

Item 8: Development

8.1 ME0024/2023 - Section 4.55(1A) Modification to DA0135/2012 – Temporary Workers Accommodation – Lot 32 DP 750773 – 94 Main Street, Ulan

REPORT BY THE PLANNING COORDINATOR
TO 15 MARCH 2023 ORDINARY MEETING
GOV400103, P1411461 - Part 4

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on ME0024/2023 - Section 4.55(1A) Modification to DA0135/2012 – Temporary Workers Accommodation – Lot 32 DP 750773 – 94 Main Street, Ulan; and
- B. approve ME0024/2023 - Section 4.55(1A) Modification to DA0135/2012 – Temporary Workers Accommodation – Lot 32 DP 750773 – 94 Main Street, Ulan subject to the following amended conditions and Statement of Reasons shown in [blue](#):

CONDITIONS

APPROVED PLANS

1. Development is to be carried out generally in accordance with stamped plans (~~Drawing No. 17239_L01, 17239_A01, Revision E, 17239_A02, Revision C, 17239_A03, Revision C and 17239_A04 Revision C~~, dated 18 October 2011, drawn by Barnson, [Site Plan - Dining Room Extension, Drawing No. 17239-A200, Revision B, Dated 07.12.2022, Floor Layout - Dining Room Extension, Drawing No. 17239-A201, Revision B, Dated 07.12.2022, Elevations - Dining Room Extension, Drawing No. 17239-A202, Revision B, Dated 07.12.2022, 40' Ablutions Laundry, Sheets 1 to 6 of 6, REV 3, DWG: RWT-NMD-HS777-001](#)) and Statement of Environmental Effects prepared by Barnson, received by Council on 21 October 2011, the Water Supply Quality Assurance Program dated 14 March 2019, except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application. [\[Modified MA0036/2019\]](#) [\[Modified ME0024/2023\]](#)
2. Accessible units are to be provided within the development site in accordance with AS 1428.1 2009, the Building Code of Australia and the Access to Premises Code.
3. Communal facilities are to be provided with accessible features in accordance with the AS 1428.1 2009, the Building Code of Australia and the Access to Premises Code.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the Principal Certifying Authority (PCA) issuing a Construction Certificate. The conditions are required to satisfy the PCA that the proposal is consistent with the applicable development consent, the Building Code of Australia and any Australian Standards that are relevant.

- ~~4. The applicant is to demonstrate that there is the ability to provide a water supply to the development from roof storm water. This assessment is to be undertaken by a professional engineer report and is to indicate the harvest potential available, the likely water supply demand for the development and alternate supplies should the demand exceed the harvest potential. [Deleted MA0036/2019]~~
5. Separate written application must be made under Section 68 of the Local Government Act 1993, as amended, to Council for all water supply, sewerage and drainage work associated with the development. Full details of the method of disposal of the sewerage/grey water must be submitted to the Council for approval prior to the issue of the Construction Certificate.
6. The proposed sewerage treatment system and irrigation areas are to comply with the Environmental Guidelines - Use of Effluent for Irrigation by the Department of Environment and Conservation. A report shall be prepared and submitted to Council for approval with the application under Section 68 of the Local Government Act for an onsite sewage management system. Note: The lid level of the Sewerage Treatment Plan shall be 448.5 416.0m AHD. [Modified MA0036/2019]
7. A registered Surveyors Certificate showing the boundaries of the site and the proposed building plotted thereon being submitted to the Principal Certifying Authority before construction is commenced.
8. Details of the engineered designed reinforced concrete slab/sand the wall and roof framing structural components of the building must be submitted with the required Construction Certificate.
9. In accordance with the provisions of section 94A of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Council Section 94A Development Contributions Plan, a levy of 1% of the cost of carrying out the development shall be paid to Council in accordance with this condition for the purpose of:
The levy is: \$28,000.00 based on the estimated cost of development of \$ 2,800,000.00.
10. Prior to the issue of the Construction Certificate, the Principal Certifying Authority (PCA) is to be supplied with certificates from telecommunications and energy service providers stating that suitable arrangements have been made for provision of underground telephone and electricity supplies for the proposed development.
11. The Principal Certifying Authority (PCA) is to be provided with details regarding the provision of essential fire safety services in accordance with the BCA and relevant Australian Standards.
12. If the Construction Certificate is not issued, for any reason whatsoever, within twelve (12) months of the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.

A site supervisor is to be nominated by the applicant prior to issue of the Construction Certificate.

13. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing. Contractor's insurance cover for a minimum of \$10,000,000 (Ten million dollars) is to be sighted and to be shown to Mid-Western Regional Council as an interested party.
14. Complete landscaping plans are to be submitted to Council for approval prior to issue of a Construction Certificate. All landscaping is to be established prior to occupation of the development and consist of advanced trees and shrubs. Tree and shrub species should be endemic to the Mid-Western Regional Local government Area, require minimal watering and be salt resistant.
15. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 100-year ARI. All storm water detention details including analysis shall be included with the drainage report.

PRIOR TO THE COMMENCEMENT OF WORKS

These conditions are required to ensure that the site is ready for construction works to commence and satisfy the provisions of the Environmental Planning and Assessment Act 1979 and the Building Code of Australia.

16. A sign must be erected in a prominent position on any work site on which the erection of a building is being 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.
17. Prior to the commencement of any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the Act) are to be complied with:
 - a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c) Council is to give at least 2 days' notice of the date intended for commencement of
 - d) building works, in accordance with Section 81A(2)(c) of the Act.
18. Run-off and erosion controls must be installed prior to clearing the site and incorporate:
 - a) diversion of uncontaminated upslope run-off around cleared and/or disturbed areas and areas to be cleared or disturbed.
 - b) sediment fences at the downslope perimeter of the cleared or disturbed areas to prevent sediment and other debris escaping from the land to pollute water ways and collection areas.
 - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised.

