 31 October 2024, attached to this Development Consent as **Appendix 4**.

Reason: To ensure compliance with DPHI Hazards – Industry Assessments requirements.

CONDITIONS WHICH MUST BE FULFILLED PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE OR ANY WORKS TAKING PLACE ONSITE

14. Construction Management Plan

A Construction Management Plan must be prepared and submitted to Council for approval prior to the issuing of a Construction Certificate. This plan is to include (but not limited to) the following information:

- vehicle movements.
- parking of construction worker vehicles.
- delivery arrangements.
- noise and vibration mitigation.
- rubbish and waste removal.
- complaints handling, etc.
- How much material will be removed from site, and end location of this material.

Reason: To ensure a Construction Management Plan is prepared and approved.

15. Section 7.12 Contributions

The payment of Section 7.12 Levy Development Contributions in accordance with Council's policy must be made to Council prior to the issue of a Construction Certificate. Section 7.12 charges are 1% of the cost of the development which equates to **\$439,492**.

Please contact Council's Infrastructure Department for a Fee Invoice at time of Construction Certificate lodgement.

It is noted Council staff do not have delegation to vary Council's adopted Contributions Policy and any variations are required to be approved by Council. The Applicant may request a review of determination under Section 8.3 of the *Environmental Planning and Assessment Act 1979* within 6 months of the date of this notice. A fee is payable to Council.

The subject Section 7.12 Levy Development Contributions are imposed under Council's Section 94A Levy Development Contributions Plan 2011, of which is available for inspection at Murray River Council's Moama office, 52 Perricoota Road, Moama NSW 2731, and on Council's website at www.murrayriver.nsw.gov.au.

Reason: To comply with Council's Development Contribution policies.

CONDITIONS WHICH MUST BE FULFILLED PRIOR TO THE COMMENCEMENT OF ANY WORKS

16. Construction Certificate

A Construction Certificate must be **submitted to and approved by a nominated Certifier** prior to any building works taking place on the subject site. The Construction Certificate must be lodged via the [NSW Planning Portal](#).

Reason: To comply with the Environmental Planning and Assessment Act 1979.

17. Section 68 Application

An application under Section 68 of the Local Government Act 1993 must be lodged with Council via the NSW Planning Portal (**application fees apply**) and approved prior to the following works commencing on the site:

- **Part B** – To carry out water supply, sewerage and stormwater drainage work in accordance with Part B of Section 68 of the Local Government Act 1993.
- **Part C** – Operate a system of sewage management (within the meaning of section 68A) in accordance with Part C6 of Section 68 of the Local Government Act 1993.

Once the Section 68 approval has been granted, before any sanitary plumbing and drainage work or water supply work (up to the point of connection) is commenced, a Notice of Work (NoW) must be submitted to Council 48 hours **prior to works commencing**. On completion of work, the licensed plumber/drainage worker must apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) must be submitted to Council. A Sewer Service Diagram (SSD) must also be provided to Council upon completion of the drainage works.

Reason: To comply with the Local Government Act 1993 and to ensure the installation of plumbing and drainage work is in accordance with Australian Standards and the Plumbing Code of Australia.

CONDITIONS WHICH MUST BE COMPLIED WITH DURING WORKS

18. Construction Management

The approved construction management plan must be implemented during the construction phase of the development.

Reason: To ensure all works undertaken are in accordance with this approved plan.

19. Vehicles during construction

Vehicles must be clean and free of debris prior to leaving the site. Deposited material may be ordered to be removed at the Applicant/operator's expense.

Reason: To ensure sediment is not trafficked onto Council's Road network.

20. Waste Containment

Designated waste containment areas must be provided on site and maintained to prevent any windblown litter escaping from the site.

Reason: To comply with the Protection of the Environment Operations Act 1997 and to preserve the environmental health and amenity of the adjoining area.

CONDITIONS WHICH MUST BE COMPLIED WITH IN PERPETUITY

21. Complaints handling

In event of complaints registered with the EPA, details of the matter and actions arising must be submitted to Council via email to: admin@murrayriver.nsw.gov.au

Reason: To enable awareness of any active complaints.

