

Item 8: Development

8.1 DA0027/2023 - Demolition, subdivision, development of retail premises (Bunnings Warehouse), signage and ancillary works - 134 Lions Drive, Burrundulla

REPORT BY THE TOWN PLANNER
 TO 20 SEPTEMBER 2023 ORDINARY MEETING
 GOV400103, DA0027/2023

RECOMMENDATION

That Council:

- A. receive the report by the Town Planner on the DA0027/2023 - Demolition, subdivision, development of retail premises (Bunnings Warehouse), signage and ancillary works - 134 Lions Drive, Burrundulla;
- B. approve DA0027/2023 - Demolition, subdivision, development of retail premises (Bunnings Warehouse), signage and ancillary works - 134 Lions Drive, Burrundulla subject to the following conditions:

APPROVED PLANS

- 1. 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:	Project No.	Drawing No. / Ref	Rev	Date	Prepared by:
Architectural Drawings					
Context Plan	21006	TP-01	C	June 2022	Michael Car Architect Pty Ltd
Site Plan	21006	TP-02	M	June 2022	Michael Car Architect Pty Ltd
Existing and Demo Plan	21006	TP-03	C	June 2022	Michael Car Architect Pty Ltd
Overall Plan	21006	TP-04	C	June 2022	Michael Car Architect Pty Ltd
Roof Plan	21006	TP-05	A	June 2022	Michael Car Architect Pty Ltd
Elevations	21006	TP-06	B	June 2022	Michael Car Architect Pty Ltd
Landscaping					
Landscape Site Plan	-	2907 LP-00	03	20-06-2022	John Lock & Associates Landscape Architecture
Landscape Plan - Sheet	-	2907 LP-01	03	20-06-	John Lock &

Title/ Name:	Project No.	Drawing No. / Ref	Rev	Date	Prepared by:
1				2022	Associates Landscape Architecture
Landscape Plan - Sheet 2	-	2907 LP-02	04	20-06-2022	John Lock & Associates Landscape Architecture
Landscape Plan - Sheet 3	-	2907 LP-03	04	20-06-2022	John Lock & Associates Landscape Architecture
Landscape Plan - Sheet 4	-	2907 LP-04	04	20-06-2022	John Lock & Associates Landscape Architecture
Landscape Plan - Sheet 5	-	2907 LP-05	04	20-06-2022	John Lock & Associates Landscape Architecture
<i>Engineering Drawings</i>					
Cover Sheet	HD259	HD00	9	26 May 2022	High Definition Design Pty Ltd
Overall Plan Sheet	HD259	HD01	9	07.11.22	High Definition Design Pty Ltd
Bunnings Lot Site Plan	HD259	HD02	9	07.11.22	High Definition Design Pty Ltd
Aerial Overlay Road Works	HD259	HD03	9	07.11.22	High Definition Design Pty Ltd
Overall Road Works Plan	HD259	HD04	9	07.11.22	High Definition Design Pty Ltd
Road Works Plan Sheet 1 of 2	HD259	HD05	9	07.11.22	High Definition Design Pty Ltd
Road Works Plan Sheet 2 of 2	HD259	HD06	9	07.11.22	High Definition Design Pty Ltd
Channel Long Section	HD259	HD07	9	07.11.22	High Definition Design Pty Ltd
Channel Typical Sections	HD259	HD08	9	07.11.22	High Definition Design Pty Ltd
Diversion Channel Cross Section Sheet 1 of 4	HD259	HD08A	9	07.11.22	High Definition Design Pty Ltd
Diversion Channel Cross Section Sheet 2 of 4	HD259	HD08B	9	07.11.22	High Definition Design Pty Ltd
Diversion Channel Cross Section Sheet 3 of 4	HD259	HD08C	9	07.11.22	High Definition Design Pty Ltd
Diversion Channel Cross Section Sheet 4 of 4	HD259	HD08D	9	07.11.22	High Definition Design Pty Ltd
Driveway 1 and 2 Longitudinal Section	HD259	HD09	9	07.11.22	High Definition Design Pty Ltd

Title/ Name:	Project No.	Drawing No. / Ref	Rev	Date	Prepared by:
Basin Plan	HD259	HD11	9	07.11.22	High Definition Design Pty Ltd
Basin Cross Section	HD259	HD11A	9	07.11.22	High Definition Design Pty Ltd
Tree Removal and Demolition Plan	HD259	HD17	9	07.11.22	High Definition Design Pty Ltd
Cut to Fill Plan	HD259	HD18	9	07.11.22	High Definition Design Pty Ltd
Servicing Plan	HD259	HD19	9	07.11.22	High Definition Design Pty Ltd
Scour Protection Typical Detail	HD259	HD20	9	07.11.22	High Definition Design Pty Ltd
<i>Subdivision Plan</i>					
Proposed Lot Layout	19395	-	B	08.06.22	Delfs Lascelles Consulting Surveyors
<i>Reports</i>					
Operational Noise Emission Assessment	-	5549R001. NW.220705	0	13 July 2022	Acoustic Dynamics
Biodiversity Development Assessment Report	22MUD 2158	-	2	5 July 2022	EcoLogical
Traffic and Parking Assessment	-	19123	H	October 2022	Transport and Traffic Planning Associates

- For clarity, this development consent approves demolition of existing dwelling and associated structures; Torrens Title subdivision (1 into 4 lots); development of Lot 1 for Bunnings Warehouse including signage; and associated ancillary works including the removal of trees within the site and within the road reserve.

GENERAL

- All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, shall be handled, conveyed and disposed of in accordance with guidelines and requirements from SafeWork NSW. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.
- Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
- The only waste derived fill material that may be received at the development site must be:
 - Virgin excavated natural material, within the meaning of the Protection of the Environment Operations Act 1997; and

- b) Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.
6. All earthworks, filling, building, driveways or other works are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.
7. Notwithstanding the approved plans the structure is to be located clear of any easements and/or 1.5 metres from any water and sewer mains in accordance with Council Policy.
- No works involving cut or fill within the registered easement or within 1.5m of the water or sewer line.
8. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of OEH.
9. Appropriate traffic measures are to be in place during the construction phase of the project to minimise impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
10. Safe Intersection Sight Distance (SISD) is to be provided at all driveway intersections with public roads in accordance with section 3 of *Austrroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections)* and relevant Australian Standards (i.e. AS2890:1:2004).
11. Loading and unloading activities associated with the site are to occur on-site.
12. All vehicles entering and existing the site must do so in a forward direction.

STAGE 1 – 4 LOT SUBDIVISION

PRIOR TO ISSUE OF SUBDIVISION WORKS CERTIFICATE

13. Prior to the issue of Subdivision Works Certificate, the developer must enter into a Works Authorisation Deed (WAD) with TfNSW for upgrade works to the intersection of Lions Drive and Castlereagh Highway generally in accordance with drawing HD259 – Revision 9 – dated 07/11/2022 prepared by High Definition Design Pty Ltd.
- TfNSW will exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD.
 - All works associated with the subject development are to be undertaken at full cost to the developer and at no cost to TfNSW or Council, and to Council's requirements.
 - Discharged stormwater from the development is not to exceed the capacity of the Castlereagh Highway stormwater drainage system (drainage culverts). Any

adjustments to the existing system that are required are to be agreed by TfNSW prior to final approval of the development.

Note: The developer is advised that Conditions of Consent do not guarantee TfNSW's final consent to the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work.

Note: The WAD process, including acceptance of design documentation and construction, takes time. The developer is to be made aware of this and allow sufficient lead time within the project development program to accommodate this process. It is suggested the developer work through this process as soon as possible with the TfNSW.

14. A detailed engineering design is to be submitted to and approved by the Certifier (i.e. Council or a private Certifier) prior to the issue of a Subdivision Works Certificate. The engineering design is to comply with Council's Development Control Plan and the Standards referenced within Appendix B and D.

A Subdivision Works Certificate is required for the following civil works:

- a) Flood mitigation works.
- b) Site filling and regrading.
- c) Water main extensions, sewer main extensions, pressure sewer and fire services.
- d) Stormwater drainage, detention basins and inter-allotment drainage.
- e) Road construction / widening.
- f) Footpath and kerb & gutter.
- g) Landscaping of public reserves.
- h) Concrete driveway access for lots 2,3 and 4.

Note - no works can commence prior to the issue of the Subdivision Works certificate.

15. Prior to the issue of Subdivision Works Certificate the class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to Council prior to issue of a Subdivision Works Certificate.

Table: Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits
PCT 277 (Low) – Blakely's Red Gum – Yellow Gum tall woodland of the NSW South Western Slopes Bioregion	6.0

16. **A Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off shall be submitted to and approved by Council prior to the release of the Subdivision Works Certificate. The drainage report and design must be prepared in consultation with Council and comply with the following requirements:**
 - a) **Drainage design for the proposed detention basin must be accompanied by fully detailed runoff calculations and a structural design for the proposed wall certified by a suitably qualified professional Engineer.**
 - b) **Drainage design must also incorporate suitable and appropriate water quality controls to prevent pollution or contamination of downstream environments.**
 - c) **Drainage report and design must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5/5/20/100 year event.**
 - d) **Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over and adjoining property must not occur without the consent of the owner of any affected property.**
 - e) **The design shall provide for inter-allotment drainage to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. The design shall accommodate the provision of 1m wide easements over inter-allotment drainage.**
17. **A Traffic Management Plan (TMP) completed by a “Certified Person” for implementation during works is to be submitted to Council prior to any work commencing.**
18. **A copy of the Contractor’s public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars), is to be provided to Council, prior to issue of the Subdivision Works Certificate. The insurance cover shall include the following:**
 - a) **Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.**
 - b) **Public Liability Insurance is to include Mid-Western Regional Council as an interested party.**
 - c) **The copy of the Contractor’s public liability insurance cover is to include the Certificate of Currency.**
19. **An Erosion and Sediment Control Plan is to be submitted to and approved by the Certifier (i.e. Council or a private Certifier) prior to the issue of a Subdivision Works Certificate. The Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of “Soils and Construction – Managing Urban Stormwater”. Points to be considered include, but are not limited to:**
 - a) **Saving available topsoil for reuse in the revegetation phase of the development;**
 - b) **Using erosion control measures to prevent on-site damage;**
 - c) **Rehabilitating disturbed areas quickly; and**
 - d) **Maintenance of erosion and sediment control structures.**