19. During construction temporary toilet facilities are to be provided at or in the vicinity of the nominated work site and for this purpose provide either a standard flushing toilet or an approved sewage management facility.
20. If the work involved in the erection/demolition of the building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or 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.
21. The proposed method(s) of compliance with the Building Code of Australia are to be clarified by documentation to be submitted with the Construction Certificate Application. In this regard, it appears that the Development Application plans do not comply with the following deemed-to-satisfy provisions of the BCA;
 - a) Section F2.4 -Facilities for people with disabilities.
 - b) Part D3 -Access for people with disabilities.
 - c) Section E- in particular, E1 Firefighting equipment, specifically the provision of fire hydrants and fire hose reels compatible to on-site water storage for firefighting.
 - d) E4 Emergency lighting and exit signs.
 - e) Section J - Energy efficiency (offices)
 - f) Section C- Fire resistance, in particular Type C Fire Resisting Construction of walls within 3 metres of the boundary (including front & rear return walls)
22. The developer is to make arrangements with an archaeologist or indigenous group representing the locality to have people available onsite during any works that require disturbance to the surface or sub surface of the site. This is required to ensure that no indigenous objects are disturbed or destroyed during construction activities.
23. A construction management plan is to be prepared for the development that has considered the impact of the construction phase of the project on adjoining properties.

BUILDING CONSTRUCTION

These conditions are provided to ensure that adequate standards are being observed during the construction phase of the development.

24. Construction work noise that is audible at other premises is to be restricted to the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No construction work noise is permitted on Sundays or Public Holidays.
25. All building work must comply with the requirements of the Building Code of Australia 2011, Volume One, together with the relevant Australian standards and also the Environmental Planning and Assessment Act, 1979, as amended, and Regulations.
26. All mandatory inspections required by the Environmental Planning and

Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority must be carried out during the relevant stages of construction.

- 27. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of AS 3500 (National Plumbing & Drainage Code) and the NSW Code of Practice- Plumbing & Drainage. The selected plumber/drainer must provide Council with a drainage diagram detailing the location of the drainage system and the relevant connections. All plumbing and drainage inspections must be carried out by Council prior to the covering of any trenches or wall/ceiling linings.**
- 28. The development must be provided with car parking spaces and with adequate means of access for persons with disabilities in order to comply with Australian Standard 2809.6 - 2009 (Parking facilities- Off street parking for people with disabilities) the Building Code of Australia and the Access to Premises Code. Full details must be provided with the Construction Certificate.**
- 29. The development must be provided with sanitary facilities for people with disabilities in order to comply with Australian Standard 1428 2009 (Design for access and mobility), the Building Code of Australia and the Access to Premises Code. Full details must be provided with the required Construction Certificate.**
- 30. All areas not provided with natural ventilation in accordance with the provisions of the Building Code of Australia being provided with an approved mechanical ventilation and/or air conditioning system complying with Australian Standard 1668, Parts 1 and 2.**
- 31. The ~~rainwater~~ water storage tanks used as a potable water supply for human consumption, in particular, the supply to the amenities within the building, must be protected from contamination from industrial and urban traffic emissions, dead animals, mosquitoes, dust, pesticides, bushfires and any other form of contamination. [Modified MA0036/2019]**
- ~~32. Details of the method of protection of the water supply from contamination and the method of the subsequent implementation of a testing regime of the water supply must be designed by an approved hydraulic engineer and submitted to Council's Health & Building section prior to the issue of an Occupation Certificate. [Deleted MA0036/2019]~~**
- 33. A copy of the Final Fire Safety Certificate is to be provided to the Commissioner of NSW Fire Brigades and a further copy of the Certificate is to be prominently displayed in the building.**
- 34. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council with a copy of an Annual Fire Safety Statement certifying that specified fire safety measure is capable of performing to its specification.**
- 35. Smoke detector units are to be installed in accordance with the requirements of the Building Code of Australia. The smoke detectors are to be interconnected and connected to a permanent 240 volt power supply and provided with battery backup to activate the alarm units in the event of power failure. A detail of the system is to be submitted to Council for approval prior to installation.**

36. All building work must be carried out in accordance with the requirements of the Building Code of Australia. This includes but is not limited to the following:

- Part C1 Fire Resistance and Stability
- Part D3 Access for People with Disabilities
- Part F2 Sanitary and Other Facilities
- Part F2.4 Facilities for people with disabilities
- Part F5 Sound Transmission and Insulation
- Section J Energy efficiency

ENGINEERING CONSTRUCTION

37. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of storm water occur on adjoining land as a result of this development.

38. Vehicular entrances comprising concrete driveways and footway crossings are to be provided to the development. These should be constructed in accordance with Aus-Spec #1 and Council standard drawing M525-Rural Access, as outlined in 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 Development Engineer 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.

39. A total of 154 car parking spaces are to be provided within the site of the development and comply with the following requirements:

- a) Each parking space is to have minimum dimensions of 5.5m x 2.6m;
- b) Each disabled car parking space is to be in accordance with the provisions of Councils Development Control Plan - Design for Accessibility.
- c) All car parking spaces are to be line-marked and provided with a two coat bitumen seal and must be maintained in a satisfactory condition at all times;
- d) Off street parking is to be encouraged by the placement of prominent signs indicating the available of parking.