CONDITIONS WHICH MUST BE FULFILLED PRIOR TO THE RELEASE OF THE OCCUPATION CERTIFICATE OR USE OF THE DEVELOPMENT

22. Occupation Certificate

The Applicant must not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:

- a) All conditions of this consent have been completed in full;
- b) An application for an Occupation Certificate has been completed and lodged with the Principal Certifier via the [NSW Planning Portal](#); and
- c) The Principal Certifier has issued an Occupation Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

23. Government Agencies

Prior to the release of the Occupation Certificate, evidence must be provided to Council outlining how relevant conditions from Government Agencies listed in the subject DA have been complied with. The evidence must be to the satisfaction of Council and the relevant Government authority.

Reason: To ensure Government Department requirements are met.

24. Emergency Management Plan

Prior to the issue of the Occupation Certificate, an Emergency Management Plan must be submitted to Council for approval. This plan is to include but is not limited to natural disaster risk management (e.g., bushfire, building fire, flooding etc.).

Reason: To ensure an Emergency Management Plan is developed and approved.

ADVICE TO APPLICANT

Advertising signs

Advertising signs, unless exempt development, must not be erected, fixed, painted or displayed without prior Council consent. All signs must be designed to complement development on-site and be maintained at all times in good order and condition.

Reason: To ensure the development is carried out as assessed.

On-site accessible car parking space

Under the Building Code of Australia, there may be a requirement for a minimum of one (1) on-site car parking space to be designed as an accessible car parking space. This requirement will be assessed at the Construction Certificate application stage by the Principal Certifier. If triggered, this on-site accessible car parking space must be designed in accordance with *Australian Standard 2890.6* and the Building Code of Australia.

Reason: To advise the Applicant an on-site accessible car parking space may be triggered during the Construction Certificate assessment.

Engineering Guidelines

The Applicant must comply with Council's Engineering Guidelines for Subdivisions and Development Standards in conjunction with advice from Council.

Reason: To ensure the development is carried out in accordance with Council's Development Requirements.

The land subject to this consent may have restrictive private covenants applying to it. It is the responsibility of the Applicant and owner/builder to ensure private covenants are adhered to. Council does not enforce or regulate private covenants and therefore accepts no responsibility for checking the compliance of building design with such covenants.

Reason: To advise of the details of Section 1.9A of the Standard Instrument.

Underground assets may exist in the area subject to this application. In the interests of health and safety and to prevent damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary.

Individuals owe asset owners a duty of care which must be observed when working in the vicinity of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Reason: To protect underground assets.

It is the responsibility of the Applicant to check, understand and seek assistance where needed to ensure full compliance with the conditions of this Development Consent. Please contact Murray River Council on 1300 087 004 or admin@murrayriver.nsw.gov.au if there is any difficulty in understanding or complying with any of the above conditions.

Reason: To ensure the Applicant is aware of their obligations.

The development must be in accordance with the relevant provisions and Regulations of the Biodiversity Conservation Act 2016, the Fisheries Management Act 1994, the Heritage Act 1977, the Local Government Act 1993, the National Parks and Wildlife Act 1974, the Protection of the Environment Operations Act 1997, the Roads Act 1993, the Rural Fires Act 1997, the Water Management Act 2000 and all other applicable legislation.

Reason: To comply with relevant legislation.

The Applicant should be aware that under Section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.

Reason: To comply with NSW Environment Protection Authority requirements.

It is the Applicant's responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Australian Human Rights Commission (phone (02) 9284 9600) in respect of your application.

Reason: To comply with the Disability Discrimination Act 1992.

Compliance with previous approvals

The subject development must continue to comply with all requirements and conditions of previous approval for Stage 1 development under DA 10.2022.348.1 dated 28 March 2023. Particularly, but not limited to noise, vibration and odour, emergency management, Building Code of Australia and Fire safety, amenity of surrounding area, waste management, and any requirements of NSW EPA.

It is the responsibility of the Applicant to ensure all requirements continue to be met in conjunction with the subject development.