20. **Consent from Council must be obtained for all works within the road reserve, including removal of trees, pursuant to Section 138 of the Roads Act 1993, prior to the issue of a Subdivision Works Certificate. The accesses are to be designed and constructed in accordance with Council's Access to Properties Policy.**
21. **Details of the internal driveway within the access handles are to be submitted and approved by the Certifier (i.e. Council or a private Certifier) as part of the Subdivision Works Certificate. The details are to comply with the following:**
 - a) **An 8m wide concrete crossover is to be provided at the entrance to the access handles for proposed Lots 2,3 and 4.**
 - b) **An 8m wide reinforced concrete driveway with integral kerb is to extend for the full length of the right of carriageway to be provided over the access handles for proposed Lots 2 and 3.**
 - c) **The design of the driveway and crossover is to comply with Aus-Spec #1 and Council's "Access to Properties Policy".**
 - d) **The details are to comply with the relevant provisions of AS2890.1-1993.**
 - e) **Should concrete be used, provide for construction joints and removable panels in the driveway so that the part of the concrete driveway can be removed while maintenance occurs on the sewer within the easement.**
22. **Details of the access upgrade, internal driveway and car parking spaces are to be submitted to and approved by the Certifier (i.e. Council or a private Certifier), prior to the issue of a Subdivision Works Certificate. These details shall comply with the requirements of AS/NZS 2890.1:2004 – Parking Facilities – Part 1: Off-Street Car Parking and the relevant conditions of this development consent.**

PRIOR TO COMMENCEMENT OF WORKS

23. **The development site is to be managed for the entirety of work in the following manner:**
 - a) **Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;**
 - b) **Appropriate dust control measures;**
 - c) **Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;**
 - d) **Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.**
24. **Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.**
25. **Prior to the commencement of subdivision works, the following actions are to be carried out:**
 - a) **A site supervisor is to be nominated by the applicant;**
 - b) **Council is to be provided with two (2) days notice of works commencing; and**

- c) Council is to be notified in writing of any existing damage to Council's infrastructure.

Note - failure to comply with these conditions may result in damage to Council's infrastructure. Any damage will be rectified at the applicant's cost.

- 26. **Runoff and erosion controls shall be installed prior to clearing and incorporate: -**
 - a) **diversion of uncontaminated up-site 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.**

DURING WORKS

- 27. **The subdivision works are to be inspected by a Certifier (i.e. Council or a private Certifier) to monitor compliance with the consent and the relevant standards of construction, encompassing the following stages of construction:**
 - a) **Installation of sediment and erosion control measures;**
 - b) **Water and sewer line installation prior to backfilling;**
 - c) **All stormwater drainage prior to backfilling;**
 - d) **Detentions systems;**
 - e) **All concrete prior to pouring (reinforcing in place);**
 - f) **Establishment of line and level for kerb and gutter placement;**
 - g) **Road Pavement construction;**
 - h) **Road Pavement surfacing;**
 - i) **Any other inspections as directed by Council's Engineer, and**
 - j) **Practical Completion.**
- 28. **The developer is to grant Council unrestricted access to the site at all times to enable inspections or testing of the subdivision works.**
- 29. **An ecologist or fauna spotter is to be onsite during the removal of the four hollow trees to mitigate any potential harm to residing wildlife.**
- 30. **The footpath and driveway levels are not to be altered outside the property boundary without Council's permission. Driveways installed over public footpaths must match the existing footpath profile.**
- 31. **The developer 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 NSW Land Registry Services and Council.**
- 32. **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.**
- 33. **All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the developer's/demolisher's expense.**

34. **Inter-allotment 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 inter-allotment drainage in favour of upstream allotments.**
35. **Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.**
36. **Stormwater drainage is to comply with the *Mid-Western Regional Council Development Control Plan 2013* and the standards referenced in Appendix B and D.**
37. **Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided to each lot at a suitable location. These should be constructed in accordance with Aus-Spec #1 and Council's "Access to Properties" Policy.**

Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Operations Department between 8.00am 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.

38. **The developer is to upgrade the Lions Drive to the extent shown on Drawing HD259 – Revision 9 – dated 07/11/2022 prepared by High Definition Design Pty Ltd, such that it has the following characteristics:**

Item	Requirement
Road Pavement Width	10m between kerb faces
Footway Width	Minimum 4.5m
Concrete Footpaths	N/A
Seal	Two-coat flush seal -14/7 mm (Double/Double) as required or asphaltic concrete 40mm thick
Kerb & Gutter	Concrete kerb & gutter
Subsoil Drainage	Behind kerb if required
Underground Drainage	Where gutter flow exceeds 2.5m during minor events or adjacent to intersections.

39. **The developer is to provide separate water and sewer reticulation services to each allotment within the subdivision.**
40. **The developer is to extend and meet the full cost of water reticulations to service the development plus the cost of connecting to existing services. All water supply 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 Supply Code of Australia.**

Note: Council does not permit other bodies to insert new junctions into 'live' water and/or sewer mains. Please contact Council's Operations Water and Wastewater Department by calling ☎ 1300 765 002 or 02 6378 2850 or by emailing council@midwestern.nsw.gov.au to obtain a quote for the connection of sewer (Private Works Order).

41. The developer is to extend and meet the full cost of sewer reticulations to service the development plus the cost of connecting to existing services. All 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 – Sewerage Code of Australia.

Note - Council does not permit other bodies to insert new junctions into 'live' water and/or sewer mains. Please contact Council's Operations Water and Wastewater Department by calling ☎ 1300 765 002 or 02 6378 2850 or by emailing council@midwestern.nsw.gov.au to obtain a quote for the connection of sewer (Private Works Order).

42. Following completion of any civil works required by this consent, a defect liability bond of 5% of the value of such works (not carried out by Council) shall be lodged with Council for a twenty-four (24) month period to ensure that any defects in such works are remedied by the developer.

Note – The works subject to bonding shall be works outside the property boundary (i.e. verge, footpath and roadworks) and services / infrastructure works that is intended to be dedicated to Council (e.g. sewer and water supply infrastructure).

Note - The bond may be provided by way of a monetary deposit with the Council or a bank guarantee to the satisfaction of the Council. The bank guarantee must not specify any time limitations on the operation of the guarantee.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

43. Under the *Environmental Planning & Assessment Act 1979*, a *Subdivision Certificate* is required before the linen plan of subdivision can be registered with NSW Land Registry Services.

Note - The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges and the application is to be made by way of submission via the NSW Planning Portal.

44. A linen plan is to be submitted to Council for approval and endorsement by the General Manager, or an appropriate delegate, via the NSW Planning Portal.

45. The developer is to ensure that any defects in the works that become apparent within the 24 months following the registration of the Subdivision Certificate with NSW Land and Registry Services, are remedied to Council's satisfaction. If these defects are not satisfactorily remedied, Council may use bond money to carry out rectification works.

Any unspent bond money will be returned to the developer at the end of the 24-month defects liability period, less the cost of rectification works carried out by Council.

46. **The final inspection report shall be submitted to Council with the Subdivision Certificate application.**
47. **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, except for the private services referred to in following conditions 57(f) and 57(h).**
48. **Easements not less than 1 metre wide shall be created over any inter-allotment drainage in favour of upstream allotments. The Section 88B instrument and linen plans submitted with the application are to include details of any required inter-allotment stormwater easements.**
49. **A Section 88B instrument, providing a reciprocal right of carriageway over the access handles for proposed Lots 2, 3 and 4, for the benefit of Lots 2, 3 and 4, is to be submitted to Council, prior to the issue of a Subdivision Certificate. The reciprocal right of carriageway (ROW) is to comply with the following:**
 - a) **The reciprocal right of carriageway is to be in accordance with the approved plan of subdivision.**
 - b) **The location of the reciprocal right of carriageway is to be shown on the linen plans submitted with the application for Subdivision Certificate.**
 - c) **The terms of the reciprocal right of carriageway are to include the following:**
 - (i) **State that both the burdened/ benefitted lots are to pay an equal share of the maintenance costs of any works, including driveway surfacing, within the right of carriageway.**
50. **Prior to the issue of a subdivision certificate, a survey drawing is to be submitted to Council, demonstrating that all private water services, sewer services and water meters are located wholly within the lot that they serve.**
51. **Following completion of the subdivision works, work-as-executed plans (WAE) are to be provided to Council in the following formats:**
 - a) **PDF; and**
 - b) **Dwg format or "Autocad compatible"**
 - c) **MapInfo tab files with individual layers, supplied in individual tables**

All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.

To accompany the WAE Drawings, Council also requires the completion of Asset Data Excel Spreadsheets (to be provided by Council) prior to the issue of Subdivision Certificate.
52. **Prior to issue of the *Subdivision Certificate*, Council is to be supplied with:**
 - a) **A Notice of Arrangements from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision; and**
 - b) **Satisfactory evidence that arrangements have been for the installation of fibre-ready facilities to all individual lots so as to enable fibre to be readily connected to any premises that may be constructed on those lots. This will need to include**

confirmation in writing from the carrier that they are satisfied that the fibre ready facilities are fit for purpose; and

- c) Satisfactory evidence (usually by way of an agreement with a carrier) that arrangements have been made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots; or
 - d) As an alternative to b) or c), satisfactory evidence that a carrier will not require fixed line infrastructure to service the subdivision and satisfactory arrangements have been made for fixed wireless infrastructure to service the subdivision. This alternative is provided to address sites in areas mapped by NBN Co as being in a designated Fixed Wireless area, as opposed to a mapped Fibre to the Node area.
53. The developer shall obtain a *Certificate of Compliance* under the *Water Management Act 2000*, from Council, prior to the issue of Subdivision Certificate.
- Note – Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance in relation to the Subdivision of the development.*
54. A registered surveyor shall provide certification that all services (e.g. drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot, or within appropriate easements to accommodate such services. The certification is to be provided to the PCA, prior to the issue of a Subdivision Certificate.
55. The owner must dedicate for road purposes, free of cost to Council, a splayed corner at the intersection of the Castlereagh Highway and Lions Drive such that a minimum footway width of 4.5m is maintained at that location. The required widening shall be detailed on the plan of subdivision. This road widening must be represented on the plan submitted for the Subdivision Certificate and registered at the Land and Property Information office.
56. Prior to the issue of a Subdivision Certificate, Council is to be supplied with an instrument containing an appropriate covenant / restriction as to user advising that proposed Lot 1, 2, 3 and 4 have been burdened as follows:
- a) The open channel contained within proposed Lot 1, 2, 3 and 4 must not be altered in any way that may restrict or redirect flows within that channel.
 - b) The maintenance of the channel is the sole responsibility of proposed Lots 1, 2, 3, and 4.
 - c) The channel is to be maintained in perpetuity by the owners proposed of Lots 1, 2, 3, and 4. The channel shall be regularly mown / maintained to ensure flows are not limited by vegetation growth or rubbish build up.
 - d) The channel shall not be filled or blocked by any fencing, retaining wall or structure.
 - e) The channel must not be used for the storage of goods, materials or vehicles.
 - f) The pressure sewer and Line M2 to M3 required to serve proposed Lots 1, 2, 3 and 4 will remain a private service. Council will not accept transfer of this service as an asset, nor will it be responsible for the maintenance thereof.
 - g) The maintenance of the pressure sewer and private sewer line M2 to M3 is the sole responsibility of proposed Lots 1, 2, 3, and 4.
 - h) The water main serving Lots 2, 3 and 4 will remain a private service. Council will not accept transfer of this service as an asset, nor will it be responsible for the maintenance thereof.