40. The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Traffic Authority (RTA) guidelines and Australian Standard AS 2890.1 -1993. Details of compliance are to be shown on the relevant plans and specifications.

41. The developer is to upgrade the school zone signage of the Ulan Public school such that it is provided with flashing lights during designated school zone times. All installation and approval requirements through the Local Traffic Committee shall be carried out by the developer sat full cost to the developer.

42. The developer is to upgrade Main Street for the full frontage of the proposed development, such that it has the following characteristics:

	Requirement
Half Road Pavement Width	6.5 metres (6.5 metre seal)

Concrete Footpaths	N/A
Seal	Two-coat flush seal-14/7 mm (Double/ Double) as required
Table Drains	Austrroads
Subsoil Drainage	N/A
Underground Drainage	N/A

43. The Developer shall provide a 1.2 metre wide concrete footpath from the development site to the centre of the Ulan village. Full details are to be provided with the application for Construction Certificate.
44. Internal Roads shall be sealed with a minimum of 6 metres for two way traffic and 3.5 for one way. Turning heads shall be a minimum radius of 8.5 m. Provision of Kerb and Gutter is optional for internal access roads, but if provided shall comply with Council's Residential Standards.
45. Internal roads shall be designed to a 40km/h minimum speed. Actual speed limits within the development should be limited to 10km/hr for shared zones and signposted accordingly. Traffic regulatory, warning and guide signs throughout the development should be in accordance with AS1742.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

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

46. 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. An application for an Occupation Certificate must be set out in the form of the relevant part of Form 12 of the Environmental Planning and Assessment Regulations and must be accompanied by the relevant information required by Form 12.
- 46a. Prior to the issue of an Occupation Certificate, the applicant is required to arrange for a final inspection of the private water supply and obtain a satisfactory final inspection from Mid-Western Regional Council for the operation of the private water supply work.
[New Condition MA0036/2019]
- 46b. Prior to the issue of an Occupation Certificate, an Approval to Operate the On-Site Sewage Management System granted under Section 68 of the Local Government Act 1993 is to be obtained.
[New Condition MA0036/2019]
47. On completion of the building work, the owner/agent of the building must cause the Council to be provided with a Final Fire Safety Certificate from a competent person with respect to each essential service nominated in the Fire Safety Schedule issued with the Construction Certificate.
48. All building or site works or other written undertaking or obligation indicated in the submitted plans and supporting documentation or otherwise required under the terms of this consent being carried out or implemented prior to the occupation of the premises.

49. The developer and landowner (Crown) shall enter into a Mine Impact Agreement with Ulan Coal Mine Limited prior to the occupation of the development due to the location of the site potentially exceeding noise criterion.
- 49a. Prior to issue of an Occupation Certificate, Building Information Certificate and/or use of the development, an application shall be lodged and approved by Council pursuant to Section 68 of the Local Government Act, 1993 for the installation of an On Site Sewer Management System. The application shall be supported by amended Hydraulic Design Plans and supporting calculations including the dining room extension and laundry building. [Modified ME0024/2023]

GENERAL

The following conditions have been applied to ensure that the use of the land and/or building is carried out in a manner that is consistent with the aims and objectives of the environmental planning instrument affecting the land.

50. This approval is limited to twenty-five (25) years from the issue of the Occupation Certificate and the facility shall be decommissioned in accordance with the approved Decommissioning Plan within six (6) months of the closure of the facility. [Modified ME0024/2023]
- ~~51. The proposed development is not to rely on any other water supply other than treated water from the onsite sewerage treatment facility and capturing roof water. Should the development run out of water, then it will close down until water supplies have been supplemented by further rain fall. The proposed development has provided that the water supply will be gained by capturing roof water for a potable water supply and can also be supplemented by treated water for toilets and laundry water supplies. [Deleted MA0036/2019]~~
- ~~51a. MA0037/2012 permits the use of piped water from the adjacent property of Ulan water to the facility for use in periods of low rainfall to supplement the onsite water supply. The use of water from Ulan Water is only permitted where the water can be piped from the Ulan water due to the location of a bore on the Ulan water site. The trucking in of water is not permitted either to the development site or the adjacent Ulan Water site. [Deleted MA0036/2019]~~
52. A Decommissioning Plan in accordance with Council's Temporary Workers Accommodation DCP is to be prepared and approved by Council prior to the issue of the Occupation Certificate for the development.
53. A Management Plan, including the identification of social impacts, in accordance with Council's Temporary Workers Accommodation DCP is to be prepared and approved by Council prior to the issue of the Occupation Certificate for the development.
54. 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.
55. All loading and unloading in connection with the premises shall be carried out wholly within the site.
56. All exterior lighting associated with the development shall be designed and installed so

that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".

