

8.5 MA0043/2021 - Torrens Title Subdivision & Erection of Industrial Buildings

REPORT BY THE TOWN PLANNER
TO 16 JUNE 2021 ORDINARY MEETING
GOV400088, MA0043/2021

RECOMMENDATION

That Council:

- A. receive the report by the Town Planner on the MA0043/2021 - Torrens Title Subdivision & Erection of Industrial Buildings;
- B. approve MA0043/2021 - Torrens Title Subdivision & Erection of Industrial Buildings to do the following:
 - I. Amend the approved plans, for the buildings on proposed Lots 2, 3 and 4; and
 - II. Amend Condition 1A to refer to the amended plans; and
 - III. Revised Statement of Reasons.

Conditions of Consent (AMENDMENTS IN BLUE)

PARAMETERS OF CONSENT

Approved Plans

- 1A. The development is to be carried out in accordance with the following plans endorsed with Council's stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.

Title / Name:	Drawing No / Document Ref	Revision / Issue:	Date:	Prepared by:
Site Plan (Lot 6)	3312-A01	A	April 2013	Giselle Denley Drafting Services
Ground Floor Plan (Lot 6)	3312-A02	B	Nov 2017	Giselle Denley Drafting Services
Elevations (Lot 6)	3312-A03	B	Nov 2017	Giselle Denley Drafting Services
Site Plan (Lots 1-4)	3312-A02	D	Feb 2021	Giselle Denley Drafting Services

Ground Floor Plan, South East Elevation and South West Elevation (Lot 1)	3312-A03	D	Sep 2019	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & Elevations (Lots 2 and 3)	3312-A04	E	Feb 2021	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & South East Elevation (Lot 4)	3312-A05	D	Feb 2021	Giselle Denley Drafting Services
Shed 4 South West, North East & North West Elevation	3312-A14	A	May 2021	Giselle Denley Drafting Services
Master Plan	3312-A01	A	April 2013	Giselle Denley Drafting Services
Storage Shed Typical Floor Plan & Storage Shed Front Elevation	3312-A09	A	April 2013	Giselle Denley Drafting Services
Proposed subdivision Showing Existing Improvements	BK041.dwg Sheet 1 of 4	-	14/10/2013	Jabek Pty Ltd
Layout Industrial Development Lots 1-6 (Stage 2)	BK041.dwg Sheet 2 of 4	-	14/10/2013	Jabek Pty Ltd
Service Layout	BK041.dwg Sheet 3 of 4	-	14/10/2013	Jabek Pty Ltd
Detail Lot 7	BK041.dwg Sheet 4 of 4	-	14/10/2013	Jabek Pty Ltd

The following plans/drawings supersede the above listed plans/drawings in relation to the road layout, stormwater drainage concept, proposed lot boundaries, boundary setbacks, car parking layout and landscaping.

Title / Name:	Drawing No / Document Ref	Revision / Issue:	Date:	Prepared by:
Concept Stormwater Plan	MX-10284.01-C2.0	B	17/11/17	Triaxial Consulting
Concept Stormwater Plan Basin Details	MX-10284.01-C2.1	B	17/11/17	Triaxial Consulting
Turning Circle Plan Sheet 1 of 2	MX-10284.01-C3.0	B	17/11/17	Triaxial Consulting
Turning Circle Plan Sheet 2 of 2	MX-10284.01-C3.1	B	17/11/17	Triaxial Consulting
Landscaping Plan	MX-10284.01-C4.0	C	23/03/18	Triaxial Consulting

(AMENDED MA0043/2021)

- 2. Notwithstanding the approved plans the structure is to be located clear of any easements and/or any water and sewer mains in accordance with Council Policy.
- 2A. The following limits apply to the proportion of the building on proposed Lot 6 that may be used for industrial premises or warehouse purposes:
 - a) A maximum of 2,000m² of the building on proposed Lot 6 may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
 - b) Any amount of the building less than the cumulative total of 2,000m² may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
 - c) The total floor area of the building on proposed Lot 6 may be used for warehouse/storage purposes.

Note – this condition is applied to ensure that the use of the building matches the number of car parking spaces shown on the approved plans.
(ADDED MA0020/2017)

- 2C. Landscaping is to be provided in all areas identified as landscaping within the following plan:

Landscaping Plan	MX-10284.01-C4.0	C	23/03/18	Triaxial Consulting
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(ADDED MA0020/2017)

AMENDMENTS TO APPROVED PLANS

- 3. The maximum fill permitted to be placed on proposed Lot 1 is limited to 500mm above the existing natural ground level as shown on Plan No.BK041.dwg, Sheet 3 of 4.
- 4. No roller-doors are to be constructed in the north–western wall of the proposed sheds on Lots 1 - 4, that adjoin the golf course and residential area at the north-eastern end of Inverness Avenue.
(AMENDED MA0043/2021)
- 5. A minimum 1.8 metre high lapped and capped timber fence is to be provided along the western and southern boundaries (Golf Club land and adjoining industrial development to the south) of the development prior to the commencement of any works on the site. The timber fence is to be erected along the western boundary of proposed Lots 1 to 4. The remainder of the western boundary adjoining proposed Lot 7 may be fenced with a chain mesh fence.
(ADDED MA0017/2020)
- 5A. All lots in the approved subdivision shall have a minimum lot size of 2,000m².

Note – Proposed Lot 5 on the approved plans has a lot size of 1,870m². Lot 5 may be readily increased to 2,000m² by adjusting the boundary between Lots 4 and 5. Amended plans demonstrating compliance shall be provided prior to the issue of a Subdivision Certificate involving Lot 5.
(ADDED MA0020/2017)

- 5B. Amended plans are to be submitted to and approved by Council, indicating that a minimum of 16 parking spaces are provided on proposed Lot 4. Such plans are to be approved by Council prior to the issue of a Construction Certificate for any development on proposed Lot 4.
(ADDED MA0020/2017)**

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - CIVIL

- 6. The submission to Council of engineering design plans for any road works shall include pavement and wearing surface investigation and design, sedimentation and erosion control plans, and a detailed construction plan. These plans are to be approved by the Council prior to the issue of a Construction Certificate.**
- 7. A detailed engineering design (including sediment and erosion control) supported by plans, and an “Autocad compatible” Plan, (in dwg format including pen-map), material samples, test reports and specifications are to be prepared in accordance with AUS-SPEC #1 (as modified by Mid-Western Regional Council) and the conditions of this development consent. The engineering design is to be submitted to and approved by Council or an Accredited Certifier prior to the issue of a Construction Certificate.**
- 8. Engineering plans of the sewer mains extension are to be submitted to and approved by Council or an accredited certifier prior to the issue of a Construction Certificate.**

Note 1: Council will quote on connecting any sewer or water main extension to the existing “live” main on receipt and approval of engineering plans.