- i) The maintenance of the water main serving Lots 2, 3 and 4 is the sole responsibility of proposed Lots 2, 3, and 4.

Mid-Western Regional Council shall be nominated as the Prescribed Authority with the power to release, vary or modify the covenant.

57. The developer shall contact Council's Property and Rating Department to ensure that the Street Addressing for each lot is correctly allocated in accordance with AS4819, prior to the issue of the Subdivision Certificate.

STAGE 2 – BUNNINGS WAREHOUSE, CAR PARKING, LANDSCAPING AND SIGNAGE

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

58. Application shall be made to Council under Section 68 of the Local Government Act 1993 to carry out Water Supply, Stormwater and Sewerage Works.

The application shall contain details demonstrating compliance with the Plumbing and Drainage Act 2011 and/or the Plumbing Code of Australia. (The application form and further information is available on Council's website www.midwestern.nsw.gov.au).

The Section 68 application shall be considered and approved by Council prior to the release of a Construction Certificate for the development.

59. Application shall be made to Council under Section 138 of the Roads Act 1993 for driveway crossover works within the road reserve.
The application shall contain details demonstrating compliance with:
 - a) Council's Access to Properties Policy; and
 - b) Australian Standard AS/NZS 2890.1:2004 Parking Facilities – Off-street parking facilities.

The Section 138 application shall be considered and approved by Council prior to the release of the Construction Certificate for the development.

60. Prior to the issue of a Construction Certificate, the developer shall obtain a *Certificate of Compliance* under the *Water Management Act 2000*, from Council.

Note – Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance in relation to the development of Lot 1 for Bunnings Warehouse.

61. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$250,000 or more.

Note - The amount payable is currently based on 0.25% of the cost of work. This is a State Government Levy and is subject to change.

Note – Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction Certificate is to be issued by a Private Certifier, the long service levy must be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.

62. In accordance with the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Contributions Plan 2019, 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 issue of a Construction Certificate.

The value of works is to be calculated in accordance with Section 2.9.3 and the procedure outlined in Section 4.3 of the Contributions Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the levy amount following submission of the documents.

Note – based on the proposed cost of works being \$17,710,000 it is estimated the contribution amount will be \$177,100.00. The contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.

Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.

Note – Mid-Western Regional Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

63. Prior to the issue of a Construction Certification, final inspection report/s or written confirmation from the Principal Certifying Authority of the Subdivision Works Certificate is to be submitted to verify that flood mitigation works (comprising the perimeter drainage channel) and regrading of the site approved under the Subdivision Works Certificate have been completed to their satisfaction.
64. A Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off shall be submitted to and approved by Council prior to the release of the Construction Certificate. The drainage report and design must be prepared in consultation with Council and comply with the following requirements:
- a) Drainage design for the proposed detention basin must be accompanied by fully detailed runoff calculations and a structural design for the proposed wall certified by a suitably qualified professional Engineer.
 - b) Drainage design must also incorporate suitable and appropriate water quality controls to prevent pollution or contamination of downstream environments.
 - c) Drainage report and design must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5/5/20/100 year event.
 - d) Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over and adjoining

property must not occur without the consent of the owner of any affected property.

- e) The design shall provide for inter-allotment drainage to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. The design shall accommodate the provision of 1m wide easements over inter-allotment drainage.
65. A total of 185 spaces (including 4 disabled spaces and 6 car and trailer spaces) are to be provided within the site of the development and comply with *AS 2890.1: 2004 – Parking facilities – Part 1: Off-street car parking* and the following requirements:
- a) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - b) Each disabled car parking space is to be in accordance with the provisions of *AS 2890.6: 2009 – Parking facilities – Part 6: Off-street parking for people with disabilities*;
 - c) All car parking spaces are to be line-marked and provided with a hard standing, all weather concrete or bitumen surface and must be maintained in a satisfactory condition at all times; and
 - d) Off street parking is to be encouraged by the placement of prominent signs indicating the availability of parking.
66. The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Maritime Services (RMS) guidelines and Australian Standard *AS 2890.1: 2004 – Parking facilities – Part 1: Off-street car parking*. Details of compliance are to be shown on the relevant plans and specifications.
67. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided to each lot at a suitable location. These should be constructed in accordance with Aus-Spec #1 and Council’s “Access to Properties” Policy.

Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Operations Department between 8.00am 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.

68. A 4 metre high acoustic barrier shall be erected in the location indicated in Appendix A of the approved acoustic assessment (identified as *Operational Noise Emission Assessment* (ONEA) prepared by Acoustic Dynamics dated 13 July 2022). The acoustic barrier shall be constructed of material as specified in Section 6.1.3 of the approved acoustic assessment. Details of the acoustic barrier shall be submitted to the Principal Certifier prior to issue of any Construction Certificate.
69. Sound insulation shall be installed in the Goods Inwards space in accordance with the recommendations in Sec 6.1.3 of the approved acoustic assessment (identified as *Operational Noise Emission Assessment* prepared by Acoustic Dynamics dated 13 July 2022). Details of the sound insulation shall be submitted to the Principal Certifier prior to issue of any Construction Certificate.

70. **Mechanical plant and associated infrastructure shall be installed in accordance the recommendations in Section 6.1.1 of the approved acoustic assessment (identified as *Operational Noise Emission Assessment* prepared by Acoustic Dynamics dated 13 July 2022). Details of the mechanical plant shall be submitted to the Principal Certifier prior to issue of any Construction Certificate.**
71. **Prior to issue of any Construction Certificate, the approved site plan showing proposed signage is to be amended to reduce the overall height of the pylon advertising sign to be no greater than 9.0m.**

PRIOR TO COMMENCEMENT OF WORKS

72. **Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, an approval in accordance with Section 138 of the Roads Act 1993 will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The Section 138 application is to be submitted to, and approved by Council, prior to works commencing within the road reserve.**
73. **The developer shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.**
74. **Sediment erosion controls shall be installed within the development site, to the satisfaction of the Certifier (i.e. Council or the Principal Certifier), prior to the commencement of works.**

PRIOR TO COMMENCEMENT OF WORKS – BUILDING

75. **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.

76. **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

77. **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;
 - a) stating that unauthorised entry to the work site is prohibited, and
 - b) 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.
 - c) the name, address and telephone number of the principal certifying authority for the work,**

The sign shall be removed when the erection or demolition of the building has been completed.

78. If the work involved in the erection/demolition of the building;
- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b) building involves the enclosure of a public place

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

79. The development site is to be managed for the entirety of work in the following manner:
- a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - b) Appropriate dust control measures;
 - c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

BUILDING CONSTRUCTION

80. 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.
81. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
82. 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.
83. 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.
84. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
85. All building work is to comply with the requirements of the Access to Premises Standard.

86. **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 Section 78 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.**
87. **Stormwater drainage is to comply with the *Mid-Western Regional Council Development Control Plan 2013* and the standards referenced in Appendix B and D.**

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

88. **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.**
89. **Prior to occupation or the issue of the Occupation Certificate the owner of the building must cause the Principal Certifier to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Section 41 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the schedule. The certificate must only be in the form specified by Section 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.**
90. **Prior to use of the development and/or issue of an Occupation Certificate, a satisfactory final inspection report from the Council must be received by the Certifier, verifying that the building is connected to reticulated water supply, stormwater and/or sewerage in accordance with the relevant section 68 approval/s.**
91. **All road works associated with the upgrade of the Castlereagh Highway intersection under the WAD with TfNSW must be completed prior to the issue of the Occupation Certificate.**
92. **Prior to commencement of use of the development and/or issue of an Occupation Certificate, all approved car parking and associated driveway works are to be completed.**
93. **Prior to use of the development and/or issue of an Occupation Certificate, three metre wide easements, including associated Section 88B instruments, are to be created over any existing or newly constructed sewerage drainage lines/components located within the subject property, or extended through adjoining private properties as a result of this subdivision. The benefited parties should be those lots immediately up stream of the development and Council.**
94. **Prior to use of the development and/or issue of an Occupation Certificate, the excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.**

95. **Prior to the issue of Occupation Certificate all landscaping in accordance with the approved landscaping plan/s is to be completed.**
96. **Before the issue of an occupation certificate, a suitably qualified person must provide details demonstrating compliance to the principal certifier that the acoustic measures have been installed in accordance with the acoustic report approved under this consent.**
97. **Prior to the issue of an Occupation Certificate, a Loading Dock Noise Management Plan shall be developed and submitted to Council.**

The Plan shall include the recommendations in Section 6.1.2 of the approved acoustic assessment (identified as *Operational Noise Emission Assessment (ONEA)* prepared by Acoustic Dynamics dated 13 July 2022) approved for implementation as part of the ongoing operation of the development.