57. All waste generated by the proposed development shall be disposed of to an approved location in accordance with the Waste Minimization & Management Act 1995.
58. Security fencing is to be provided to the site and is to be a maximum of 2.1 metres in height and of pre coloured steel fencing. Full details of proposed fencing are to be included on the landscaping plan.
59. Adequate facilities being provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for the regular removal and disposal of same.
60. 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.
61. A public address system or sound amplifying equipment shall not, without the consent of Council, be installed in or upon the premises so as to cause or permit the emission of sound onto any public place or nearby residential area.
62. The proposed sewerage treatment plant is to be located at least 100 metres from the Goulburn River to ensure compliance with the Environmental Planning and Assessment Regulations 2000.
63. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified. (Note: A suitably qualified person would be required to be present during earthworks to identify whether any artefacts were uncovered).
64. The existing community facilities (tennis court, grandstand and community building) are to be made available to the local community for community events at no cost for the life of the development.
65. The private water supply for the site is to be designed, installed and maintained in accordance with the Public Health Act 2010 and the Public Health Regulations 2012 at all times. [New Condition MA0036/2019]
66. The sites operators are to maintain and operate the private water supply in accordance with the quality assurance program (QAP) and which complies with the Public Health Regulations 2012. A Copy of the QAP is to be provided to the NSW Public Health Unit and records relating to managing the safety of the drinking water supply are to be kept onsite and made available on request of the Local Council or the NSW Public Health Unit. [New Condition MA0036/2019]
67. Any truck movements associated with supplying potable water to the site are to occur during normal business hours only and are limited to no more than two (2) movements per day. [New Condition MA0036/2019]

STATEMENT OF REASONS

1. The proposed development is considered satisfactory in terms of the matters identified in Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. **No submissions were received during the public exhibition period.**

OTHER APPROVALS

- (DA0135/2012)
- (MA0037/2012)
- (MA0036/2019)

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning- Public Places".
2. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
3. Any development in proximity to Essential Energy's infrastructure should comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. A copy of this guideline can be located at www.resourcesandenergy.nsw.gov.au.
4. The development is subject to the requirements of the Rural Fires Act 1997 and separate approvals shall be obtained from the NSW Rural Fire Service, as relevant.
5. Section 8.3 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Planning and Development Department for more information or advice.
6. If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.
7. To ascertain the date upon which the consent becomes effective, refer to Section 4.20 of the EP&AAct.
8. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&AAct.

Executive summary

OWNER/S

NSW Department of Industry – Crown Land
(Registered Lease AH129615P)

APPLICANT:	Barnson Pty Ltd
PROPERTY DESCRIPTION:	94 Main Street, Ulan (Lot 32 DP750773)
PROPOSED DEVELOPMENT:	Temporary Workers Accommodation
ORIGINAL ESTIMATED COST OF DEVELOPMENT:	\$2.8 Million
REASON FOR REPORTING TO COUNCIL:	Council approved the original development application and subsequent modifications.
PUBLIC SUBMISSIONS:	Nil

Council is in receipt of a Section 4.55 Application to modify DA0135/2012, lodged 31 January 2023. The modification proposes to alter condition 1 (amended plans), condition 43 (footpath requirement) and condition 50 (approval period) of the consent.

The applicant is now proposing the following key changes under this modification application:

- Amended plans to include the use of an unauthorised building adding to the existing dining/kitchen building, including an extension of approximately 72m² of dining area with an attached deck;
- Amended plans to include the use of an unauthorised building for additional laundry/amenities;
- Deleting condition No. 43 being the requirement to construct a footpath along Main Street to then Ulan village centre; and
- Amending condition No. 50 to extend the approval period to match the new Crown lease arrangements (from 20 years to 25 years).

It should be noted that the proposed deletion of condition 43 requiring a footpath to be constructed along Main Street is not supported by Engineering staff. Further, it is confirmed that both buildings have already been installed on the subject site.

The proposed development has been assessed in accordance with Council's LEP and DCP and is otherwise considered to generally remain consistent with Council's planning controls.

Pursuant to the powers handed down by the General Manager, conferred under Section 378 of the *Local Government Act 1993*, staff do not hold assumed delegation to determine the application as DA0135/2012 was approved at a full Council meeting on 15 February 2012, and consequently the modification to the consent shall be determined at a full Council meeting.

The section 4.55 Application was not required to be notified as per Council's DCP. However, as all prior applications have been notified, this proposal was also notified for 14 days. No submissions were received during the notification period.

The application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

Council granted consent to DA0135/2012 for the construction of Temporary Workers Accommodation, located at 94 Main Street, Ulan Lot 32 DP750773 at the February 2012 Council meeting.

At the June 2012 Council meeting, Council approved a modification (MA0037/2012) of ten (10) conditions of consent relating to a number of matters including BCA, DDA compliance, and school signage upgrades.

At the 15 May 2019 meeting, Council also approved a modification (MA0036/2019) of six (6) conditions relating to the provision of potable water and the construction level of the effluent management system.

Physical commencement has occurred, and consequently the consent remains active.

The approved development layout by Council is included as Figure 1 below. The proposed modified site layout is included within Figure 2 below.

The applicant also seeks to delete condition 43 (requiring footpath construction along Main Street) and amend condition 50, increasing from 20 years to 25 years and aligning with the Crown Lands lease of the site.