Reason: To ensure the development is consistent with existing approvals applying to the site

Aboriginal Cultural Heritage

No Aboriginal objects may be harmed without an approval from Heritage NSW under the National Parks and Wildlife Act 1974.

If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the Proponent must:

- Not further harm the object(s);

- Immediately cease all work at the particular location;
- Secure the area to avoid further harm to the Aboriginal object(s);
- Notify Heritage NSW as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location;
- Not recommence any work at the particular location unless authorised in writing by Heritage NSW.

If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) must be prepared and submitted to Heritage NSW before work may continue.

If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

It is the responsibility of the Proponent to ensure the development is consistent with the Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. All reasonable precautions must be taken to prevent damage to Aboriginal objects.

Reason: To protect Aboriginal heritage and to ensure compliance with the National Parks and Wildlife Act 1974.

Waste Management

Every effort must be made to recycle or repurpose waste generated onsite. Please contact Council's Waste Team for more information.

Reason: To protect the amenity of the area.

OTHER APPROVALS

Approvals granted under Section 68 of the *Local Government Act* 1993:

- Not contained in this document, please see condition 28.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 8.7 & 8.10 of the *Environmental Planning and Assessment Act* 1979 gives you the right to appeal to the Land and Environment Court of NSW within 6 months after the date on which you receive this notice.

SIGNATORIES:**Assessing Officer:****Date**

Itto Vukeni
Contract Planner, Monteath & Powys

11 April 2024

First Review:**Date**

Lachlan Sims
Contract Planner, Monteath & Powys

12 April 2024

Final Review:**Date**

Christopher O'Brien and Vishal Chandra
Senior Planners, Murray River Council

17 February 2025
21 February 2025 (updated)

Comments from Reviewers:

Changes made to the report on behalf of the assessing officer:

- Inclusion of comments from external referrals. This includes update relating to hazards and transportation matters.
- Inclusion of data relating to the public and neighbour notification process and submissions; and council resolution for the request to waive contributions.

Changes to conditions in consultation with the applicant, where several originally recommended conditions by the author of this assessment have been refined and/or removed in the context of:

- where certain requirements are better retained under the original consent especially where works are already complete or not related to managing impact of the current development; and
- where compliance is maintained through other government referral conditions or standards, avoiding duplication; and
- where the development remains unchanged in relation to this current application.

Of relevance to highlight are the following changes:

- Omission of redundant conditions suggested from Stage 1 of the development or those that are already provided for in the Stage 1 consent. These omissions include conditions related to construction activity outside the existing development, stormwater management, landscaping, access and parking.
- Omission of requirement to determine and limit the number of people on the premises as this does not adversely affect amenity of the nearby environment or the functionality of the road network.
- Change hours of operation and operational noise limits to align with the NSW EPA General Terms of Approval.
- Inclusion of construction management controls.
- Inclusion of conditions from the government departments.

Inclusion of additional notes as “Advice to Applicant”, setting:

- obligation to continue to comply with the consent requirements from Stage 1 in conjunction with the current development i.e. Stage 2
- accidental discovery procedures associated with aboriginal cultural heritage, and
- waste management expectations from the production activity.

In reviewing conditions, the Applicant sought the following:

- i. To extend end of harvest season to August (from July) and for the post-harvest season to commence September (instead of August). Condition 4 sets out the timeframe with flexibility accounting for any shift in the seasons and weather patterns, where any change requires written consent of EPA. In absence of any such written consent, this change is not agreeable. Condition 4 currently is aligned with the EPA condition, attached to this Development Consent as **Appendix 1**.
- ii. To include a condition to change the operational parameters for the production where these conflict with the original consent i.e. DA 10.2022.348.1 dated 28 March 2023. This change is not agreeable as it seeks to modify another consent through this current application.

A resolution on the above matters (i) and (ii) are deferred to the panel, for determination.

Reasons for overturning of officer’s recommendation (if applicable):

While the assessing officer’s report is not changed, the reviewers have:

- incorporated all referral feedback in this report; and
- updated conditions to reflect relevance to this application and to remove discrepancies, factoring impact of development already assessed / addressed under the original consent i.e. Stage 1.

With these, the assessing officer’s recommendation to grant development consent remains unchanged.