98. **Trade Waste Application will be required to be submitted and approved for the proposed ancillary cafe prior to operation.**
99. **Prior to operation of the development Council shall carry out an inspection of the café area.**
100. **A Food Business Notification form shall be submitted via Council's website prior to the ancillary café operating.**

GENERAL / ONGOING

101. **For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.**
102. **Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.**
103. **The hours of operation are limited to the following:**
 - a) **6:00am to 10:00pm, Monday to Friday; and**
 - b) **6:00am to 7:00pm, Saturday, Sunday and Public Holidays; and**
 - c) **No deliveries are to occur outside of these approved hours.**
104. **There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.**
105. **During ongoing use of the premises, the premises must be operated in accordance with the acoustic report approved under this consent.**
106. **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.**

107. **All loading and unloading in connection with the premises shall be carried out wholly within the site.**
108. **All loading and unloading of vehicles is to be undertaken at the side or rear of the buildings, with the exception of customers loading purchased goods into their own vehicles.**
109. **All car parking areas, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.**
110. **All line-marking for the on-site car parking spaces are to be maintained in a visible condition, at all times.**
111. **Garbage areas are to be adequately screened from public view with an opaque fence and/or adequate landscaping.**
112. **Landscaping is to be maintained in accordance with the approved landscape plans.**
If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
113. **All waste generated by the development is to be disposed of to a Council approved waste facility. All fees and charges for disposal are to be borne by the developer.**
114. **All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".**
115. **No display or sale of goods is to take place from public areas or footpaths fronting the premises.**
116. **Storage of hazardous substances is to be located within an appropriate storage facility in accordance with the requirements of the relevant Material Safety Data Sheet.**
117. **The approved signage and related components are to be maintained in a clean, tidy and structurally sound manner, at all times.**
118. **The signage is to be securely affixed and is not to flash, move or be objectionably glaring.**
119. **Any illumination of signage is to comply with the following requirements:**
 - a) **Illumination (including cabling) of signs is to be:**
 - (i) **concealed; or**
 - (ii) **integral with the sign; or**
 - (iii) **internally illuminated; or**
 - (iv) **provided by means of carefully designed and located remote or spot baffled lamps.**

- b) **Lighting must comply with Australian Standard AS 4282:1997 – Control of the Obtrusive Effects of Outdoor Lighting.**
120. The pylon sign must only be illuminated when the premises are in operation and only during operating hours approved under this consent.

ESSENTIAL ENERGY GENERAL NOTES

1. As part of the subdivision, an easement is created for any existing electrical infrastructure. The easement is to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision;
2. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
3. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
4. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions;
5. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*;
6. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995 (NSW)*;
7. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets*.

COUNCIL ADVISORY NOTES

1. This development consent requires a Certificate of Compliance under the *Water Management Act 2000* to be obtained prior to the issue of a Subdivision Certificate.

A person may apply to Mid-Western Regional Council, as the water supply authority, for a Certificate of Compliance pursuant to section 305 of the *Water Management Act 2000*.

Please be advised that as a precondition to the granting of a Compliance Certificate, the following is to occur:

A monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable);

Stage 1 – Subdivision – 4 lots credit for Lot 2 DP1079362		
	<i>ET/Unit</i>	<i>Value</i>
Water Headworks	2.5	\$24,282.50
Sewer Headworks	2.95	\$13,080.30
Total Headworks		\$37,362.80

Stage 2 – Development of Lot 1 for Bunnings Warehouse (Commercial development floor area 9,200m² 0.1ET/100m² credit Lot 1)		
	<i>ET/Unit</i>	<i>Value</i>
Water Headworks	8.2	\$79,646.60
Sewer Headworks	8.2	\$36,358.80
Total Headworks		\$116,005.40

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.

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 6 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.
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 6 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. The matters raised within submissions have been addressed in the following manner:
 - Sewer services will be extended from the main located in Wilkins Crescent rather than Castlereagh Highway.
 - The Traffic Report submitted with the application appropriately addressed the issues raised in relation to traffic issues associated with the development. Upgrades to Lions Drive and Castlereagh Highway have been included as conditions of consent.

Executive summary

OWNER/S	Sambelle Pty Ltd
APPLICANT:	Bunnings Group Limited
PROPERTY DESCRIPTION	134 Lions Drive BURRUNDULLA NSW 2850
PROPOSED DEVELOPMENT	Demolition, subdivision (1 into 4 lots), development of Lot 1 for retail premises (Bunnings Warehouse) including signage; and associated ancillary works.
ESTIMATED COST OF DEVELOPMENT:	\$17,710,000
REASON FOR REPORTING TO COUNCIL:	Exceeds staff's <i>Delegation of Authority</i> , in that the value of the application exceeds \$2 million.
PUBLIC SUBMISSIONS:	Two (2) submissions received

Council is in receipt of Development Application DA0027/2023 that seeks approval for demolition, subdivision of 1 lot into 4 lots; development of retail premises (Bunnings Warehouse) including signage; and associated ancillary works, located at 134 Lions Drive BURRUNDULLA NSW 2850, Lot 2 DP 1079362, received by Council on 17 July 2022.

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 26 August 2022. During the notification period, 2 submission/s were received.

The submissions raised issues around the servicing of the development and impacts on traffic and are further discussed in the body of this report.

The proposed development has been assessed in accordance with Council's Development Control Plan 2013 (DCP 2013) and the MWRLEP 2012. The proposed development is considered generally consistent with Council's planning controls.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that the value of the application exceeds \$2 million.

The application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

SITE DESCRIPTION

The subject site, located at 134 Lions Drive, Burrundulla is located on the southern corner of Sydney Road (Castlereagh Highway) and Lions Drive at the southern entrance to Mudgee. The site is at the interface of rural zoned land and the urban area containing large format retail outlets and light industries including the existing Bunnings site on the opposite side of Castlereagh Highway and bulky goods retailers (including Homemakers) and self-storage units located on the opposite side of Lions Drive. The property to the south of the subject site is rural in nature, containing an existing dwelling on its southern side.

The site is legally identified as Lot 2 on DP 1079362 and is irregular in shape and approximately 54,377m² in size. The site contains a house, sheds, yards and landscaped garden with the remainder of the land historically used as grazing paddock. A dam is located on the south east corner of the site.

Figure 1 shows an aerial image of the subject site and its immediate surrounding area.



Figure 1: Aerial Image of site and surrounds

PROPOSED DEVELOPMENT

It is proposed to subdivide the land into four lots, the proposed lots will have the following areas:

- Lot 1 30,225m²
- Lot 2 8189m²

- Lot 3 7684m²
- Lot 4 7575m²

Proposed Lot 1 will contain the new Bunnings Warehouse, while all other lots will be vacant. Lots 2 to 3 will be accessed via shared right of carriageway from Lions Drive.

The new Bunnings Warehouse to be developed on Lot 1, will have a retail floor area of approximately 9,200m² consisting of the following elements:

- main warehouse retail area of 5,282.84m²,
- bagged goods canopy of 1,115.80m²,
- outdoor nursery of 750m²,
- timber trade sales area of 2,000m²,
- building Materials Landscape Yard of 786m²,
- goods inwards area of 91.73m², cafe & kids playground.

The external materials proposed for each façade will be typical of the Bunnings corporate colours identifying the business and logo. A new 12m high Pylon Sign is also proposed within the car parking area.

A car park consisting of 185 car parking spaces including 4 disabled spaces and 6 trailer parking bays will be provided to the front of the warehouse building and will be accessed from two points on Lions Drive. A delivery service road from Lions Drive with loading/unloading facilities to the rear of the warehouse building will also be provided. An acoustic wall is proposed to be provided adjacent to the loading / unloading area to minimize noise impacts to the adjoining dwelling. No accesses are proposed to be provided directly to/from Castlereagh Highway. Upgrades are proposed to Lions Drive and Castlereagh Highway in order to facilitate the development.

Proposed trading hours are proposed to be:

- Monday to Fridays 6.00am to 10.00pm
- Saturday, Sunday & Public Holidays 6:00 am to 7:00 pm

Works also include site preparation works, consisting of tree removal, site clearing and demolition of the existing dwelling and outbuildings. Bulk earthworks, servicing, stormwater and flood mitigation works. Extensive landscaping through the open areas of the site including within the front setback. Tanks are proposed to be provided to capture rainwater for irrigation and reuse in toilets and other non-potable purposes.

An extract of the proposed site plan is provided in Figure 2, a full set of the proposed development plans are available in Attachment 1 and the overall Landscape plan is in Attachment 2.



Figure 2: Extract from proposed site plan

BACKGROUND

The site was the subject of a recent amendment to the Mid-Western LEP 2012 which resulted in the rezoning of the site from RU4 Primary Production Small Lots to B5 Business Development. The amendment also resulted in the inclusion of Clause 6.15 – ‘Development at 134 Lions Drive, Burrundulla’ under the Mid-Western Regional LEP which relates specifically to the subject site. The objectives of this clause are to ensure the site is appropriately landscaped in the context of the site sitting at the Gateway of Mudgee Town and to ensure development of the site does not adversely impact view corridors and the character of Mudgee. The amendment was published on 6 May 2022.

On 26 April 2023 new Employment Zones commenced within the Mid-Western Regional Council replacing business and industrial zones as per amendments carried out by the Department of Planning. Relevant to this application, the zoning of B5 Business Development applicable to the subject site was changed to E3 Productivity Support.

ASSESSMENT

LEGISLATIVE REQUIREMENTS

Biodiversity Conservation Act 2016 (BC Act)

The development triggers the Biodiversity Offset Scheme pursuant to Part 7 of the BC Act as:

- The site contains an area mapped on the Biodiversity Values Map as important habitat for a threatened species (shown in Figure 3), this coincides with mapping for Important Habitat for *Anthochaera phrgia* (Regent Honeyeater); and
- the extent of clearing of remnant native vegetation is 0.44ha which is above the area clearing threshold of 0.25ha.

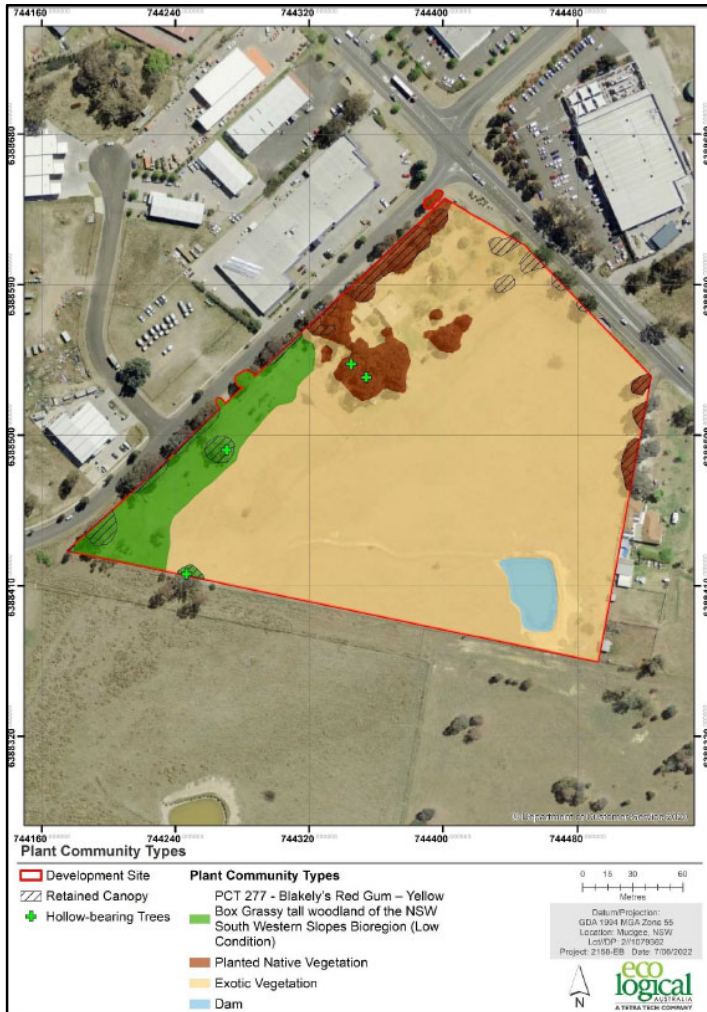
Accordingly, a Biodiversity Development Assessment Report (BDAR) was submitted with the application which assessed the impact of the proposal on biodiversity values according to the NSW Biodiversity Assessment Method (BAM) in accordance with the Biodiversity Conservation Act 2016 (BC Act).