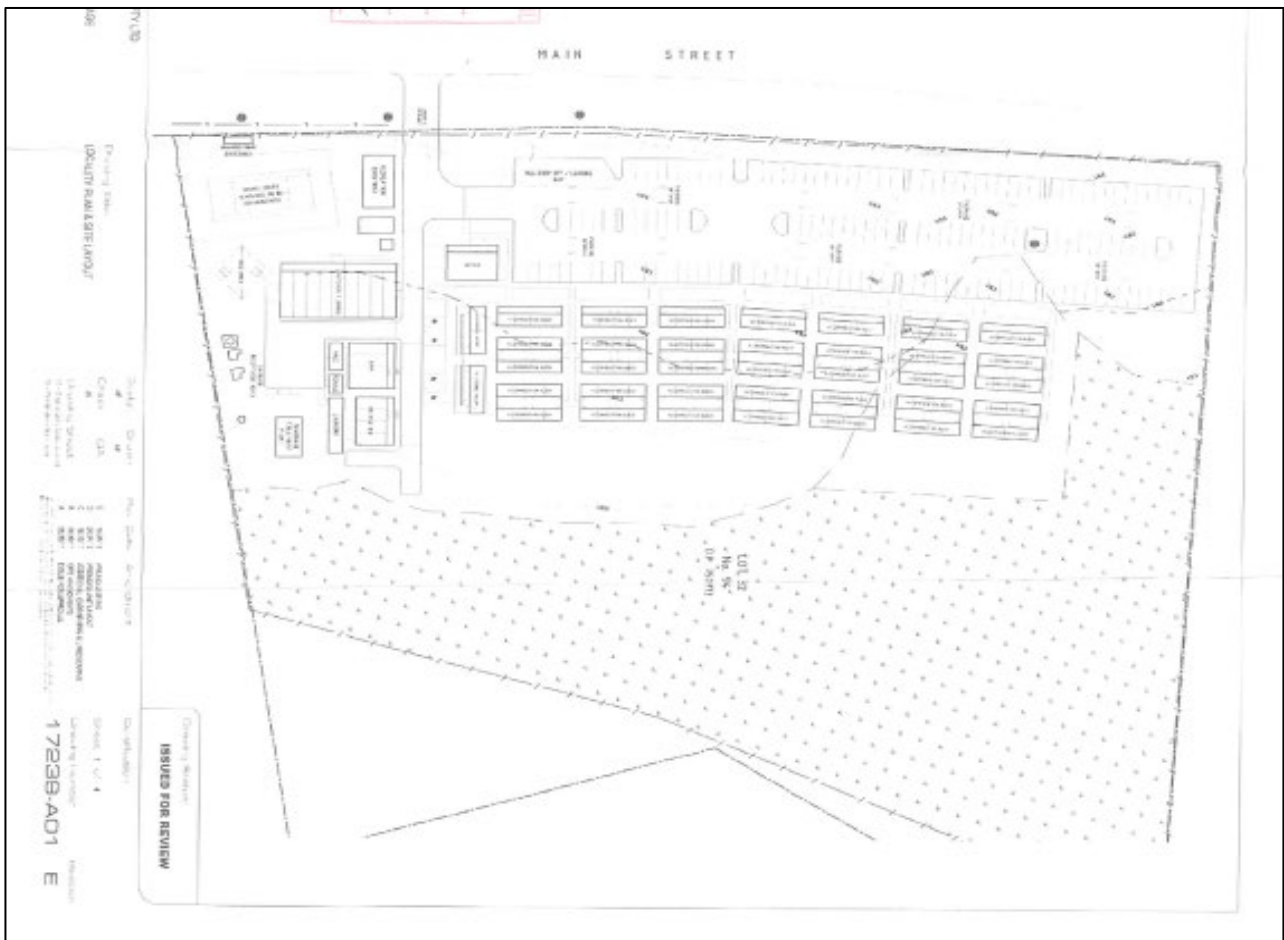


Figure 1 – Approved Site Plan

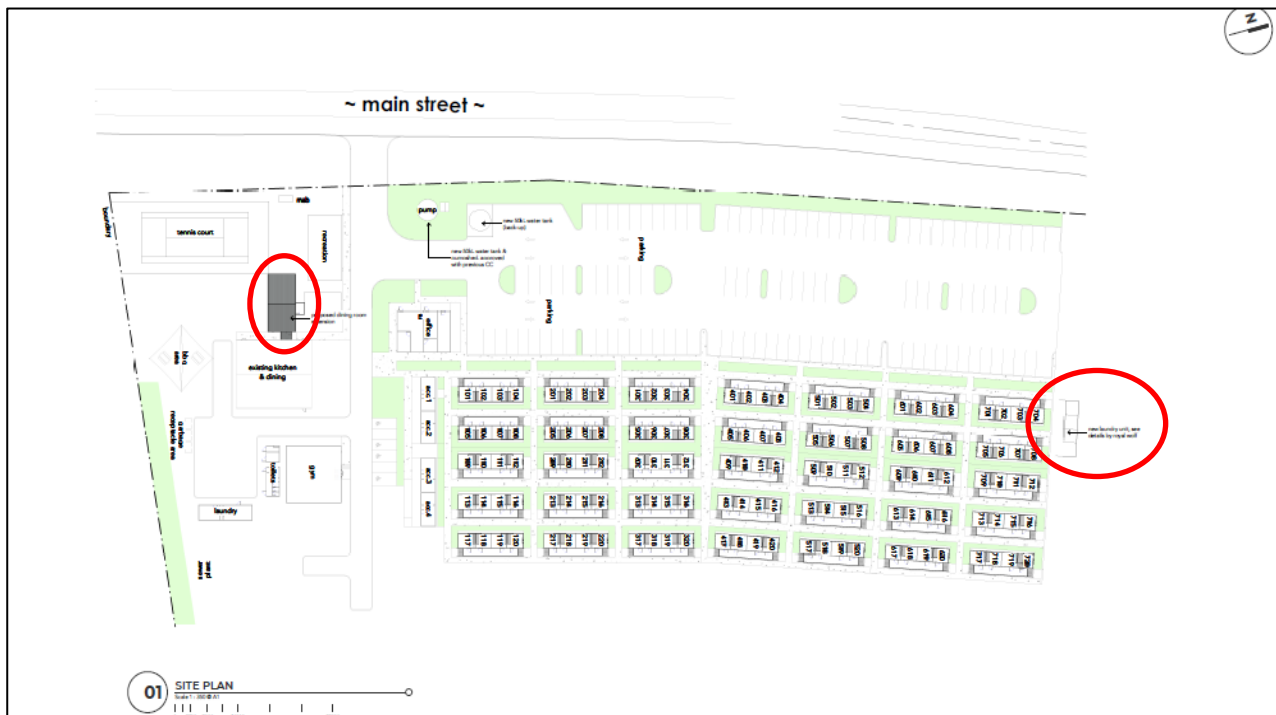


Figure 2 – Proposed Site Plan (additional buildings highlighted in red)