Note 2: Council does not permit other bodies to insert new junctions into ‘live’ sewer mains.

- 9. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5 year ARI. All storm water detention details including analysis shall be included with the drainage report.**
- 10. The Cul-de-sac proposed at the end of Depot road must be designed pursuant to “AUSTROADS Design Vehicles and Turning Path Templates Guide 2013” to accommodate at least a B-Double turning radius (15m) when travelling between 5-15km/hr. The turning path plan must be submitted to Council prior to the issue of the Construction Certificate.**
- 11. All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.**

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE - BUILDING

The following conditions must be compiled with prior to Council or an accredited Certifier issuing a Construction certificate for the proposed building.

12. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
13. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
14. The developer shall obtain a Certificate of Compliance under the Water Management Act. This will require:
 - (a) Payment of a contribution for water and sewerage headworks at the following rate:

Water Headworks	\$55,426.00
Sewerage Headworks	\$26,959.00
Total Payable	\$82,385.00

Note: Section 64 Developer Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's planning and Development Department regarding any adjustments.

- (b) The adjustment of existing services or installation of new services and meters, as required, in compliance with Australian Standard 3500: National Plumbing and Drainage Code. All costs associated with this work shall be borne by the developer.
(AMENDED MA0020/2017)

- 14A. In accordance with the provisions of section 94A of the *Environmental Planning and Assessment Act 1979* and the Mid-Western Regional Council Section 94A Development Contributions Plan (the Section 94A Plan), a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of public facilities, prior to the issue of a Construction Certificate.

The value of the works is to be calculated in accordance with Section 9.0 and the procedure outlined in Appendix 1 of the Section 94A Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the final levy amount following submission of the documents.

Note – the levy amount will be adjusted by the Consumer Price Index, if not paid in the same financial year it was calculated. Based on the cost of the proposed development submitted with the DA (\$2,450,000), an indicative total levy of \$24,500 is payable.

A pro-rata portion of the Section 94A contribution may be paid prior to the issue of a Construction Certificate for only part of the total development.
(ADDED MA0020/2017)

- 14B. Prior to the issue of any Construction Certificate that includes above ground works, a landscape plan shall be submitted to and approved by Council. This landscape plan

shall be prepared by an appropriately qualified and experienced professional. The landscaping plan is to show and/or achieve the following:

- a) A planting schedule (including a range of plant sizes).
- b) A maintenance schedule.
- c) Re-planting regime for any plants that are damaged, dead, or removed for any reason.
- d) Provision of landscaping adjacent to and between car parking areas to assist in visually breaking up the expanse of the car park.
- e) Provide landscaping and fencing (if to be provided) within the front boundary landscaped setback that achieves the following:
 - (i) Allows for passive surveillance between the road reserve and the internal car park and entrance to buildings. This may be achieved by using shrubs that have a maximum height of 0.8m at maturity and trees that have a minimum canopy height of 1.7m at maturity.
 - (ii) Includes a mixture of trees, shrubs and groundcovers to create mass of vegetation with an average height of 2m at maturity, within the approved landscaped areas.
- f) Utilise endemic species, where practicable, which are appropriate for the site.
- g) Details of an irrigation system connecting to the on-site rainwater tanks.
(ADDED MA0020/2017)

- 14C. A landscaping bond of \$1,500 is to be paid to Council prior to the issue of a Construction Certificate for above ground building works. Such bond is to be refunded upon satisfactory completion of the landscaping in accordance with the approved landscaping plan.
(ADDED MA0020/2017)

PRIOR TO THE COMMENCEMENT OF WORKS – CIVIL

15. Prior to development the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council's property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
(AMENDED MA0020/2017)
16. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.
17. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be provided to Mid-Western Regional Council as an interested party. All work is to be at no cost to Council.

PRIOR TO THE COMMENCEMENT OF WORKS – BUILDING

18. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

19. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.
NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE
20. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;
- stating that unauthorised entry to the work site is prohibited;
 - showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - the name, address and telephone number of the principal certifying authority for the work; and
 - The sign shall be removed when the erection or demolition of the building has been completed.
21. Prior to the commencement of works on site, the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property.
(AMENDED MA0020/2017)

CIVIL CONSTRUCTION

- 21A. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
(NUMBERED MA0020/2017)
22. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
23. The developer is to grant Council (or an Accredited Certifier on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
24. The subdivision works are to be inspected by the Council (or Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction encompassing the following stages of construction:
- Installation of sediment and erosion control measures.
 - Water and sewer line installation prior to backfilling.
 - Establishment of line and level for kerb and gutter placement.
 - Road and driveway pavement construction (including excavation, formwork and reinforcement).
 - Road pavement surfacing.
 - Practical completion.
25. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice. Failure to have the

work inspected may result in the access being removed and reconstructed at the contractors/owners expense.

26. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
27. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.
28. The requirements for stormwater quality, as specified in the DCP, shall be addressed in the design prior to issue of the Construction Certificate. The design shall be such that there is no increased maintenance burden on Council.
- 29A. The developer must construct the full length of the proposed new extension of Depot Road located in Lot 210 DP775001, to the following standard:

Item	Requirement
Road Reserve Width	21.6 m
Pavement Width	13m (invert to invert)
Court Bowl/ Cul-de-sac Head	15m radius to invert
Seal	(i) All parts of the cul-de-sac head that is wider than 18m: Asphalt (Hot mix) (ii) The remainder of the Depot Road extension: Two coat bitumen seal
Drainage	Direct stormwater runoff to subdivision drainage design in accordance with Section 5.3 of the Development Control Plan

(ADDED MA0020/2017)

30. Car parking for lots 1-6 must comply with the following standards:
 - a) All vehicles must be provided adequate means to exit the lot in a forward direction;
 - b) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - c) Each disabled car parking space is to be in accordance with the provisions of Clause D3.5 of the Building Code of Australia and Australian Standard AS 2890.6 – 2004;
 - d) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times; and
 - e) The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Traffic Authority *Guide to Traffic Generating Developments 1992* and Australian Standard AS2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.
31. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.

Note: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.

32. Runoff and erosion controls shall be installed prior to clearing and incorporate:
- a) diversion of uncontaminated upslope runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - b) sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water; and
 - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.

WATER AND SEWER

33. The developer is to extend and meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act,1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
34. The applicant is to provide separate water and sewer reticulation services to each lot.
35. Three metre wide easements, including associated Section 88B Instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.

BUILDING CONSTRUCTION

36. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and *Regulations* and all relevant Australian Standards.
37. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
38. Construction work noise that is audible at other premises is to be restricted to the following times:
Monday to Saturday - 7.00am to 5.00pm
No construction work noise is permitted on Sundays or Public Holidays.
39. All mandatory inspections required by the *Environmental Planning & Assessment Act* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
40. The strength of the concrete used for the reinforced concrete floor slab must be 25Mpa.
41. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.

Note: Council does not permit other bodies to connect to 'live' water mains.

OR

51. Where the water service has been provided by the developer. The developer is to provide a water meter for each lot in the subdivision. This can be achieved through providing a water service ending with a lockable ball valve to each lot and make a payment to Council of \$370.00 per lot to cover the cost of a 20mm meter and installation.

$$\text{TOTAL PAYABLE } 6 \quad \times \quad \$370 \quad = \quad \$2,220$$

Note: Council does not permit other bodies to connect to 'live' water mains.

52. The developer is to provide a sewer junction for each dwelling in the subdivision. This can be achieved by making a payment to Council of \$1,450.00 per new junction to cover the cost of Council installing a junction in an existing main.

$$\text{TOTAL PAYABLE } 6 \quad \times \quad \$1,450.00 \quad = \quad \$8,700$$

Note: Council does not permit other bodies to insert new junctions into "live" sewer mains.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

The following conditions are to be completed prior to occupation of the building and are provided to ensure that the development is consistent with the provisions of the Building Code of Australia and the relevant development consent.

53. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
54. All car parking and associated driveway works are to be completed prior to occupation of the development.
- 54A. All plants shown on the approved landscape plan/s are to be planted and all hard landscaping (eg rocks, retaining walls, solid garden bed edging) is to be installed prior to the issue of an Occupation Certificate.
(ADDED MA0020/2017)

CONDITIONS RELATED TO THE ONGOING USE OF THE SITE

55. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.
56. All loading and unloading in connection with the premises shall be carried out wholly within the site.
57. Garbage areas are to be adequately screened from public view with an opaque fence and / or adequate landscaping.
58. All waste generated by the proposed development shall be disposed of to an approved location in accordance with the *Waste Minimisation & Management Act 1995*.

59. All security fencing is to be pre-coloured or powder coated. Security fencing to the public road frontage is to be erected on or behind the front building line. Full details of proposed fencing is to be included on the landscaping plan.
60. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
61. No display or sale of goods is to take place from public areas or footpaths fronting the premises.
62. All 'Colorbond' material for the proposed sheds is to be non-reflective.
63. Hours of operation of the industrial buildings are restricted to the following times;
Monday to Saturday 7.00am to 6.00pm
No work is permitted on Sundays or Public Holidays
64. The combined maximum permitted noise level for all activities within the subject industrial development is 5dB(A) above the background noise level of 39dB(A) as measured at the property boundary of Lot 210 DP 775001 and the Mudgee Golf Course and the residentially zoned land.
65. Measures, such as raised kerb edges, bollards and/or fencing, are to be installed and maintained around all approved landscape areas in order to prevent vehicles driving over them.
(ADDED MA0020/2017)
66. Landscaping is to be maintained in accordance with the approved landscape plan.
(ADDED MA0020/2017)

ADVISORY NOTES

- 1 The removal of trees within any road reserve requires separate approval of Council in accordance with the policy "Tree Removal and Pruning Public Places".
- 2 The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
- 3 [Division 8.2 of the *Environmental Planning and Assessment Act 1979* \(EP&A Act\) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.](#)
(MODIFIED MA0043/2021)
- 4 [If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10\(1\)\(b\).](#)

(MODIFIED MA0043/2021)

- 5 To ascertain the date upon which the consent becomes effective, refer to section 83 of the EP&A Act.
- 6 To ascertain the extent to which the consent is liable to lapse, refer to section 95 of the EP&A Act.
- 7 The development is to operate so as to not emit offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.
(ADDED MA0020/2017)

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

- The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the *Environmental Planning and Assessment Act 1979*.
- The proposed modification complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.
- The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
(NEW STATEMENT OF REASONS MA0043/2021)

Executive summary

OWNER/S	Dan Baggett
APPLICANT:	Dan Baggett
PROPERTY DESCRIPTION	86 Depot Road, Mudgee NSW 2850
PROPOSED DEVELOPMENT	Subdivision and Industrial Development
ESTIMATED COST OF DEVELOPMENT:	\$48,000
REASON FOR REPORTING TO COUNCIL:	The original application was determined by Council
PUBLIC SUBMISSIONS:	0

A modification of consent application under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* was lodged with Council on 20 April 2021. The proposed modification of Development Consent MA0017/2020 (originally DA0214/2014) seeks to increase the height of Sheds 2, 3 and 4, install male and female amenities, reconfigure the office space, add a crib room (lunch room) above the amenities, and create 2 tenancies within Shed 4.

The proposed modification specifically seeks to modify:

- Condition 1A Approved Plans.

The application was notified, in accordance with the Mid-Western Regional Community Participation Plan 2019 (MWR CPP), for a period of 14 days, ending 13 May 2021. During the notification period, no submissions were received.

The proposal generally complies with the relevant plans and controls and is recommended for approval.

In accordance with staff delegations, because the original determination was made by Council, this application is required to be determined at the monthly Council Meeting.

Disclosure of Interest

Nil.

Detailed report

Approved development

The original application, approved on 21 May 2014, was for a Torrens title subdivision, resulting in 7 lots, and erection of industrial buildings (DA0214/2014). The approved development includes an extension to Depot Road that terminates in a cul-de-sac head.

The original approval was modified at the Council meeting held on 20 June 2018 and subsequently on 20 November 2019. These modifications changed the road design and stormwater concept and provided landscaping areas along the property frontages; and made minor alterations to the buildings on proposed Lots 1, 2, 3 and 4, and reduced the amount of timber fencing along the north-western boundary of the property.

Proposed modification

The modification involves minor changes to the building height and layout, without increasing the floor area. The purpose is to cater to larger industrial operators through the use of internal cranes that are common in industrial buildings, and provide better functionality through the addition and placement of doors, as well as increased staff amenities i.e. male and female toilets, lunch rooms and offices. It is noted that there is no building height limit specified in the *Mid-Western Regional Local Environmental Plan 2012* (LEP) for the industrial area, and therefore a merit assessment has been undertaken.

REQUIREMENTS OF REGULATIONS AND POLICIES

Section 4.55 Modification Legislation

Minimal Environmental Impact

The Modified Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* pertains to modifications to a Development Consent that are of minimum environmental impact. It is considered that the proposed modification, involving minor alterations to the approved buildings, will have 'minimal environmental impact' compared to the originally approved proposal.

Substantially the Same Development

The proposed development is considered to be substantially the same development as the approved buildings and lot layout for the subdivision remains substantially the same. The proposed modifications to the buildings are minor in nature and do not increase the density of development on the site.

Consultation

The original development application was not integrated development, and no consultation with other approval bodies is required for this modification.

Notification and Submissions

The application was notified in accordance with MWRCPP 2019. No submissions were received during the notification period, ending 13 May 2021.

Matters for Consideration

The consent authority is required to consider the relevant matters outlined in Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These considerations are summarised as follows:

- a) The provisions of any environmental planning instruments.

The proposed modification does not alter the approved development's compliance with the provisions of the *Mid-Western Regional Local Environmental Plan 2012* and the applicable State Environmental Planning Policies.

- b) The provisions of any development control plan.

The proposed modification does not alter the approved development's compliance with the relevant provisions of Mid-Western Regional Development Control Plan 2013 (the DCP). It is noted that the previous modification approved a number of variations from the DCP requirements. The current modification application makes no changes to those aspects of development that varied from DCP requirements (eg building setbacks and the amount of landscaping provided along property frontages).

- c) The provisions of any planning agreement.

Not applicable.

- d) The regulations.

Not applicable.

- e) The likely impacts of development.

The majority of the proposed modifications are minor in nature and do not alter the proposal's environmental impacts. The increase in height is consistent with other industrial development in this area, which is a necessary feature to allow buildings to service the mining industry, among other things.

- f) The suitability of the site for the development.

The proposed modification does not alter the suitability of the site for the approved development.

- g) Any submissions received.

Not applicable – no submissions received in response to neighbour notification of the proposed modification.

h) The public interest.

No significant issues in the interest of the public are expected as a result of the proposed modification.

ASSESSMENT OF PROPOSED MODIFICATIONS

Proposed modifications to the buildings on proposed Lots 2 and 3

This application seeks to:

Amend the floor plans and elevations of the building on proposed Lots 2 and 3 by:

- Increasing the building height by 500mm to 10.4m high, to allow for an overhead crane within the shed.
- Installing male and female toilets.
- Installing a stacker door at the front, and a roller door at the rear.
- Reconfiguring the office space to include an additional office (total 4).
- Addition of a crib room above the male toilets.
- The building footprint remains the same.

The proposed modification results in only a minor change to the height of the building and configuration of the floor plan, as well as the installation of stacker doors on the front elevation. These minor changes provide better functionality to the building by allowing an internal overhead crane and additional doors for manoeuvrability. The crib room will provide a usable space for workers.

There is no building height limit specified in the LEP for the industrial zones and the buildings are consistent with many of the industrial buildings in the area, including the adjacent Council Depot. The buildings are to be located adjacent to the vacant and unused land owned by the Golf Club between the subject site and the 13th Fairway. The small increase in height of 500mm to 10.4m is not anticipated to have any further impact on that land than is currently approved. The height increase is negligible and will provide the building with more versatility in securing prospective tenants.

The installation of the roller doors at the rear has been assessed further below.

Proposed modifications to the building on proposed Lot 4

This application seeks to:

Amend the floor plan on Lot 4

- Creating 2 tenancies both with showroom, offices, crib room and amenities.
- Increasing the building height by 600mm to 10.4m high.
- Installing male and female toilets.
- Installing roller doors on the side and rear elevations of each tenancy.
- Installing stacker doors on the front elevation, replacing 3 roller doors.
- Addition of a crib room above the male toilets.
- The building footprint remains the same.

Similar to Lots 2 and 3, the changes to the Lot 4 building will provide for better functionality to the building and future tenants. The height increase to 10.4m is negligible and consistent with most industrial buildings in the locality.

The industrial use of the building will remain the same, albeit with the availability of 2 tenancies. The proposal does not increase the floor area or intensity of the site, only separating the building into 2 tenancies. This will not increase car parking requirements, access arrangements or impacts to amenity. Because of this, the nature of the original industrial development, and the associated impacts are the same. Each tenancy will have access to their own facilities, office space, amenities and loading/unloading areas that will allow them to operate independently.

The installation of the roller doors at the rear has been assessed further below.

Both Council's Health and Building and Water and Sewer Departments have reviewed the modification application and have advised that previous comments and conditions still apply. No other changes are required. As the consent authority, Council is satisfied that the development is substantially the same, and the impacts associated are negligible.

Installation of Roller Doors on the North-Western Façade of Shed 2, 3 and 4

The proposed addition of roller doors on the north-western (ie rear) wall of buildings 2, 3 and 4 is intended to provide access to the rear of the property and allow for cross-ventilation within the building. These buildings were originally approved without any doors/openings on the north-western facade.

Condition 4 of the development consent specifically requires that no roller door be provided on the north-western side of the building on Lot 1. This condition was applied in the original consent in order to address concerns in relation to noise impacting on the residences located on Inverness Avenue and the golf course. This is because the original acoustic assessment set noise levels and made recommendations on the basis that there were no openings on this side of the buildings.

No justification has been provided in this modification application to change the original assessment of the noise concerns. The applicant has been advised that this part of the modification will not be supported because no acoustic report has been provided to support the inclusion of additional openings in the rear. Industrial uses with open doors fronting the north-west may cause noise impacts to the residential areas and golf course. Accordingly, in the absence of an acoustic assessment confirming otherwise, it is recommended that the proposed rollers door not be approved and Condition 4 of the development consent be amended to include Lots 2, 3 and 4.

IMPACT OF DEVELOPMENT

Context and Setting

The sheds are suitable in the industrial setting. The minor change in design will have a negligible impact on the vacant and unused land to the rear owned by the golf club.

Access, transport and traffic

No changes to access and traffic arrangements will result as part of this modification.

Public domain

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

Utilities

All relevant utilities are available or can be made readily available to the site.

Heritage

Not applicable.

Other land resources

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

Water

No significant impact expected.

Soils

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

Air and Microclimate

The development is not expected to impact air quality or microclimatic conditions.

Flora & fauna

Not applicable.

Waste

Waste service available.

Energy

Not applicable.

Noise & vibration

Not applicable.

Natural Hazards

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues.

Technological hazards

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

Safety, security and crime prevention

Increased passive surveillance as a result of the proposed development.

Social impact in the locality

Generally positive.

Economic impact in the locality

Generally positive.

Site design and internal design

Adequate as discussed throughout this report.

Construction

To comply with the BCA where relevant.

Cumulative Impacts

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

*SUITABILITY OF SITE FOR DEVELOPMENT***Does the proposal fit in the locality**

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

Are the site attributes conducive to development

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

*SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS***Public Submissions**

The application was notified in accordance with the *Mid-Western Regional Community Participation Plan 2019*. No submissions were received during the assessment period.

Submissions from public authorities

No submissions were sought or received from public authorities.

*THE PUBLIC INTEREST***Federal, State and local government interests and community interests**

No significant issues in the interests of the public are expected as a result of the proposed development.

*CONSULTATIONS***Health & Building**

Council's Health & Building Surveyor has not raised any concerns with the proposal, subject to standard conditions.

Water and Sewer

Council's Water and Sewer Officer has not raised any concerns with the proposal, subject to standard conditions.

Development Engineer

No consultation necessary.

Heritage Advisor

No consultation necessary.

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and natural heritage

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Community Participation Plan 2019

Legislation

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2000
Mid-Western Regional Local Environmental Plan 2012

Financial implications

The application will be required to pay developer contributions in accordance with the Mid-Western Regional Contributions Plan 2019.

Associated Risks

Should Council refuse the Development Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

CAMERON AMOS
TOWN PLANNER

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

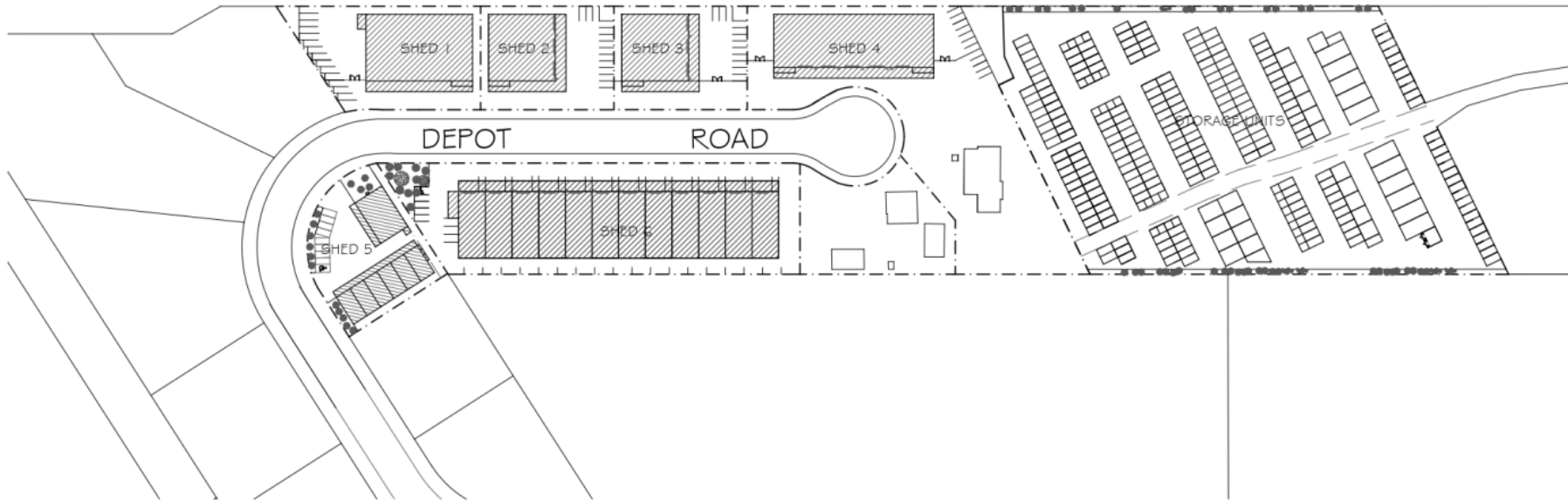
26 May 2021

Attachments: 1. Development Plans.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

MUDGEE INDUSTRIAL PARK DEPOT ROAD MUDGEE



LOT 210
DP 775001

MASTER PLAN
SCALE 1:1500



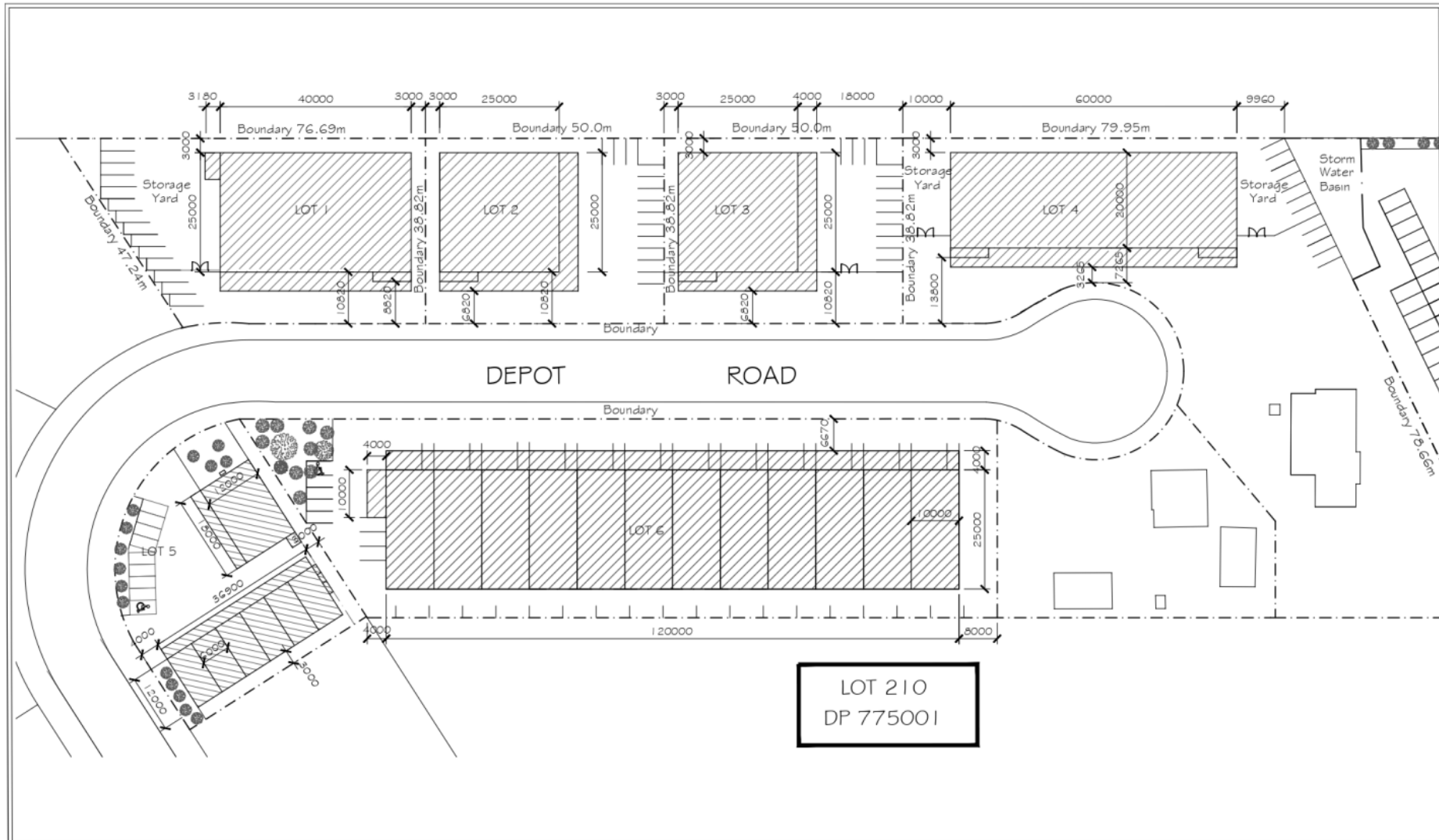
Giselle Denley
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giselle.denley@bigpond.com
0417 866 326
53 Hill Sixty Drive
Mudgee NSW 2850

REV	DATE	BY	DESCRIPTION
A	APRIL 2013	G.D.	ISSUED FOR APPROVAL

DTM PROPERTY ENTERPRISES

MUDGEE INDUSTRIAL PARK
DEPOT ROAD MUDGEE

SCALE: 1500	FILE: 3312-A01	DWG No.	REV.
DRAWN: G.D.	DATE: APRIL 2013	3312-A01	A
CKD: D.B.	DATE: APRIL 2013		



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REV	DATE	BY	DESCRIPTION
D	FEB 2021	G.D.	LOT 3 REVISED
C	NOV 2017	G.D.	ROAD & BOUNDARY ADJUSTMENTS
B	OCT 2017	G.D.	SHEDS 1-3 SIZE REVISED
A	NOV 2012	G.D.	ISSUED FOR APPROVAL

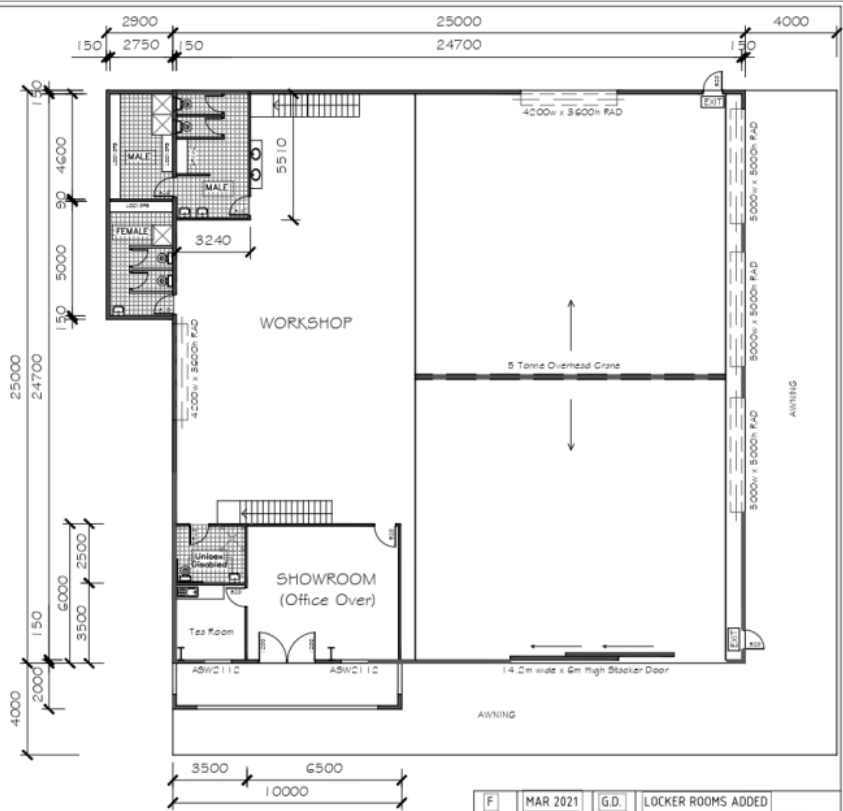
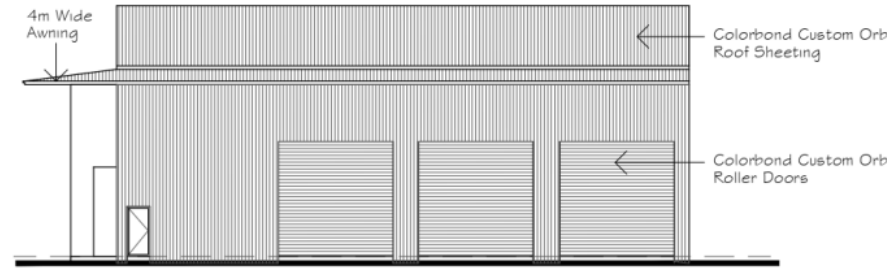
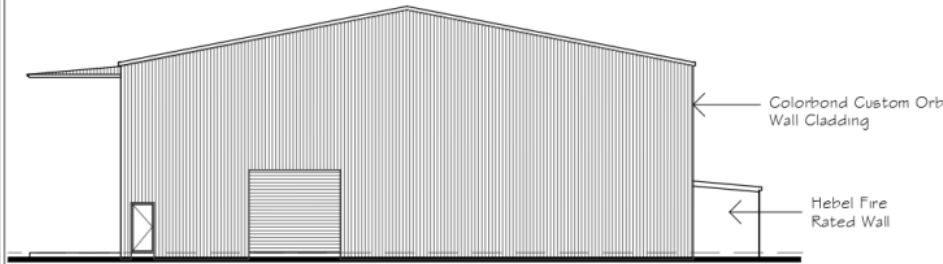
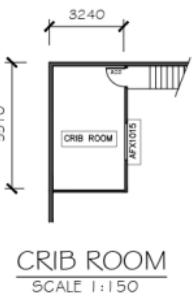
SITE PLAN
 SCALE 1:750



DTM PROPERTY ENTERPRISES

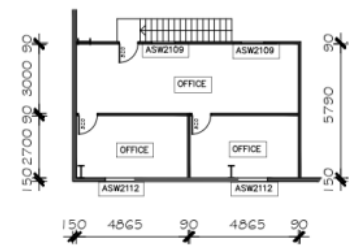
MUDGE INDUSTRIAL PARK
 DEPOT ROAD MUDGE

SCALE: 1:750	FILE: 3312-A01	DWG No.	REV.
DRAWN: G.D.	DATE: NOV 2012	3312-A02	D
CKD: D.B.	DATE: NOV 2012		



LOTS 2 & 3 GROUND FLOOR PLAN

- SCALE 1:150
- LEGEND**
- FHR 30m Fire Hose Reel
 - FE Fire Extinguisher
 - EXIT Illuminated Exit Sign and Emergency Lighting



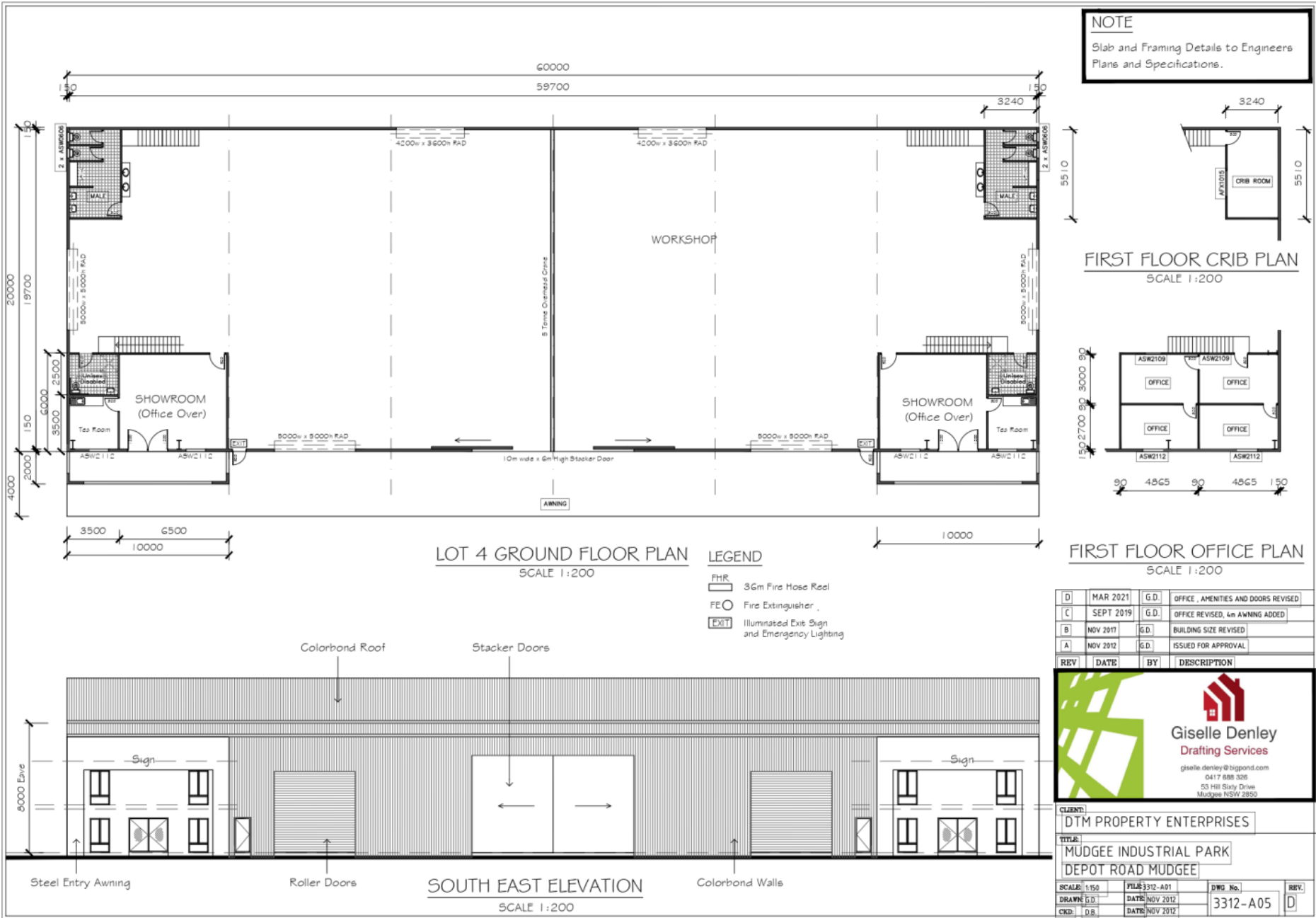
LOT 2 & 3 - FIRST FLOOR PLAN

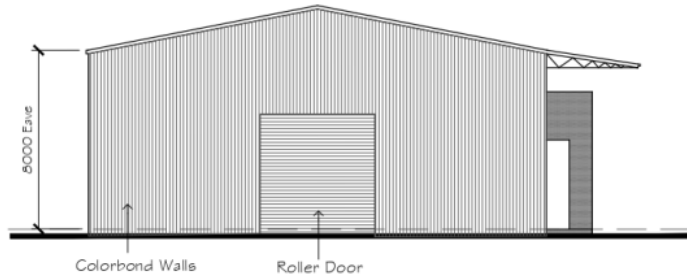
F	MAR 2021	G.D.	LOCKER ROOMS ADDED
E	FEB 2021	G.D.	DOORS AND LAYOUT REVISED
D	JULY 2020	G.D.	ALL ELEVATIONS ADDED
C	SEPT 2019	G.D.	OFFICE REVISED, 4m AWNING ADDED
B	NOV 2017	G.D.	BUILDING SIZE REVISED
A	NOV 2012	G.D.	ISSUED FOR APPROVAL

Giselle Denley
Drafting Services

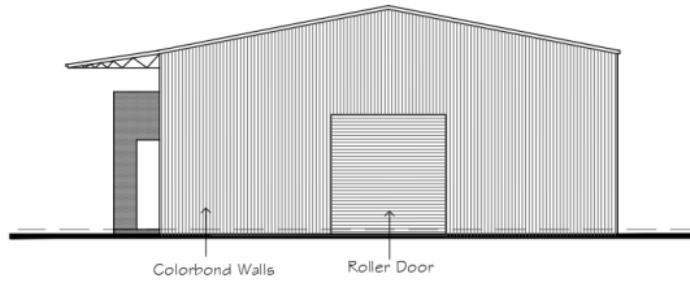
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CLIENT: DTM PROPERTY ENTERPRISES			
TITLE: MUDGEE INDUSTRIAL PARK DEPOT ROAD MUDGEE			
SCALE: 1:150	FILE: 3312-A01	DWG No.:	REV.
DRAWN: G.D.	DATE: NOV 2017	3312-A04	F
CKD: D.B.	DATE: NOV 2017		

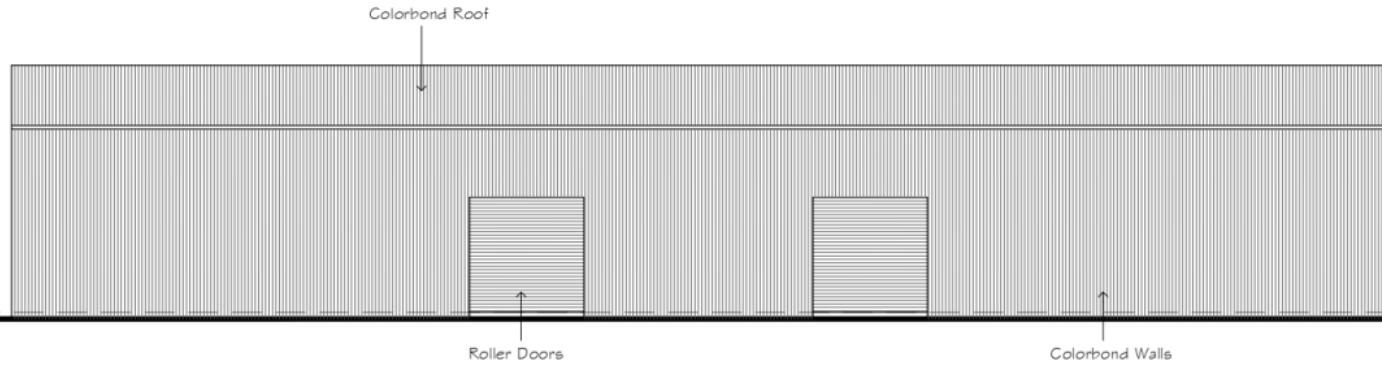




SHED 4 SOUTH WEST ELEVATION
SCALE 1:200



SHED 4 NORTH EAST ELEVATION
SCALE 1:200



SHED 4 NORTH WEST ELEVATION
SCALE 1:200

A	MAY 2021	G.D.	ISSUED FOR APPROVAL
REV	DATE	BY	DESCRIPTION



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CLIENT: DTM PROPERTY ENTERPRISES

TITLE: MUDGE INDUSTRIAL PARK
DEPOT ROAD MUDGE

SCALE: 1:150	FILE: 3312-A01	DWG No:	REV:
DRAWN: G.D.	DATE: MAY 2021	3312-A14	A
CHKD: D.B.	DATE: MAY 2021		