Figure 3: Biodiversity Values Map

The BDAR, prepared by EcoLogical identified the following vegetation to be removed as follows and shown in Figure 4:

- Approximately 4.3ha of exotic vegetation reflecting past use of the land for grazing. No offsets are required for this removal.
- 0.44ha of PCT 277 - *Blakely's Red Gum – Yellow Gum tall woodland of the NSW South Western Slopes Bioregion* located in the south western corner of the development site. This vegetation is considered to be in low condition due to its degraded state. Some existing trees will be retained where possible (as shown in Figure 4). A total of 6 ecosystem credits are required to be retired to offset the removal of the 0.44ha of PCT 277, suitable conditions have been included.
- 0.23ha of planted native vegetation located in the vicinity of the existing house, shed and yards will be removed. Mapped Important Area for Regent Honeyeaters overlays the planted vegetation, the BDAR notes that much of the mapped area is exotic and provides little value in terms of foraging requirements for Regent Honeyeater. It was identified that only 0.05 ha of native vegetation was considered to provide potential foraging habitat. The BDAR identified that the Regent Honeyeater has never been recorded on site, however, the majority of the feed trees will be retained. The removal of six feed trees will be offset with approximately 100 feed trees to be planted within the site. It is noted that no ecosystem and species credits were identified as being required under the BDAR.



Environmental Planning and Assessment Act 1979 (EP&A Act)

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regs).

Integrated Development

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

SECTION 4.15(1) – MATTERS FOR CONSIDERATION - GENERAL

The application has been assessed in accordance with **Section 4.15** of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows:

4.15(1)(a) REQUIREMENTS OF REGULATIONS AND POLICIES

(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?

State Environmental Planning Policy (Biodiversity and Conservation) 2021
Chapter 4 Koala Habitat Protection 2021

Chapter 4 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity SEPP) applies to the proposal as the development site is greater than 1 hectare and Mid-Western Regional Council is listed within Schedule 2 of the Biodiversity SEPP. The subject land is not identified as potential or core koala habitat and no koala plan of management exists for the area.

The Biodiversity Development Assessment Report (BDAR) prepared by EcoLogical and submitted with the application found that the impact area was not determined to be either potential or core Koala habitat in accordance with the SEPP due to the identification of only twelve individual feed trees (*Eucalyptus blakelyi*, *E. melliodora*, *E. camaldulensis*) and the development site being part of a non-contiguous patch. The report also identified that there are three historical records of Koalas observed within a 10 km radius of the development site (DPI 2020) with the most recent being 2006 within vegetation along the Cudgegong River approximately 2 km from the development site. There are no records of Koalas being recorded within the development footprint.

Given the above, it is not considered that the development is likely to have a high level of impact on koalas or koala habitat.

State Environmental Planning Policy (Industry and Employment) 2021
Chapter 3 Advertising and signage

The proposal includes the provision of business identification signage as follows:

- Wall signage on all elevations of the building
- A 12m high pylon sign (as shown in Figure 5)



Figure 5: Extracts from proposed site plan showing proposed pylon sign and location within the site.

In accordance with Clause 3.6 of the all advertising is to satisfy the assessment criteria specified in Schedule 5. The proposed signage is considered acceptable, assessment against Schedule 5 is as follows:

SCHEDULE 5 REQUIREMENT	COMMENT
<p>1 Character of the area</p> <ul style="list-style-type: none"> • Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed pylon sign, at 12m is taller than similar signage in the surrounding area which generally has a maximum height of 7m. A condition of approval will require the sign to be reduced to 9m which will be similar in to the proposed Bunnings building and will be generally consistent with the commercial / industrial character of the surrounding area on the north and west side of the development. Whilst this sign will be higher than other signage this is considered appropriate given the sign will be located within the car park area and well set back from the boundaries. It will serve to provide business identification and public wayfinding.</p>
<p>2 Special areas</p> <ul style="list-style-type: none"> • Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The proposed signs are within a commercial area and appropriately located within the site so that they will not detract from the amenity of visual quality of any special areas.</p>
<p>3 Views and vistas</p> <ul style="list-style-type: none"> • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers? 	<p>The proposed signs will not impact on views or vistas in the vicinity of the site. The pylon sign is appropriately positioned within the site to not impact on views or vistas.</p>
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> • Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management? 	<p>The scale, proportion and form of the proposed signage is appropriate to the proposed buildings within the site. The proposed pylon sign will be reduced to 9m as a condition of consent which is in context with the proposed Bunnings building as well as the proposed / existing landscaping within the curtilage of the site including large eucalyptus trees.</p>

<p>5 Site and building</p> <ul style="list-style-type: none"> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>The proposed pylon sign is compatible in scale and proportion to the proposed Bunnings building and the proposed landscaping and will be well set back within the site.</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>The pylon sign will be required to meet the relevant building standards.</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	<p>The Pylon sign will be illuminated but only during operation of the store. A suitable condition will be included.</p> <p>The illumination of the signs will not project into adjoining properties or cause a safety issue to road users.</p>
<p>8 Safety</p> <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>The proposed signs will not reduce the safety for vehicles, pedestrians or bicyclists and does not obscure views along the road, footpath or to any public area or safety zone.</p>

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and regional development

Pursuant to Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), development that has a Capital Investment Value of more than \$30 million is deemed “Regionally Significant Development”. The proposed development has a CIV of \$17,710,000 and is therefore identified to be Local Development. Accordingly, the proposed development is not identified as State or Regionally Significant Development nor is impacted by any other requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A Preliminary Site Investigation report prepared by Valley Civilab Geotechnical & Environmental Services and dated 2/08/2019 and provided with the application. The report undertook a detailed desktop review and limited soil sampling to supplement the desktop assessment. Historical use of the site was limited to a dwelling and vacant / grassland. The key findings of the report were:

- 1) Potential contamination sources at the site are limited based on historical land use;
- 2) Visible signs of gross contamination were not observed during the site inspection and intrusive works;
- 3) Contamination in shallow soils was not identified at any of the sampling locations.

The report concludes that there is no indication of contamination which would constrain the development of the site for the proposed commercial use.

State Environmental Planning Policy (Transport And Infrastructure) 2021

Chapter 2: Infrastructure

Division 5 Electricity transmission or distribution

Section 2.48 Determination of development applications—other development

The proposed site accesses are to be constructed within 5 metres of existing overhead electricity lines. Pursuant to Section 2.48(2) the application has been referred to the electricity supply authority for the area, Essential Energy for comment about potential safety risks. Essential Energy responded, making no comments as to potential safety risks arising from the proposed development. Essential Energy provided general comments in relation to the application which will be included as notations on any approval.

Chapter 2: Infrastructure

Division 17 Roads and road infrastructure facilities

Section 2.119 Development with frontage to classified road

Section 2.122 Traffic generating development

The development has frontage to a classified road and accordingly the requirements of Section 2.119 "Development with frontage to classified road" apply. The development is also classified as "Traffic generating development" under the provisions of Section 2.122 as the Proposal is a commercial development that exceeds 2,500m² and is within 90m of a classified road.

A Traffic and Parking Assessment was submitted with the application and considers the potential traffic safety, road congestion and parking implications of the development. Upgrades are proposed to be undertaken on the intersection of Castlereagh Highway and Lions Drive.

The application was referred to Transport for NSW. TfNSW initially requested further justification in relation to the analysis provided in the Traffic Assessment as well as some minor changes to the proposed upgrade to the intersection. The additional information has been provided and TfNSW has agreed in principle to the intersection upgrades which consist of the following:

- Provision of a separate left turn lane on the Lions Drive approach
- Extended right turn lane for the turn into Lions Drive

- Provision for semi-trailers to access Lions Drive satisfactorily.

Conditions in relation to the above and as recommended by TfNSW have been included in the recommended conditions.

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as a:

hardware and building supplies means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following—

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

Signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- a) An advertising structure
- b) A building identification sign
- c) A business identification sign

but does not include traffic signs or traffic control facilities.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned E3 Productivity Support and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned E3 Productivity Support pursuant to MWRLEP 2012. The proposal, being a *hardware and building supplies* and *garden centre* is permissible with consent in the zone and complies with the relevant objectives.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

Zone E3 Productivity Support

1. *To provide a range of facilities and services, light industries, warehouses and offices.*

Comment The proposal is for a permissible use in the zone.

- 2. To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*

Comment The proposed use is compatible with but will not compete with smaller scale land uses in the Mudgee commercial centre.

- 3. To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*

Comment The use is not considered to be a retail or commercial activity which will adversely impact on the economic viability of the Mudgee commercial centre.

- 4. To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*

Comment Due to the large scale retail nature of the land use, the use is not considered to be suited to other employment zones within Mudgee.

- 5. To provide opportunities for new and emerging light industries.*

Comment The proposed subdivision will provide opportunity for the development of new and emerging industries.

- 6. To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*

Comment The proposed use will provide facilities and services to meet the day to day needs of workers, which are large in size, weight and quantities.

- 7. To promote a visually attractive entry point into Mudgee from the south east.*

Comment The proposal provides elements in the design that assist in creating a visually attractive entry to Mudgee including landscaping, compliant setbacks, appropriate use of building materials and the like. The proposal provides elements in the design that assist in creating a visually attractive entry to Mudgee including landscaping, compliant setbacks, appropriate use of building materials and the like.

- 8. To enable development that does not undermine the primary retail role of the Mudgee commercial core area.*

Comment The proposal involves a use that is not desirable in the downtown commercial core of Mudgee.

Clause 2.6 Subdivision – consent requirements

As the proposal involves subdivision this will also require development consent as discussed throughout the report.

Clause 2.7 Demolition requires development consent

In satisfaction of this clause, the development application seeks approval for the demolition of an existing dwelling and associated outbuildings.

Clause 4.1 Minimum subdivision lot size

The proposed subdivision generally meets the objectives of the clause as the proposal will promote further suitable land uses that can be accommodated on the site whilst complying with all the relevant planning controls.

The proposed lots will have the following lot sizes:

Lot 1: 3.02 ha

Lot 2: 8189 m²

Lot 3: 7684 m²

Lot 4: 7575 m².

The minimum lot size pursuant to the mapping is 2000m². Accordingly, the proposal complies with the development standard.

Clause 4.3 Height of buildings

The subject site is not mapped for a maximum height limit.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.

Clause 5.10 Heritage Conservation

No items of aboriginal significance or a heritage item are recorded on the site or in the vicinity. Notwithstanding this, a condition will be placed upon the consent ensuring that work is ceased should an item be discovered during construction.

Clause 5.21 Flood planning

According to Mudgee Flood Study 2021, the site is affected by overland flooding during the 1% AEP flood as shown in Figure 6 below. Accordingly, the development is to satisfy the provisions of Clause 5.21.



Figure 7: Extract from WM Water Flood Assessment showing modelling of peak flood depth in 1%AEP event post development

An assessment against the requirements of Clause 5.21 (2) is as follows:

(a) *The development is compatible with the flood hazard of the land, and*

Comment Following proposed works to manage flood flows through the construction of a drainage channels, the majority of the site will no longer be inundated in the 1% AEP event, and accordingly the post development scenario is considered to be compatible with the flood hazard of the land.

(b) *The development will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*

Comment As set out above, the proposed drainage channels will reduce flows across the adjoining property to the east and remove the shallow inundation of the Castlereagh Highway having a positive change to flood behaviour. The small increase in flood level in downstream channels and wastewater treatment ponds is considered acceptable.

(c) *The development will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*

Comment Following development of the proposed drainage channel, the proposed building will not be inundated in the 1% AEP event and therefore no flood hazard exists at the building, or car parking areas. In addition, a number of surrounding roads remain flood free allowing for efficient evacuation during a flood event.

(d) *The development incorporates appropriate measures to manage risk to life from flood, and*

Comment Proposed flood mitigation works are considered appropriate to manage the flood risk to the development.

(e) *The development will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment The proposed drainage channel will manage flow entering the site. The channel has been appropriately designed to minimise potential erosion. The report notes that whilst there is a very minor increase in flood levels and velocity in the downstream channel this is unlikely to result in reduced bank stability.

An assessment against the requirements of Clause 5.21 (3) is as follows:

(b) *the impact of the development on projected changes to flood behaviour as a result of climate change,*

Comment The report submitted by WMA Water notes that the scale of existing flood behaviour across the site is relatively small, with only 0.3m between a 5% AEP and the PMF events. Further stating that this coupled with the very minor change in flood levels beyond the development site in the 1% AEP event, indicate that the impacts of the development are unlikely to be greater under a future climate scenario.

(b) *the intended design and scale of buildings resulting from the development,*

(c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*

(d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment Under proposed conditions the site of the proposed building is no longer inundated in the 1% AEP event and therefore no flood hazard exists at the building, or car parking areas. In addition, a number of surrounding roads remain flood free allowing for efficient evacuation.

Clause 6.1 Salinity

The extent of earthworks is not expected to significantly affect the process of salinisation.

Clause 6.3 Earthworks

The proposal involves bulk earthworks to prepare the site for the development. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping.

No significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

The applicant has noted that while liquids and chemicals will be sold through the store, these materials will be located within the store itself, on a concrete slab, or within bunded areas. Consequently, there is no likelihood of groundwater contamination from the development.

Clause 6.5 Terrestrial biodiversity

The proposal is not located in any area identified as 'Moderate or High Biodiversity Sensitivity'.

Clause 6.7 Active street frontages

Not applicable. The site is not located within the area mapped as 'Active street frontage'.

Clause 6.8 Airspace operations – Mudgee Airport

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development as follows:

- Water is available via existing 100mm water main in Lions Drive, capable of servicing the Bunnings development and subdivision. It is noted that in addition to reticulated water services, the Bunnings development will have an onsite static supply for fire fighting purposes, including a booster pump and recycled water tank for watering of the nursery.
- Electricity infrastructure is available in the vicinity of the site, and will be required to be connected to the development in accordance with the requirements of Essential Energy.
- Sewer servicing plan provided, reticulated sewer services will be extended to the development from Wilkins Crescent and will be extended to the development. It is proposed to provide a gravity manhole on the Bunnings lot then a pressure connection to the Bunnings site. Lot 2 will be able to drain to the sewer via gravity however Lot 3 and 4 will have the same system as the Bunnings lot. Suitable conditions have been included.
- Suitable stormwater drainage and on-site conservation is proposed. The additional stormwater runoff generated by the proposed development is collected, conveyed and contained within a number of areas on site. Including via the 12 metre wide grass lined channel on the sites southern and eastern boundary; a detention basin on the Castlereagh Highway frontage; above ground detention storage in the car park; and 30,000 litre tank to store rainwater from roof areas for re-use on site.
- Suitable road access is provided to the development from Lions Drive. Upgrades to Lions Drive and Castlereagh Highway will be undertaken to ensure the suitability of access to the development as discussed throughout this report.

Clause 6.10 Visually sensitive land near Mudgee

The land is not located within the area identified within the visually sensitive land map.

Clause 6.15 Development at 134 Lions Drive, Burrundulla

This clause is specific to the subject site and was included as part of the rezoning of the land. The objectives of this clause are—

- (a) to provide for landscaped areas on the land, and
- (b) to ensure development on the land does not detrimentally impact on view corridors.

The clause requires that development consent must not be granted to development on the land unless the consent authority is satisfied that –

- (a) *buildings above ground level (existing) on the land will have a setback of at least 25m from the boundary of the land with the Castlereagh Highway, and*

Comment The proposed Bunnings building and associated car park is not located within the front 25m setback from Castlereagh Highway as shown on the site plan.

- (b) *there will be no signage on the land within 25m of the boundary of the land with the Castlereagh Highway, and*

Comment New signage on the walls of the building and the pylon sign will not be located within the 25m setback from the Castlereagh frontage.

- (c) *the development will not detrimentally impact on view corridors.*

Comment Given the setback of the development from the Castlereagh frontage and the proposed landscaping, it is not considered that the development will detrimentally impact view corridors.

4.15(1)(a) REQUIREMENTS OF REGULATIONS AND POLICIES

- (ii) *Draft environmental planning instruments (EPI)*

No draft environmental planning instruments apply to the land to which the Development Application relates.

- (iii) *Any development control plans*

Mid-Western Regional Development Control Plan 2013 (DCP)

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 4.4 Signs

BUSINESS AREAS	
REQUIREMENT	COMMENT
(a) Generally, a maximum signage area per commercial building (regardless on number of tenancies) of 25% of the frontage is permitted per building.	Complies – signage will be less than 25% of the frontage.

<p>(b) Under-awning/verandah signs must have a minimum height of 2.6 metres distance from the pavement to the bottom of the sign and protrude no further than a maximum length of 3.5 metres as measured from the front wall of the commercial building and will not protrude beyond the line of the awning/verandah.</p>	<p>Not applicable – no under-awning / verandah signs proposed.</p>
<p>(c) Additional pylon signs, projecting wall signs, above awning signs, illuminated wall signs located above the verandah or awning and roof signs are not permitted in both Mudgee and Gulgong business areas.</p>	<p>Complies - The proposed pylon sign will be the only pylon sign associated with the site / development.</p>
<p>(d) Wall signs should be either painted directly onto the building or constructed of painted wood, or coated at point of manufacture or powder coated flat metal sheets. Wall signs utilising plastic or modern metal materials are not favoured. Specific consideration should be given to buildings that are Heritage Items or within a Heritage Conservation Area. In those instances, it is recommended that you discuss your proposal with the Town Planning Section or Heritage Advisor prior to finalising the design.</p>	<p>Complies – wall signs will be painted directly onto the building wall facades.</p>

Part 4.5 Commercial Development

REQUIREMENT	COMMENT
<i>Building setbacks</i>	
Building setback from the street – no minimum	Complies - Building is set back in excess of 25 metres.
Side and rear setbacks must comply with BCA	Complies - The proposed building will have side and rear setbacks in excess of 12m, in compliance with the Building Code of Australia (BCA)
<i>Signage</i>	
Signage complies with relevant provisions in section 4.4 DCP 2013	Complies - refer to relevant section of report.
<i>Design</i>	
Buildings interact with the street	Complies - windows and doors are incorporated into the front façade of the building.
On active street frontages, ground level of building used for business or retail premises	Not applicable
Building facades are articulated by use of colour, arrangement of elements, or varying materials	Complies - building facades are articulated with varied colours and materials.
Heritage inclusions	Not applicable

REQUIREMENT	COMMENT
External plant to be screened from public	Complies - condition of consent to be included
Development on a corner – includes architectural features to address both streets	Not applicable - the development has been suitably set back from the corner.
Landscape buffers to other zones	Complies – landscape buffer proposed to boundaries
Scale form and height	
Complies with LEP height controls – 8.5m maximum height	Not applicable – no LEP height limit affecting the site.
Consistent with existing heritage character of the town centres of Gulgong, Mudgee and Rylstone	Not applicable – the site is not located within the heritage conservation area.
Mortimer and Church Street, Mudgee	
Maintain the streetscape established in Church Street between Market and Mortimer Streets: – Zero front and side setbacks – Double storey pattern	Not applicable
Provides variance particularly on upper floor levels, every 20-25m	Not applicable
Articulation and Façade Composition	
Breaks visual bulk with fenestration or change in materials etc	Complies - extensive fenestration provided
No excessive blank walls in front façade	Complies
Where blank walls are proposed (side or rear), minimise impacts with landscaping, patterning of façade, signage, public art	Extensive blank walls are avoided, landscaping proposed within side and rear setbacks.
Residential–Commercial interface	
Landscape buffer to residential boundaries	Landscaping buffer provided to adjoining dwelling to the south as shown on landscaping plans
Ground and first floor do not overlook residential properties	Yes
Maintain acoustic privacy through the use of acoustic fencing where vehicles movements adjoin property boundaries	A new 4m acoustic fence is proposed adjacent to the adjoining residence in accordance with the Acoustic assessment provided with the application.
Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings are located along residential boundaries ensure sufficient landscaping is provided	Yes. Sufficient separation to the adjacent residence.
Development does not reduce sunlight available to north facing windows of living areas, private open space or clothes drying areas of adjoining properties to less than 3 hours between 9am and 3pm at winter solstice	The proposed development will not reduce sunlight available to adjoining sites.
Utilities and Services	
Building and structures located clear of infrastructure	Yes
Able to be serviced by water, sewer and waste disposal	Yes
Trade waste application required?	Not applicable - Café within Bunnings will contain pre-

REQUIREMENT	COMMENT
	packaged foods and drinks only with no food being prepared onsite. The installation of a grease arrestor / mechanical exhaust is not required.
<i>Traffic and Access</i>	
All vehicles must be able to enter and exit the site in a forward direction	Yes
All vehicle movement paths are sealed	Yes. Condition
Driveways comply with Australian Standard AS2890.1 Parking Facilities	Yes
All loading facilities located within the site	Yes – loading facilities located to the rear of the proposed building.
All loading facilities designed to comply with Australian Standards	Yes
Application addresses traffic flow and safety issues, e.g. pedestrian, car and truck movements	Yes. Application was accompanied by a traffic report that suitably addressed traffic flow and safety issues as discussed throughout this report.
<i>Pedestrian Access</i>	
Maintain existing covered pedestrian access within town centres	Not applicable – site is not located within the town centre.
Convenient and safe access through parking areas	Safe access through parking areas provided by pedestrian paths.
Convenient and safe disabled access through parking areas, focus on improving links with existing retail.	Accessible car parking spaces located adjacent to store entry.
<i>Parking</i>	
Discussed elsewhere in report	Yes – sufficient car parking provided.
<i>Landscaping</i>	
Landscaped areas in car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries	Suitable landscaping has been provided including buffer to the adjoining dwelling to the south.
Landscaping to comprise low maintenance, drought and frost resistant species	Yes. Condition of consent

Part 4.7 Tree Preservation Order

No trees listed in the Tree Preservation Order are proposed to be removed. Vegetation is proposed to be removed as part of the proposal which has been addressed throughout this report.

Part 5.1 Car Parking

In accordance with Council's DCP, Section 5.1 – Car Parking, 1 space per 50m² of GFA is required for bulky goods retailing, rural supplies, hardware and building supplies.

Based on a GFA of 9,200m², a total of 184 car parking spaces are required. The plans provided details the provision of 185 car parking spaces. Four accessible car parking spaces and 6 trailer bays are also provided within the total of 185 spaces. Disabled spaces are considered to be appropriately located with respect to the building entrances and exits.

Pedestrian access and linkage from Lions Drive are provided through the car parking area to the main building entrance. The rear loading bay provides parking for 2 delivery vehicles to load / unload as well as enter and exit the site in a forward direction.

Parking and circulation appear compliant with AS 2890; however, a condition will be included requiring the certification of the car parking design / layout prior to the issue of the Construction Certificate.

Part 5.2 Flooding

As discussed previously in this report, the site is affected by 1% AEP flood event under the Mudgee Flood Study 2021. It is proposed to undertake flood mitigation works including the construction of a channel along the south and east boundaries. This will result in a positive effect with the majority of the site being flood free. The proposed development is considered to meet the requirements of this Part as set out in the accompanying report provided by WMA Water.

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater advising that the additional stormwater runoff generated by the proposed development is collected, conveyed and contained within a number of areas on site including via a detention basin on the Castlereagh Highway frontage and via storage in the car park. The conceptual drainage and OSD scheme are considered acceptable for DA purposes, full details will be required with the SWC or CC relevant to that portion of works.

Part 5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

CONTRIBUTIONS

- Mid-Western Regional Contributions Plan 2019

Pursuant to Council's Contributions Plan 2019, the development is commercial and has a proposed cost greater than \$200,000 therefore a levy of 1% applies and is payable to Council which requires the payment of a contributions in accordance with the plan as follows:

1% of \$17,710,000 is \$177,100

An appropriate condition has been imposed requiring payment of the contribution.

- Section 64 - Water/Sewer Developer Services Charges

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the proposed development will require the payment of DC headworks charges calculated as follows:

Stage 1 - Subdivision

Water Headworks

4 x Vacant Lot – Future use unknown – 1.0ET/unit = 4.0 ET/unit
Less credit Lot 2 DP1079362 @ 1.5 ET/unit

= 2.5 ET/unit @ \$9,713.00 per ET/unit
= \$24,282.50

Sewer Headworks

4 x Vacant Lot – Future use unknown – 1.0 ET/unit = 4.0 ET/unit
Less credit Lot 2 DP1079362 @ 1.05 ET/unit

= 2.95 ET/unit @ \$4,434 per ET/unit
= **\$13,080.30**

Stage 2 – Development of Bunnings Warehouse

Water Headworks

Commercial development floor area 9,200m² @ 0.1ET/100m² = 9.2 ET/unit
Less credit for Lot 1 (from Stage 1) @ 1.0 ET/unit

= 8.2 ET/unit @ \$9,713.00 per ET/unit
= **\$79,646.60**

Sewer Headworks

Commercial development floor area 9,200m² @ 0.1 ET/100m² = 9.2 ET/unit
Less credit for Lot 1 (from Stage 1) @ 1.0 ET/unit

= 8.2 ET/unit @ \$4,434 per ET/unit
= **\$40,792.00**

A condition has been imposed accordingly.

4.15(1)(a) PROVISIONS OF ANY PLANNING AGREEMENT OR DRAFT PLANNING AGREEMENT – (1)(a)(iii)

No Planning Agreements are applicable.

4.15(1)(a)(iv) REGULATIONS

Environmental Planning and Assessment Regulation 2021

Clause 61 – Additional matters that consent authority must consider

Clause 61(1) requires Council to consider Australian Standard AS2601-2001: *The Demolition of Structures* when consent is sought for demolition of a building. The application includes demolition and compliance with AS2601 has been included as a condition of consent.

LIKELY IMPACTS OF THE DEVELOPMENT – 4.15(1)(b)

Context and Setting

The proposed development is located at the entrance to Mudgee at the interface of the rural landscape and commercial/industrial developments. The development has been appropriated setback from the frontage incorporating landscaping to contribute towards creating an attractive entry point into Mudgee.

Access, Transport and Traffic

The application was accompanied by a Traffic and Parking Assessment prepared by Transport and Traffic Planning Associates (TTPA) and assessed the potential traffic implications of the development, the adequacy of parking provision and the adequacy of access, internal circulation and servicing arrangements.

Traffic implications

A Traffic Assessment was undertaken, considering existing traffic counts and traffic generation of the proposed development, modelling the projected 2032 outcome.

Projected 2032 outcome indicated that the right turn movements into and left turn out of Lions Drive become significant during peak conditions. There is only a single approach lane in Lions Drive at present and it is apparent that it is not possible for semi-trailers to satisfactorily access into or out of Lions Drive at intersection under the present geometrical constraints. Accordingly, roadworks are proposed to be undertaken as follows and detailed in Figure 8 below:

- Provision of a separate left turn lane on the Lions Drive approach
- Extended right turn lane for the turn into Lions Drive
- Provision for semi-trailers to access Lions Drive satisfactorily.

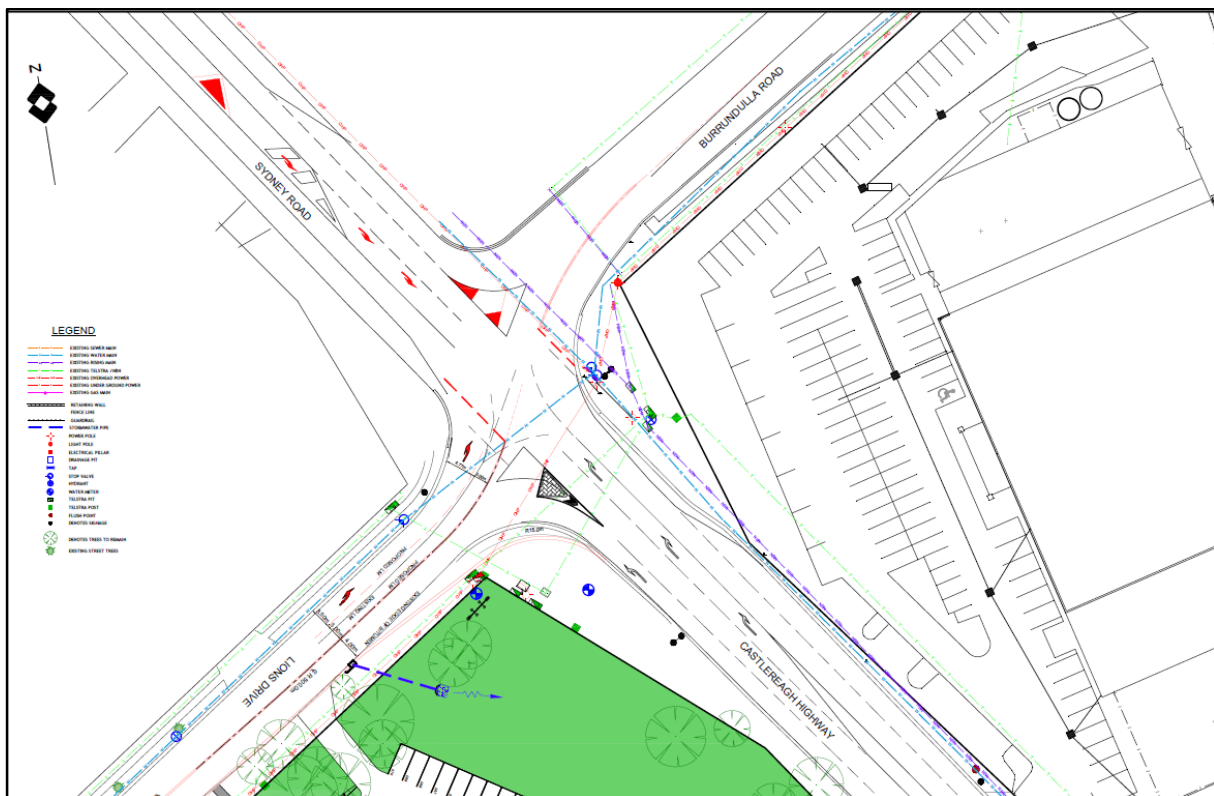


Figure 8: Extract from Civil Plans showing proposed upgrades to intersection of Castlereagh Highway and Lions Drive.

Parking Provision

Sufficient parking spaces is proposed to be provided in accordance with Council's Development Control Plan at a rate of 1 space per 50m² of GFA, generating a requirement of 184 parking space based on a 9203m² floorspace. It is proposed to provide a total of 185 parking spaces which meets the DCP requirements.

Access arrangements and internal circulation and servicing arrangements

All vehicular access to the development is proposed via Lions Drive. Satisfactory vehicular access arrangements are proposed as follows:

- An ingress only driveway providing access to the car parking associated with Bunnings
- A combined ingress/egress driveway providing access to the car park associated with Bunnings.
- A Combined ingress/egress service driveway providing access to the rear of the Bunnings building and loading / unloading facilities associated with Bunnings
- A combined ingress/egress driveway on Lions Drive will provide access to Lots 2, 3 and 4.

Internal circulation and servicing arrangements are considered to be adequate. Appropriate conditions have been included.

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 as discussed throughout this report.

Heritage

Not applicable

Other Land Resources

Not applicable

Water

The additional stormwater runoff generated by the proposed development is collected, conveyed and contained within a number of areas on site including a detention basin on the Castlereagh Highway frontage, above ground storage tanks in the carpark and 30,000 litre tank to store rainwater from roof areas for re-use on site. Council's Development Engineer has reviewed the proposal and advised the conceptual drainage and OSD scheme is considered acceptable for DA purposes, full details will be required with the SWC or CC relevant to that portion of works. Suitable conditions have been included.

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 emit any dust, particulates, odours, fumes, gases or pollutants to any significant degree.

Flora and Fauna

The proposed development will involve the removal of native vegetation as discussed throughout this report. A BDAR was provided with the application which found that 6.0 ecosystem credits were required to offset the removal. Appropriate conditions have been included.

Waste

A Waste Management Plan has been provided with the application which indicates that waste will be collected and removed by contracted waste removalists during operation of the development. Waste will be stored in waste storage areas at the rear of the building in an area not visible to the public. Waste generated during demolition and construction stages is also addressed in the Waste Management Plan provided and is to be suitably disposed of. Suitable conditions have been included.

Energy

The proposed development will not use any more energy than any like development.

Noise and Vibration

An *Operation Noise Emission Assessment* was undertaken by Acoustic Dynamics to assess noise emission levels at nearby receivers resulting from various noise sources associated with the operation of the new Bunnings store.

The closest residential receivers are located adjacent to the site boundary to the east at 18 Castlereagh Highway and approximately 45m away from the western site boundary at 104 Lions Drive as shown in Figure 9.

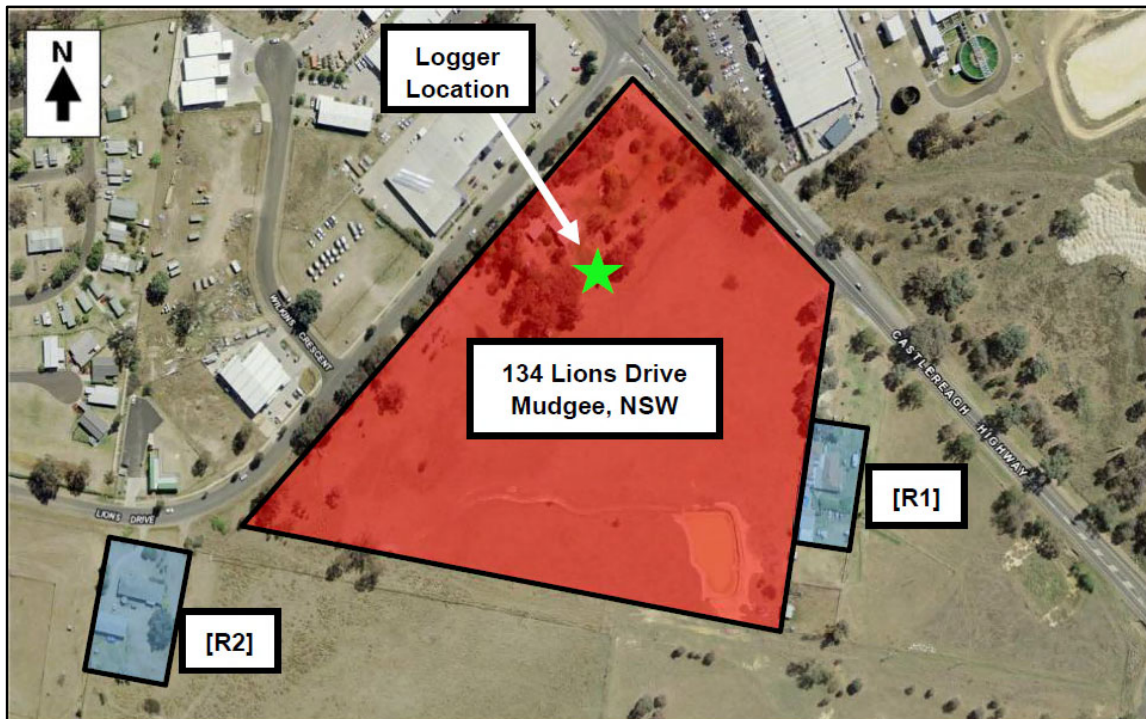


Figure 9: Extract from Acoustic Assessment prepared by Acoustic Dynamics showing location of closest residential receivers.

The store is proposed to operate from 6am-10pm Monday to Friday and 6am -7pm Saturday, Sundays and Public Holidays.

The modelling found that in the worst-case scenarios that the operation of the Bunnings store in the Morning Shoulder period (6am-7am), Day period (7am-6pm) and Evening period (6pm-10pm) can be designed to achieve compliance with the relevant criteria. This is subject to the

recommendations in relation to mechanical plant, loading dock operations being undertaken and the incorporation of a 4m high acoustic barrier on the eastern boundary of the site.

Suitable conditions have been included to ensure that the operation meets the relevant criteria at all times and that the recommended measures are incorporated.

Natural Hazards

The development site is identified as being flood prone, as discussed throughout this report suitable measures have been proposed to mitigate the impacts of flooding to the development and the surrounding area as a result of the proposal.

The site is not identified as being affected by geological / soil instability or bushfire.

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

The design of the proposed development provides for suitable access control and generally conforms to the principles of Crime Prevention Through Environmental Design (CPTED).

Social Impact in the Locality

The proposed development is appropriately located in the E3 – Business Development zone on the fringe of Mudgee and is expected to have a positive social impact.

Economic Impact in the Locality

The proposed development will provide employment opportunities during construction and operation.

Site Design and Internal Design

Adequate as discussed throughout this report.

Construction

The impacts of construction activities may be regulated by conditions.

Cumulative Impacts

The proposed development is not expected to contribute to cumulative impacts.

SUITABILITY OF SITE FOR DEVELOPMENT – 4.15(1)(c)

The proposed development fits into the commercial context and locality within which it sits. Utility services have the capacity to service the development.

SUBMISSIONS MADE IN ACCORDANCE WITH ACT OR REGULATIONS – 4.15(1)(d)

Public Submissions

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 26 August 2022. During the notification period, 2 submission/s were received.

The following table shows the issues raised in the submissions and the planning response to the issues raised.

Issue	Planning Response
Extend sewer from Wilkins Crescent rather than from sewer main in Castlereagh Hwy to avoid disruption to existing business.	The applicant has revised the application and is now proposing to extend sewer to the development from the existing main in Wilkins Crescent.
Concerns in relation to safety of the intersection of Castlereagh Hwy and Lions Drive ensure increase in traffic as a result of existing Bunnings site, St Matthews school and residential developments has been included.	<p>A Traffic report prepared by TTPA has been provided with the application. The report has been reviewed by TfNSW and Council's Development Engineers. The report incorporates existing traffic counts that have been modelled in a SIDRA analysis with projections of growth. This included traffic counts based on the existing Bunnings site being redeveloped for bulky goods purpose / or an equivalent hardware use and also considered the peak traffic generating times of the proposed Bunnings warehouse and St Matthews School.</p> <p>The report recommended upgrades to the intersection of Castlereagh Highway and Lions Drive which are considered appropriate and will be included in the recommended conditions.</p>

Submissions from Public Authorities

Submissions were sought from TfNSW and Essential Energy with their requirements discussed previously in this report.

THE PUBLIC INTEREST – 4.15(1)(e)

Federal, State and Local Government interests and Community interests

There are no matters other than those discussed in the assessment of the Development Application above that would be considered to be contrary to the public interest.

CONSULTATIONS

Health and Building

Council's Health & Building Surveyor have recommended conditions to address building matters. These conditions are incorporated in the recommendation.

Development Engineering

Council's Development Engineer has provided conditions to address the detailed engineering matters including access, traffic, car parking, stormwater, flooding and servicing. These conditions are incorporated in the recommendation.

It should be noted that the conditions have been included in a staged format as per their recommendation to ensure that flood mitigation measures are completed first.

Environmental Health

Council's Senior Environmental Health Officer has reviewed the Acoustic report submitted with the application and provided conditions to address noise impacts of the development. These conditions are incorporated into the recommendation.

Environmental Assessments

Council's Environment Officer has reviewed the Biodiversity Development Assessment Report (BDAR) submitted with the application raising no objections to the proposal. Suitable conditions have been incorporated in the recommendation.

Summary

The proposed development complies with the requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, relevant State Environmental Planning policies, Mid-Western Local Environmental Plan 2012, Mid-Western Regional Council Development Control Plan 2013 and Mid-Western Community Participation Plan 2019 and is therefore recommended for approval subject to the attached conditions of consent.

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 Development Control Plan 2013
Community Participation Plan 2019
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Developer Servicing Plan 2008

Legislation

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulations 2021
Mid-Western Regional Local Environmental Plan 2012
Roads Act 1993

Financial implications

Not Applicable

Associated Risks

Should Council refuse the application, the applicant may seek further review of this decision or appeal through the Land and Environment Court.

SARAH HOPKINS
TOWN PLANNER

ALINA AZAR
DIRECTOR DEVELOPMENT

20 July 2023

Attachments: 1. Architectural Plans.
2. Landscape Plan.

APPROVED FOR SUBMISSION:

JULIAN GEDDES
ACTING GENERAL MANAGER