LEGISLATIVE REQUIREMENTS

The application has been assessed in accordance with Section 4.55 and 4.15 of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.55(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*

Comment The proposal to modify the conditions with the inclusion of the use of an unauthorised building being an extension of the dining room and separate laundry building are considered to be of generally minor in nature and are not considered to result and any significant adverse impacts to the site or surrounding land, subject to compliance with the existing conditions of consent imposed.

The approved use of the site for ‘temporary workers accommodation’ is retained and therefore the development and land use is considered to be substantially the same as originally approved by Council.

It should be noted that the proposed deletion of condition 43 (footpath requirement) sought by the applicant is not supported for the reasons contained later in this report.

- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment Council is satisfied that the proposed modification is substantially the same development as the original consent.

(c) *it has notified the application in accordance with (i) the regulations, if the regulations so require, or (ii) a development control plan,*

Comment The S4.55 Application was not required to be notified to adjoining neighbours as per Council's CPP. However, as all prior applications have been notified, this proposal was also notified for 14 days.

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment No submissions were received.

(3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Comment All matters under Section 4.15(1) of relevance to the modification are addressed below.

4.15(1)(a) Evaluation – Matters for consideration

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

State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed modified development does not result in any additional impacts to electrical infrastructure. Previous comments and conditions provided by Essential Energy have been retained under this modification sought.

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

The original development was considered against the Mid-Western Regional Local Environmental Plan 2012. The proposed modification does not give rise to any new issues that need to be considered/reconsidered.

(ii) Do any draft environmental planning instruments (EPI) apply to the land to which the Application relates?

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

(iii) Do any development control plans apply to the land to which the Application relates?

Mid-Western Regional Development Control Plan (DCP) 2013

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.

It is important to note that the existing Development Application was approved by Council prior to introduction and adoption of the Mid-Western DCP 2013. Notwithstanding, an assessment of the provisions contained in the DCP for this development is provided below.

Section 6.2 – Temporary Workers Accommodation

	Requirements	Compliance
Location	(i) if the development relates to a mine—within 5 kilometres of the relevant mining lease under the Mining Act 1992, or (ii) (ii) in any other case—within 5 kilometres of the large-scale infrastructure in which persons are to be employed. <ul style="list-style-type: none"> • Provision of suitable arrangements for the disposal of waste water and the provision of a water supply. It should be noted that proposals relying on the provision of water transported by tankers will not be supported. • Design of the facility to ensure that there is no adverse visual impact discernible from outside the project site. • Submission of a plan of management to address the social concerns having regard to the particular location of the accommodation. • The application should address health and residential amenity issues that arise due to the location near the major infrastructure project site. • Provision of additional access and parking infrastructure commensurate with the additional demand. • Provision of a Social Impact Assessment. • The application should identify and address potential positive and negative economic impacts of the proposal. 	Yes, the proposal is within 5km of an existing mine however, as the proposal was approved prior to commencement of the DCP 2013, the proposal is not related to a specific mine or project.
Need	The proponent shall demonstrate the need for the facility by providing an analysis of the number of major infrastructure project (including mining) jobs currently approved and the total number of temporary workers accommodation beds approved. The expected life of the Temporary Workers Accommodation facility shall be included in the Statement of Environmental Effects indicating the expected timing of decommissioning to relate to the life of the major infrastructure project.	N/A – Existing approval in place.
Social Impact Assessment	The Social Impact Statement should include but is not limited to the following: <ul style="list-style-type: none"> • Identification and an in-depth analysis of social impacts of the proposal. 	SIA to be submitted and approved prior to issue of CC as per existing retained condition of consent.

	<ul style="list-style-type: none"> • Outline the process of community consultation and address issues raised by the community. • consideration of cumulative impacts, intergenerational equity, impacts on the provision of all services and identify ways to address these impacts. • The results of consultation with relevant service providers including police and health providers. • Identification of a strategy to mitigate impacts, encourage integration with the community, and permanent relocation to the area, timeframe for implementation of the strategy and a monitoring program. • Identify and implement provisions that will address the needs identified by the SIS and the demands generated by the development in a way that will not adversely impact upon the existing community. 	<p>The facility has a CC previously issued by a private certifier and is currently operational.</p>
Transportable Buildings	<p>The application must illustrate that all transportable buildings can be permanently affixed to the site by footings in accordance with the requirements of the National Construction Code and associated Engineer's Certification. Detail that all buildings and structures will have adequate form and appearance, including material and colours in soft earth browns, creams and greens, which do not detract from the visual amenity of the area. The use of reflective cladding material on walls will not be permitted.</p>	<p>Conditions to be retained to ensure that transportable building footings comply with the NCC.</p>
Accessibility	<p>Accessibility requirements established by Access to Premises Standard, the National Construction Code and the associated Australian Standards are to be addressed in the application.</p>	<p>Compliance with the NCC and Access to Premises Standard is conditioned via the existing approval.</p>
Density	<p>Development shall be limited to a maximum of 100 beds per hectare.</p>	<p>Complies. Site is 4ha and only 144 beds are approved under the existing consent.</p>
Facilities	<p>The accommodation facility is to provide the following facilities as a minimum:</p> <ul style="list-style-type: none"> • Ablution facilities to be provided in each accommodation room including shower, toilet and washbasin connected to an approved effluent disposal system; • Communal laundry and associated facilities connected to an approved effluent disposal system; 	<p>Conditions exist on the consent to this affect and a Section 68 is required to be obtained from Council for the effluent management system.</p> <p>A limited time section 68 has been approved by Council previously with a current Section 68 application</p>

	<ul style="list-style-type: none">• A covered/ sheltered entry for each building;• An outdoor activity area of which part shall be shaded;• Adequate and secure storage space for workers, equipment and other material associated with the management and maintenance of the accommodation facility;• Adequate Lighting for pedestrian and vehicular safety and security throughout the complex; and• Paved internal pedestrian access to and between all buildings and facilities is to be provided.	submitted that remains undetermined.
Traffic and parking	<p>Internal road and vehicular access provided in accordance with Australian Standard No. AS2890 Council standard.</p> <ul style="list-style-type: none">• Provision of one car parking space per room and one space per staff member in accordance with the car parking section of this DCP;• Designated bus parking and collection/drop off area located within the development area with sufficient manoeuvring area to allow the bus to enter and leave the site in a forward direction; and• Designated delivery areas.	Conditions imposed, no changes required as part of this modification.
Services	<ul style="list-style-type: none">• Provision of a potable water supply capable of providing a minimum of 140 litres per person per day. A lower daily minimum may be acceptable where the proposed development includes water saving measures such as recycling systems or non-potable water supply sources;• A water balance is to be submitted demonstrating that the proposed provisions for water and sewer services can be met by the development;• Demonstration of adequate water supply to maintain the accommodation facility including landscaping;• Where the facility is to connect to a reticulated system approved by the local authority, the applicant must demonstrate that the reticulated system can support the additional demand generated by the Temporary Workers Accommodation whilst allowing adequate capacity to service existing demand, demand to meet land already zoned within the catchment, uses	Conditions imposed, no changes required as part of this modification.

	<p>already approved to connect to the reticulated service and land identified in the Comprehensive Land Use Strategy;</p> <ul style="list-style-type: none"> • Provision of waste collection and where necessary entering into a waste disposal agreement with Council or an approved waste collection operator; and • First aid facilities 	
Landscaping	<p>A landscape plan should be provided with the application. Where possible, remnant vegetation should be retained. Landscaping should focus on:</p> <ul style="list-style-type: none"> • Providing a buffer to surrounding land, in this case vegetation should consist a combination of mature trees and shrubs to achieve a visual buffer; • Providing privacy within the development; • Improving the residential amenity through the provisions of shade; • Consist mainly of native species or species that thrive in this locality; and • At least 25% of the site should be open space. It will be a requirement of any development consent that the landscaping is to be maintained for the life of the development in accordance with the approved landscaping plan. 	<p>Condition exists for a landscaping plan prior to issue of the CC. No changes required as part of this modification.</p>
Plan of Management	<p>The applicant shall provide a Plan of Management that shall form part of any approval granted by Council. The Plan shall address, but is not limited to, the following issues:</p> <ul style="list-style-type: none"> • Identification of measures introduced to mitigate social impacts; • Management of security and safety of tenants, community and surrounding residents; • Noise, dust, odour, light spill and litter; • Potential conflict with adjoining owners/occupiers that may be affected by the operation of the accommodation facility; • The method of transport of the workers to the project site; • The consumption of alcohol at the accommodation facility (if applicable); • Where adjacent to a town or village, access to facilities; • Access to medical services; • Method for the collection of waste within the site; • Emergency response procedures; 	<p>A condition exists for a plan of management prior to commencement of works and in the general conditions.</p> <p>A site management document was also submitted to Council on the 22 October 2019 which included a socioeconomic assessment, safety and security information along with environmental information (noise, waste, odour, light, dust, water and maintenance).</p> <p>Of relevance to the proposed modification, the management plan submitted in 2019 refers to the restoration and use of the community hall located on the site of the development. There is also a tennis court located at the front of the development site as shown on the submitted plans.</p>

	<ul style="list-style-type: none"> • Soil, groundwater and surface water protection methods; • Details of signage at the entrance to the accommodation which is to include the following: <ul style="list-style-type: none"> • Site Manager / Operator; • Specific Rules of the Accommodation site; • Emergency Contact Details; and • Complaints Handling Procedure that will be publicly available and include a compliant contact phone number. 	<p>The management plan confirms that the community hall and supporting facilities are open to the Ulan community and staff / residence of the development.</p> <p>As a result, the footpath that is required to be installed along Main Street is considered to be a justifiable requirement to not only support the development but also improve and provide safe pedestrian connectivity from the Ulan Village to the community building and tennis court.</p>
Decommissioning	<p>The application shall be accompanied by a Decommissioning Plan that shall form part of any approval granted by Council. The Plan shall address the following issues: When the facility shall be decommissioned;</p> <ul style="list-style-type: none"> • Works or facilities that shall remain in place following decommissioning; • Details of the clean – up and rehabilitation of the site; • The proposed use of the site after decommissioning; and • The transfer to public ownership of any legacy infrastructure. 	<p>A condition of consent exists for a decommission plan within the general conditions.</p> <p>A decommissioning plan was also provided to Council on the 22 October 2019.</p>
Developer Contributions	<p>Council will seek to negotiate planning agreements for major developments in accordance with s93F of the Environmental Planning and Assessment Act 1979. Proposals involving less than 50 beds will be assessed in accordance with Council Section 94 Contributions Plan as commercial development.</p>	<p>Section 94A contributions have been conditioned within the existing consent.</p> <p>Payment, including CPI was also made on the 30 April 2019.</p>

Mid-Western Regional Development Contributions Plan 2005–2021

The original application was levied with S94A contributions. This will continue to apply to the development under the existing conditions of consent.

(iii) Do any planning agreement or any draft planning agreement apply?

No Planning Agreements are applicable.

(iv) The regulations

Environmental Planning and Assessment Regulation 2021

No matters prescribed by the Regulations impact determination of the Application.

4.15(1)(b) Likely impacts of the development

The proposed changes are not likely to increase any impacts that were expected by the original development, thus resulting in minimal impact.

The proposed changes include minor building footprint increases (along with the uses considered to be ancillary to the approved temporary workers accommodation facility), the deletion of condition 43, and modification to condition 50.

As highlighted within this report, the deletion of condition 43 requiring a footpath to be constructed along Main Street is not supported by staff however, this matter is unlikely to create any greater environmental impacts as a result of the development.

4.15(1)(c) Suitability of Site for the Development

(a) Does the proposal fit in the locality?

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

(b) Are the Site Attributes conducive to Development?

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

4.15(1)(d) Any submissions made in accordance with Act or Regulations

(a) Public Submissions

Section 1.12 of the Community Participation Plan 2019 does not require notification/advertising of S4.55 Applications.

Notwithstanding this, as the original development application was notified, the proposed modification was re-notified and advertised. No submissions were received during the notification period.

(b) Submissions from Public Authorities

No submissions were sought or received from public authorities.

4.15(1)(e) The Public Interest

(a) Federal, State and Local Government interests and Community interests

No significant issues in the interests of the public are expected as a result of the proposed development. The development will remain the same in operational elements and no submissions were received during the notification period.

CONSULTATIONS

Health & Building

Council's Health & Building Department have raised concerns with the proposal in respect of the unauthorised buildings that are subject of the amended plans in condition 1.

There is also concerns raised in respect of compliance with the previously modified development consent conditions in relation to the building work undertaken without a valid Construction Certificate. Building Information Certificates have however been submitted by the applicant which is proposed to address some components of the building work undertaken to-date.

At this stage, there are compliance matters that will need to be managed independent of the current Modification Application submitted and under consideration.

Additional conditions have therefore been recommended by Health and Building to address the hydraulic designs for the development (including the unauthorised buildings) and an updated approval for the Onsite Sewer Management System.

Development Engineer

Council's Development Engineer has raised concerns with the deletion of condition 43 sought by the modification application. The referral response comments are provided below:

Council granted consent (DA0135/2012) for the establishment of a Temporary Workers Accommodation for 144 persons including communal facilities, supporting infrastructure and car parking.

The applicant is now seeking to amend various aspects of the approved development:

- *Alterations / additions to the existing dining / kitchen building*
- *Addition of a laundry / amenities building*
- *The amendment of Condition 50 seeking to extend the approval time limit from 20 to 25 years*
- *The deletion of Condition 43 requiring the installation of a footpath to the Ulan Village Centre.*

From an engineering perspective, no objection is raised to the alterations / additions to the existing dining / kitchen building, the addition of a laundry and the amendment of Condition 50 as requested.

Condition 43 states the following:

"The developer shall provide a 1.2m wide concrete footpath from the development site to the centre of the Ulan village. Full details are to be provided with application for the Construction Certificate."

A review of Council's aerial photography showed no footpaths within the Ulan village, this was confirmed during a site inspection on 13th February 2023.

The applicant states that the construction of the footpath should not be required as it may encourage mine workers staying on-site to walk to the Post Office Hotel to consume alcohol. While this may occur, it is a personal choice made by the individual and not considered sufficient reason to remove the construction of the footpath. The scale of the development alone is considered sufficient to warrant the installation of pedestrian facilities in the area.

The footpath will provide a pedestrian linkage to the Ulan village to cater for additional pedestrian usage associated with the development, just as road upgrades within the village catered for the additional vehicle movements associated with the development.

It is therefore considered that the footpath will provide a valuable linkage from the development to the Ulan village. Given this application also seeks to extend the life of the consent to 2057, the predicted growth of mining in the region and the strong need for short term accommodation, the deletion of Condition 43 is not supported from an engineering perspective.

As also highlighted earlier within this report, the developer stated within the 2019 site management plan that the Ulan Community Hall and its facilities are available for use by the Ulan community along with residents and staff of the Ulan Village Green. As a result, it is considered that the current requirement for a footpath to be provided along Main Street will provide a safe and accessible connection from the Ulan Village centre to the subject site for use of such Community assets in

accordance with the requirements of Part 6.2 of the Mid-Western Regional Development Control Plan 2013 and the developers site management plan.

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

Council Strategies

Not Applicable

Council Policies

Mid-Western Local Environmental Plan 2012
Mid-Western Development Control Plan 2013

Legislation

Local Government Act 1993
Public Health Act 2010
Environmental Planning and Assessment Act 1979 (as amended)
Environmental Planning and Assessment Regulation 2021

Financial implications

Development Contributions have been paid to Council in accordance with the approved consent.

Associated Risks

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

KAYLA ROBSON
PLANNING COORDINATOR

ALINA AZAR
DIRECTOR DEVELOPMENT

14 February 2023

Attachments: 1. Supporting Letter and Plans. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER