

Item 8: Development

8.1 MA0009/2022 - Modification to DA0214/2014 - 7 Lot Subdivision and Industrial Development - 86 Depot Road, Mudgee

REPORT BY THE PLANNING COORDINATOR

TO 19 APRIL 2023 ORDINARY MEETING
 GOV400103, DA0214/2014 - Part B

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on Application MA0009/2022 - Modification to DA0214/2014 - Subdivision and Industrial Development - 86 Depot Road, Mudgee; and
- B. approve MA0009/2022 - Modification to DA0214/2014 - Subdivision and Industrial Development - 86 Depot Road, Mudgee subject to the following amended conditions and statement of reasons (in blue):

PARAMETERS OF CONSENT

APPROVED PLANS

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

Title / Name:	Drawing No / Document Ref:	Revision / Issue:	Date:	Prepared by:
Master Plan	3312-A01	A	April 2013	Giselle Denley Drafting Services
Site Plan (Lot 6)	3312-A01	A	April 2013	Giselle Denley Drafting Services
Ground Floor Plan (Lot 6)	3312-A02	B	Nov 2017	Giselle Denley Drafting Services
Elevations (Lot 6)	3312-A03	B	Nov 2017	Giselle Denley Drafting Services
Site Plan (Lots 1-4)	3312-A02	D-F	Feb 2021 MAR 2022	Giselle Denley Drafting Services
Ground Floor Plan, South East Elevation and South West Elevation (Lot 1)	3312-A03	D	Sep 2019	Giselle Denley Drafting Services
Lot 2 Ground Floor Plan, First Floor Plan & Elevations (Lots 2 and 3)	3312-A04	E-G	Feb 2021 MAR 2022	Giselle Denley Drafting Services
Shed 2 Elevations	3312-A15	A	MAR 2022	Giselle Denley Drafting

				Services
Lot 3 Site Plan	3312-A13	A	March 2021	Giselle Denley Drafting Services
Lot 3 Ground Floor Plan, Elevations & First Floor Plan	3312-A16	F	MAR 2021	Giselle Denley Drafting Services
Lot 4 Site Plan	3312-A12	A	OCT 2022	Giselle Denley Drafting Services
Lot 4 Ground Floor Plan, First Floor Plan & South East Elevation (Lot 4)	3312-A05	D-G	Feb 2021 DEC 2022	Giselle Denley Drafting Services
Shed 4 South West, North East & North West Elevations	3312-A14	A-D	May 2024 DEC 2022	Giselle Denley Drafting Services
Lot 6 Site Plan	3312-A08	B	MAR 2022	Giselle Denley Drafting Services
Shed 6 Ground Floor Plan	3312-A09	C	MAR 2022	Giselle Denley Drafting Services
Shed 6 Elevations	3312-A10	D	MAR 2022	Giselle Denley Drafting Services
Storage Shed Typical Floor Plan & Storage Shed Front Elevation	3312-A09	A	April 2013	Giselle Denley Drafting Services
Proposed subdivision Showing Existing Improvements	BK041.dwg Sheet 1 of 4	-	14/10/2013	Jabek Pty Ltd
Layout Industrial Development Lots 1-6 (Stage 2)	BK041.dwg Sheet 2 of 4	-	14/10/2013	Jabek Pty Ltd
Service Layout	BK041.dwg Sheet 3 of 4	-	14/10/2013	Jabek Pty Ltd
Detail Lot 7	BK041.dwg Sheet 4 of 4	-	14/10/2013	Jabek Pty Ltd

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

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

(AMENDED MA0043/2021)

(AMENDED MA0009/2022)

2. Notwithstanding the approved plans the structure is to be located clear of any easements and/or any water and sewer mains in accordance with Council Policy.

2A. The following limits apply to the proportion of the building on proposed Lot 6 that may be used for industrial premises or warehouse purposes:

- a) A maximum of 2,000m² of the building on proposed Lot 6 may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
- b) Any amount of the building less than the cumulative total of 2,000m² may be used as industrial premises, with the remainder able to be used for warehouse/storage purposes; or
- c) The total floor area of the building on proposed Lot 6 may be used for warehouse/storage purposes.

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

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

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

AMENDMENTS TO APPROVED PLANS

3. The maximum fill permitted to be placed on proposed Lot 1 is limited to 500mm above the existing natural ground level as shown on Plan No.BK041.dwg, Sheet 3 of 4.

~~4. No roller doors are to be constructed in the north-western wall of the proposed sheds on Lots 1 - 4, that adjoin the golf course and residential area at the north-eastern end of Inverness Avenue.~~

~~(AMENDED MA0043/2021) (DELETED MA0001/2022)~~

5. ~~A minimum 1.8 2.5 metre high lapped and capped timber fence with minimum 12mm palings and 25% overlap each side along the full western boundary of the site is to be provided along the western boundary (residential land, Golf Club land) of the development prior to the commencement of any works on the site. The timber fence is to be erected along the western boundary of proposed Lots 1 to 4. The remainder of the western boundary adjoining proposed Lot 7 may be fenced with a chain mesh fence.~~

~~(ADDED MA0017/2020) (AMENDED MA0001/2022)~~

~~(DELETED MA0009/2022)~~

5A. All lots in the approved subdivision shall have a minimum lot size of 2,000m².

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

(ADDED MA0020/2017)

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

(ADDED MA0020/2017)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - CIVIL

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

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

Note 2: Council does not permit other bodies to insert new junctions into 'live' sewer mains.
9. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5 year ARI. All storm water detention details including analysis shall be included with the drainage report.
10. The Cul-de-sac proposed at the end of Depot road must be designed pursuant to "AUSTRROADS Design Vehicles and Turning Path Templates Guide 2013" to accommodate at least a B-Double turning radius (15m) when travelling between 5-15km/hr. The turning path plan must be submitted to Council prior to the issue of the Construction Certificate.
11. All finished surface levels shall be shown on the plans submitted for the Construction Certificate. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE - BUILDING

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

12. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
- 12A. Prior to issue of any Construction Certificate for Shed 4, application must be made and approval obtained for a Liquid Trade Waste permit to discharge waste water runoff from the proposed wash bay to Councils sewer system.
(AMENDED MA0009/2022)

- 13. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- 14. The developer shall obtain a Certificate of Compliance under the Water Management Act. This will require:

- a) Payment of a contribution for water and sewerage headworks at the following rate:

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

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

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

(AMENDED MA0020/2017)

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

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

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

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

(ADDED MA0020/2017)

- 14B. Prior to the issue of any Construction Certificate that includes above ground works, a landscape plan shall be submitted to and approved by Council. This landscape plan shall be prepared by an appropriately qualified and experienced professional. The landscaping plan is to show and/or achieve the following:

- a) A planting schedule (including a range of plant sizes).
- b) A maintenance schedule.
- c) Re-planting regime for any plants that are damaged, dead, or removed for any reason.
- d) Provision of landscaping adjacent to and between car parking areas to assist in visually breaking up the expanse of the car park.
- e) Provide landscaping and fencing (if to be provided) within the front boundary landscaped setback that achieves the following:

- (i) Allows for passive surveillance between the road reserve and the internal car park and entrance to buildings. This may be achieved by using shrubs that have a maximum height of 0.8m at maturity and trees that have a minimum canopy height of 1.7m at maturity.
 - (ii) Includes a mixture of trees, shrubs and groundcovers to create mass of vegetation with an average height of 2m at maturity, within the approved landscaped areas.
- f) Utilise endemic species, where practicable, which are appropriate for the site.
- g) Details of an irrigation system connecting to the on-site rainwater tanks.
- (ADDED MA0020/2017)

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

(ADDED MA0020/2017)

- 14D. Prior to issue of a Construction Certificate for Sheds 1 to 4, and where it is proposed to operate the premise in the evening and night-time periods (6pm to 6am) each shed must include the following acoustic measures, also in accordance with the report prepared by Spectrum Acoustics:
- Lining the internal walls (or parts of the walls where workshop equipment or work benches are to be located) with acoustic shielding on the southern and/or western walls;
 - Isolating particularly noisy plant, equipment or activities and acoustically shielding these;
 - Locating noisy plant or activities “behind” internal partitions or offices relative to receivers; or
 - Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.
- (ADDED MA0001/2022)

14E. Prior to the issue of a Construction Certificate for Sheds 1, 2 and 3, and in accordance with the acoustic report addendum prepared by Spectrum Acoustics dated September 2022 (and additional response dated 17 March 2023):

- a) A 5.6m high acoustic barrier is required along the boundary adjacent to Shed 1.
- b) A 5m high acoustic barrier is required along the western boundary adjacent to Shed 2.
- c) A 4.2m high acoustic barrier is required along the western boundary adjacent to Shed 3.
- d) An acoustic barrier is one which is constructed of material with a minimum surface density of 15kg/m³ and is impervious from the ground to the required height with no gaps for the passage of sound.

(AMENDED MA0009/2022)

14F. Prior to the issue of a Construction Certificate for Shed 2 as shown on the endorsed plans, a detailed drainage design showing no less than 60% of all roof runoff is directed to stormwater tank or tanks to provide no less than 20,000 litres of detention storage which is to be discharged using a restricted orifice at a rate no greater than 5 litres per second. The capacity of the tank may be increased to also provide storage for re-use.

(AMENDED MA0009/2022)

14G. Prior to the issue of a Construction Certificate for Shed 4 as shown on the endorsed plans, a detailed drainage design showing no less than 60% of all roof runoff is directed to stormwater tank or tanks to provide no less than 20,000 litres of detention storage which is to be discharged using a restricted orifice at a rate no greater than 5 litres per second. The capacity of the tank may be increased to also provide storage for re-use.

(AMENDED MA0009/2022)

PRIOR TO THE COMMENCEMENT OF WORKS – CIVIL

**15. Prior to development the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair (at their own expense) any part of Council's property damaged during the course of this development in accordance with AUS-Spec #1/2 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
(AMENDED MA0020/2017)**

16. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.

17. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be provided to Mid-Western Regional Council as an interested party. All work is to be at no cost to Council.

PRIOR TO THE COMMENCEMENT OF WORKS – BUILDING

18. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- a) the appointment of a Principal Certifying Authority; and**
- b) the date on which work will commence; and**
- c) Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.**

19. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE.

20. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;

- a) stating that unauthorised entry to the work site is prohibited;**
- 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; and**
- d) The sign shall be removed when the erection or demolition of the building has been completed.**

21. Prior to the commencement of works on site, the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property.
(AMENDED MA0020/2017)

CIVIL CONSTRUCTION

- 21A. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
(NUMBERED MA0020/2017)
22. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
23. The developer is to grant Council (or an Accredited Certifier on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
24. The subdivision works are to be inspected by the Council (or Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures;
 - b) Water and sewer line installation prior to backfilling;
 - c) Establishment of line and level for kerb and gutter placement;
 - d) Road and driveway pavement construction (including excavation, formwork and reinforcement) ;
 - e) Road pavement surfacing; and
 - f) Practical completion.
25. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.
26. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
27. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.
28. The requirements for stormwater quality, as specified in the DCP, shall be addressed in the design prior to issue of the Construction Certificate. The design shall be such that there is no increased maintenance burden on Council.
- 29A. The developer must construct the full length of the proposed new extension of Depot Road located in Lot 210 DP775001, to the following standard:

Item	Requirement
Road Reserve Width	21.6 m

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

(ADDED MA0020/2017)

30. Car parking for lots 1-6 must comply with the following standards:

- a) All vehicles must be provided adequate means to exit the lot in a forward direction;
- b) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
- c) Each disabled car parking space is to be in accordance with the provisions of Clause D3.5 of the Building Code of Australia and Australian Standard as 2890.6 – 2004;
- d) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times; and
- e) The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Traffic Authority Guide to Traffic Generating Developments 1992 and Australian Standard AS2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.

31. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.

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

32. Runoff and erosion controls shall be installed prior to clearing and incorporate:

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

WATER AND SEWER

33. The developer is to extend and meet the full cost of water and sewerage reticulations to service the development plus the cost of connecting to existing services. All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act,1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.

34. The applicant is to provide separate water and sewer reticulation services to each lot.
35. Three metre wide easements, including associated Section 88B Instruments, are to be created in favour of Council over any existing or newly constructed water or sewerage reticulation components located within the subject property, or extended through adjoining private properties as a result of this subdivision.

BUILDING CONSTRUCTION

36. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.
37. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
38. Construction work noise that is audible at other premises is to be restricted to the following times:

Monday to Saturday - 7.00am to 5.00pm
No construction work noise is permitted on Sundays or Public Holidays.
39. All mandatory inspections required by the Environmental Planning & Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
40. The strength of the concrete used for the reinforced concrete floor slab must be 25Mpa.
41. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

42. Under the Environmental Planning & Assessment Act, 1979, a Subdivision Certificate is required before the linen plan of subdivision can be registered with the Land Titles Office.

Note: The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges.
43. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
44. If the Subdivision Certificate is not issued, for any reason whatsoever, by the end of the financial year immediately following 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.
45. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision.
46. Prior to issue of the Subdivision Certificate, Council is to be supplied with:

- a) A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision;
 - b) A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision;
 - c) All contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or an agreement be made between the developer and Council;
 - d) As to the security to be given to Council that the works will be completed or the contribution paid; and
 - e) As to when the work will be completed or the contribution paid.
47. Following completion of the subdivision works, one full set of work-as-executed plans, on transparent film suitable for reproduction, and an "AutoCAD compatible" work-as-executed Plan, (in dwg format including pen-map), is to be submitted to Council. 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.
48. The developer must provide Council and land purchasers with a site classification for each lot within the subdivision. The classification is to be carried out at a suitable building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause of AS2870 - 2011. Results are to be submitted to Council prior to issue of the Subdivision Certificate.
49. (DELETED MA0020/2017 – AMENDED CONDITION MOVED TO CONDITION 14A)
50. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1650 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE	6	x	\$1650	=	\$9,900
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Note: Council does not permit other bodies to connect to 'live' water mains.

OR

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

TOTAL PAYABLE	6	x	\$370	=	\$2,220
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Note: Council does not permit other bodies to connect to 'live' water mains.

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

TOTAL PAYABLE	6	x	\$1,450.00	=	\$8,700
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Note: Council does not permit other bodies to insert new junctions into “live” sewer mains.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

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

53. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
54. All car parking and associated driveway works are to be completed prior to occupation of the development.
- 54A. All plants shown on the approved landscape plan/s are to be planted and all hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed prior to the issue of an Occupation Certificate.
(ADDED MA0020/2017)
- 4B. ~~The 2.5 metre high timber acoustic fencing along the western boundary of the site shall be completed prior to issue of an Occupation Certificate for Sheds 1 to 4, in accordance with the recommendations of the Noise Impact Assessment Report prepared by Spectrum Acoustics dated July 2021.~~
(ADDED MA0001/2022)
(DELETED MA0009/2022)
- 54C. Prior to issue of an Occupation Certificate for Sheds 1 to 4 and where operations are proposed between 6pm and 6am (evening and night time periods), all acoustic measures required by this consent shall be installed within the building to the satisfaction of the Principal Certifying Authority.
(ADDED MA0001/2022)
- 54E. ~~Prior to issue of any Occupation Certificate for Sheds 1, 2, and 3, the acoustic barrier must be installed in accordance with the acoustic report addendum prepared by Spectrum Acoustics dated September 2022 (and additional response dated 27 February 2022) as follows:~~
- a) ~~A 5.6m high acoustic barrier is required along the boundary adjacent to Shed 1.~~
 - b) ~~A 5.0m high acoustic barrier is required along the western boundary adjacent to Shed 2.~~
 - c) ~~A 4.2m high acoustic barrier is required along the western boundary adjacent to Shed 3.~~
 - d) ~~An acoustic barrier is one which is constructed of material with a minimum surface density of 15kg/m³ and is impervious from the ground to the required height with no gaps for the passage of sound.~~
- (AMENDED MA0009/2022)
- 54F. ~~Prior to issue of any Occupation Certificate for Sheds 1, 2, and 3 Council is to be provided with a verification report prepared by a suitably qualified acoustic consultant which certifies that the acoustic barrier installed along the western boundary of the site has been installed in accordance with the acoustic report addendum prepared by Spectrum Acoustics dated September 2022 (and additional response dated 17 March 2023) and the conditions of this consent No. 14E and 54F.~~
(AMENDED MA0009/2022)

CONDITIONS RELATED TO THE ONGOING USE OF THE SITE

55. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.
56. All loading and unloading in connection with the premises shall be carried out wholly within the site.
57. Garbage areas are to be adequately screened from public view with an opaque fence and / or adequate landscaping.
58. All waste generated by the proposed development shall be disposed of to an approved location in accordance with the Waste Minimisation & Management Act 1995.
59. All security fencing (excluding the western boundary adjoining the Golf Course land – currently identified as Lot 27 DP1165146) is to be pre-coloured or powder coated. Security fencing to the public road frontage is to be erected on or behind the front building line. Full details of proposed fencing is to be included on the landscaping plan. (AMENDED MA0001/2022)
60. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 “Control of the Obtrusive Effects of Outdoor Lighting”.
61. No display or sale of goods is to take place from public areas or footpaths fronting the premises.
62. All ‘Colorbond’ material for the proposed sheds is to be non-reflective.
63. Hours of operation of the industrial buildings are restricted to the following times and conditions:
~~Monday to Saturday 7.00am to 6.00pm~~
~~No work is permitted on Sundays or Public Holidays~~

Monday to Sunday - 6.00am to 10.00pm; however, all doors and windows must be kept closed from 6.00pm daily; and
 - a) Operations from within the industrial buildings are permitted Monday to Sunday- 10.00pm to 6.00am subject to the following conditions;
 - i. Any deliveries that must occur during the hours of Monday to Sunday - 10.00pm to 6.00am must be undertaken within the building frontages to Depot Road only; and
 - ii. All roller doors and windows are to be kept fully closed (other than for the entry or exiting the building by staff);
 - iii. Any mechanical plant or equipment installed on the buildings must ensure that suitable acoustic covers / shielding devices are installed by a suitably qualified person and maintained for the life of the development.
(AMENDED MA0001/2022)
- 63A Where operations during the hours of 6.00pm to 6.00am creates excessive noise or inconvenience to the amenity of the area, the operations are to cease immediately during the evening and night time periods. The operations are to be managed so there is 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.
(ADDED MA0001/2022)

63B The applicant is responsible for the preparation and management of a complaints register for the life of operations which must record the following information:

- a) Name, address and contact details of the complainant;
- b) Description of complaint (e.g. type/character and volume);
- c) Frequency and duration of complaint; and
- d) Any actions taken to resolve complaint.

The complaints register must be made available to Council at any time on request.
(ADDED MA0001/2022)

64. The combined maximum permitted noise level for all activities within the subject industrial development is 5dB(A) above the background noise level of 39dB(A) as measured at the property boundary of Lot 210 DP 775001 and the Mudgee Golf Course and the residentially zoned land.

65. Measures, such as raised kerb edges, bollards and/or fencing, are to be installed and maintained around all approved landscape areas in order to prevent vehicles driving over them. (ADDED MA0020/2017)

66. Landscaping is to be maintained in accordance with the approved landscape plan.
(ADDED MA0020/2017)

ADVISORY NOTES

- 1.** The removal of trees within any road reserve requires separate approval of Council in accordance with the policy "Tree Removal and Pruning Public Places".
- 2.** The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
- 3.** Division 8.2 of the Environmental Planning and Assessment Act 1979 (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
(MODIFIED MA0043/2021)
- 4.** If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
(MODIFIED MA0043/2021)
- 5.** To ascertain the date upon which the consent becomes effective, refer to section 83 of the EP&A Act.
- 6.** To ascertain the extent to which the consent is liable to lapse, refer to section 95 of the EP&A Act.

7. The development is to operate so as to not emit offensive noise, as defined in the Protection of the Environment Operations Act 1997.
(ADDED MA0020/2017)

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the Environmental Planning and Assessment Act 1979.
2. The proposed modification complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
3. The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning and Assessment Act 1979.
(NEW STATEMENT OF REASONS MA0043/2021)
4. The proposed development satisfactorily addresses the issues raised in the objections received in response to public notification of the development, as follows:
 - a) The proposed development will not have an adverse noise or amenity impact, subject to compliance with the amended conditions of consent and this includes construction of a 2.5m (increasing to a maximum of 5.6m, 5m and 4.2m behind sheds 1, 2 and 3 in accordance with the amended acoustic report dated September 2022) timber acoustic fence along the western boundary of the site, closing all roller doors and windows during the evening and night periods of operation along with upgrade of the buildings with acoustic measures such as shielding and lining of the walls.

(ADDED MA0001/2022)

(AMENDED MA0009/2022)

Executive summary

OWNER/S:	DTM Property Enterprises Pty Limited.
APPLICANT:	Mr Daniel J Baggett.
PROPERTY DESCRIPTION:	Lot 2102 DP 1237751 (formerly identified as Lot 210 DP 7750021).
PROPOSED DEVELOPMENT:	Modification to DA0214/2014 to alter the design of the proposed industrial sheds approved.
ESTIMATED COST OF DEVELOPMENT:	Nil
REASON FOR REPORTING TO COUNCIL:	Previous applications approved by Council.
PUBLIC SUBMISSIONS:	Nil

Council is in receipt of a Modification Application to DA0214/2014 (MA0009/2022) at 86 Depot Road, Mudgee pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act*.

Council granted consent to the original Development Application on the 21 May 2014. A number of modifications to the consent have also been approved by Council.

Application MA0009/2022 seeks to amend the approved plans for Sheds 2, 4 and 6 which relates to the building layout, floor areas, amenities and overall building heights. The application was also supported by an addendum to the previous Acoustic Assessment Report to address the increase in

heights and layouts for sheds 2 and 4 which abut the boundary of the Golf Course and Inverness Avenue residential area.

The modification application was notified for a period of 14 days. No submissions were received during the notification period.

The application is supported subject to amended conditions of consent which aligns with the assessment and recommendations contained within the updated Acoustic Report (and addendum report provided on the 4 April 2023), Council's Environmental Health Officer, Health and Building Officer and Development Engineering Officer.

Disclosure of Interest

Nil

Detailed report

PRECEDING APPROVED DEVELOPMENT

Council granted consent to Development Application DA0214/2014 on the 21 May 2014. This approval related to the subdivision of the land (legally identified at the time as Lot 210 DP 7750021 – 36B Castlereagh Highway Mudgee) into seven (7) lots with a new road extension from Depot Road, and construction of new industrial sheds (proposed on plan as 'workshops with offices') in a staged manner. This included one (1) large shed containing 12 x 'workshop units' on proposed lot 6.

At the time of approval, the applicant did not nominate uses of the industrial buildings on the basis that this would be dependent upon finding future tenants for each building. Car parking however, was calculated on the basis of 'Bulky goods and manufacturing warehouse' applying a rate of 1 space per 75m² under the DCP 2013. A variation of 12 parking spaces for the overall development was sought by the applicant at the time. The cost of the development was estimated at \$2,425,000.

Stage 1 release of the subdivision to create Lots 2101 and 2102 was registered on the 30 November 2017 (SC009/2018).

Since 2014, the application has been modified four (4) times which is detailed as follows:

- Section 4.55(2) - MA0020/2017 – approved 20 June 2018 which included modification to plans and conditions of consent relating to the road and stormwater design for the development.
- Section 4.55 (1A) - MA0017/2020 – approved 20 November 2019 which included modification to plans of the buildings and modification to fencing for Lots 1 to 4 (western boundary fence facing the golf course to be partly timber and partly chain wire).
- Section 4.55(1A) - MA0043/2021 – approved 16 June 2021 which included modification to sheds 2, 3 and 4, increased shed heights and reconfiguration of the shed designs. The application was also submitted with the request to include roller doors on the western elevations and also increase hours of operation to 6am to 12 Midnight Monday to Saturday however, this was removed from the application along with the imposition of amended condition 4. Operating hours of 7am to 6pm Monday to Saturday was therefore retained at this time under condition 63 of the consent.
- Section 4.55 (1A) – MA0001/2022 - Modification to conditions relating to roller doors on the western elevations of the buildings, installation of acoustic measures including timber

fencing and increasing hours of operations (conditions 4, 5, 14D, 54B, 54C, 59, 63, 63A, 63B).

The subject land and the approved modified layout of the development is included in Figures 1 and 2 below.



Figure 1 – Site location including zoning

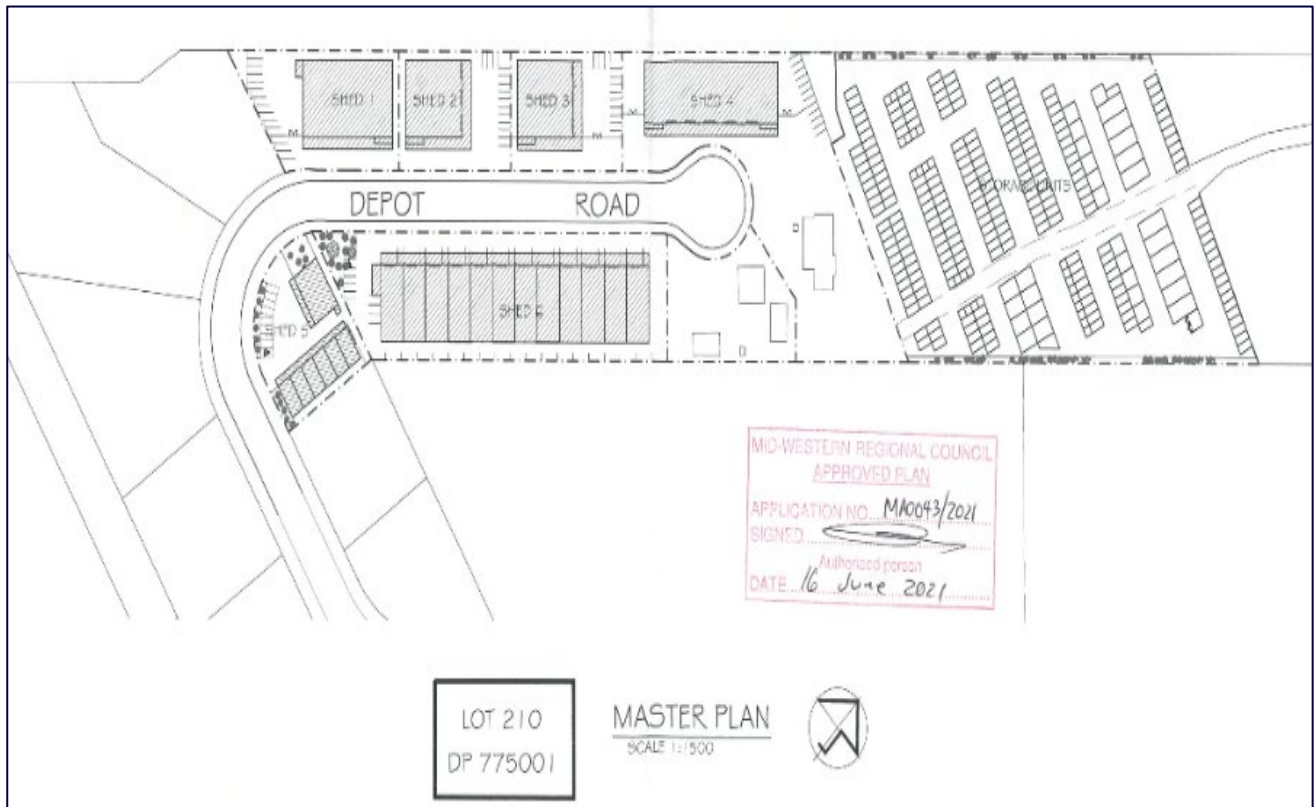


Figure 2 – Modified layout approved by MA0043/2021 – 16 June 2021

PROPOSED MODIFICATION

Modification application MA0009/2022 has been submitted to Council proposing to amend the following:

1. Modification to shed 2 / Lot 2, comprising of:
 - i) Increase the ground floor area from 655.8m² to 700m²,
 - ii) Increase the height of the shed from 8m (to the eaves) to 10.5m (to the eaves),
 - iii) Alter the location of roller and PA doors on the North West, North East and South West elevations (it should be noted that the roller doors on the South West elevation which faces toward Lot 1/Shed 1 has increased from 1 to 3 roller doors and are now 5m x 5m – there are no roller doors however proposed on the North West elevation towards the golf course / Inverness Avenue),
 - iv) Flip the location of the entry, signage and stacker doors on the South East elevation,
 - v) Relocate the building from the Eastern boundary to the Western boundary of proposed Lot 2.
 - vi) Note: no change is proposed to the building setbacks or parking numbers.
2. Modification to shed 4 / Lot 4, comprising of:
 - i) Increase the ground floor area from 1,200m² to 1,541m², incorporating an attached prefabricated office and amenities building to the South Western elevation,
 - ii) Addition of a wash bay within the ground floor area of the building,
 - iii) Reconfigure the amenities with an additional 1 toilet and 3 showers,
 - iv) Increase the first floor area of offices from 60.11m² to 96.31m²,

- v) Relocation of parking over Lot 4 to the South Eastern boundary of the building,
 - vi) Alter the location and configuration of the entry to the building, roller and PA doors on the South East, South West, North East and North West elevations (it should be noted that there is now no roller doors on the North West elevation which fronts the Golf Course / Inverness Avenue),
 - vii) Increase the height of the building from 8m (to the eaves) to 10.5m (to the eaves),
 - viii) Increase the parking numbers on the site to at least 24 from 11 spaces,
 - ix) Note; no change to building setbacks are proposed.
3. Modification to shed 6 / Lot 6, comprising of:
- i) Reduction to the total number of workshop units from 12 to 10 and inclusion of a prefabricated office building at the Eastern side of the site. This reduces the total floor area of all units and the new office building on the site from 3,000m² to 2,780m²,
 - ii) Increase the parking numbers onsite to at least 39 from 24 spaces,
 - iii) Increase the width of all roller doors to 5m x 5m for each workshop unit,
 - iv) Increase the height of the building from 5.5m (to the eaves) to a maximum of 8.5m (to the eaves),
 - v) Modify the setbacks of the building from 4m to 14m at the eastern boundary (aligning with the separately approved change of use for the gymnasium and accommodating more parking onsite) and the western boundary from 8m to 6m. No change is proposed to the front setback from the new extension of Depot Road.

There are no changes proposed to sheds 1 or 3, as approved. Separate plans have been provided for shed 3 as part of this modification owing to the previous approved plans including both sheds 2 and 3 on the same plan set. As shed 2 is now being modified by this application, the plans for shed 3 have been separated accordingly from shed 2.

The proposed development has been assessed in accordance with Council's LEP and DCP and there are no additional departures from Council's DCP sought by this modification application.

The application is referred to Council for determination as all prior applications have been determined by Council.

The application is recommended for Approval.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

ASSESSMENT

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

4.55(2) Other Modifications

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

Comment The proposal seeks to modify conditions of consent relating to the approved building plans. No change to the overall approved development or development description is proposed by this modification. As a result, it is considered the development remains substantially the same development as approved.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment No concurrences or referrals were required to be obtained under the original development and therefore no general terms of approval (or other conditions of consent) are required to be considered under this subclause.

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment The S4.55 Application was notified to adjoining neighbours as per Council's Community Participation Plan.

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

Comment No submission 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?

The proposed modification does not alter the proposal's compliance with the relevant State Environmental Planning Policies, considered as part of the original Development Application. No new considerations were required to be addressed as a result of the proposed modification.

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 reconsidered under the MWRLEP 2012.

It should be noted that the subject site is not mapped with a maximum building height under the Mid-Western Regional Local Environmental Plan 2012.

(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 DCP 2013

The previous application submitted has been assessed in accordance with the DCP. The proposed modification (MA0009/2022) does not propose any changes that would significantly impact upon compliance with the DCP provisions. As a result, the proposal has been assessed upon its merits.

Conditions have been retained to address onsite parking compliance with new plans including additional parking for sheds 4 and 6. Further, new conditions have been recommended by Engineering to address stormwater detention owing to the increase in roof area proposed by the modification.

MID-WESTERN REGIONAL DEVELOPMENT CONTRIBUTIONS PLAN 2019 AND DEVELOPER SERVICING PLANS 2008

The original application was levied with Section 64 and Section 94A contributions with the modification application having no impact or change to the levying of the contributions for the development.

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

No Planning Agreements are applicable.

(iv) The regulations

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

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

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

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed changes to the development application conditions under this modification is limited to the building layout and height of the sheds located over proposed Lots 2, 4 and 6, along with acoustic fencing and stormwater management.

The original application for the development was supported by an acoustic report prepared by Spectrum Acoustics (dated April 2014) with a response provided by the applicant's consultant dated 30 April 2014 detailing the following:

The report has not assumed a solid boundary fence (for the western boundary) and has presented a theoretical worst-case scenario in terms of having a large mechanical workshop servicing mining machinery in each shed without any internal partition, internal walls, attenuation guards, mufflers etc., and assuming simultaneous operating of

machinery. Noise from each source was considered to be impacting across the entire internal wall surfaces of each shed. The existing mound was considered.

In summary, the results identify that the theoretical noise from each of the sheds individually (except Shed 1), will comply with the adopted criterion at the nearest residential receiver to the site. Shed 1 potentially exceeds the criterion by 3dB(A). The worst case scenario results (Table 5 in the report) shows that under the assessed conditions the combined noise from all sheds if simultaneously operating (mechanical workshop) could exceed the criterion by up to 4 dB(A) Leq (15min) at the nearest residential receiver.

In reality, it is not likely that all sheds will be occupied by the assumed mechanical occupant, or likely that machinery will operate simultaneously, be installed without any internal isolation/attenuation or be affecting the entire surface of the roof and walls. With such a minor predicted noise exceedance, the assessment has concluded that the sheds can feasibly comply with the day time noise criterion for nearby residential receivers with simple internal noise control actions. Based on the results detailed in the report it was concluded that the proposal can operate without adversely impacting upon the acoustical amenity of any residential receiver.

Further, an acoustic mound or fence was not suggested to address the noise environment. Alternative industrial activities (& other noise producing occupants) are not precluded, rather internal noise control would be appropriate such as plant specific items e.g.: mufflers, attenuator guards, cowlings etc. and internal partitions.

The applicant has proposed a solid fence for the length of the development and located the individual buildings along the golf course boundary to break up the bulk of the development. It is reiterated that a solid boundary fence was not assumed in the modelling, though a fence is proposed for the length of the western boundary from Lot 1 to Lot 4 (at this stage a 1.8m high colour bond fence is proposed), which will add to noise attenuation and external noise control and contribute to visual amenity issues. The existing residential subdivision is currently bordered by an acoustic mound which ends in correlation with the subdivision. Extension of the mound at this stage is unnecessary based on the results of the Noise Impact Assessment.

The acoustic report modelling from 2014 based future noise producing activities over the site to include:

Noise Producing Activity	dB(A) Leq (15 min)
Recycling Facility (general)	100-110
Metal Fabrication	100-110
Commercial/Retail	60-70
Gym (classes)	80-90
Dance Studio	85-95
Ice Works	80-90
Mechanical Workshop	95-105

Noting that it was recommended by the consultant that:

'Should an impending occupier of one of the sheds be identified as having the potential to undertake particularly noisy activities (i.e. louder than that used in the calculations in this assessment) it is recommended that a specific acoustic assessment be considered to ensure maintenance of the acoustic amenity of the residential area.'

The above assessment resulted in the conditions of consent imposed by Council in May 2014, which also included a condition requiring a 1.8 m high lapped and capped timber fence along the western and southern boundaries, along with no roller doors on the north western wall of the workshop on future Lot 1.

As part of the modification submitted and approved by Council in October 2021 (MA0001/2022), the applicant provided an updated acoustic report prepared by Spectrum Acoustics (July 2021). In summary, the assessment from July 2021 concluded that:

'provided all doors and windows are closed during the evening and night, there should not be any adverse noise impacts at any receivers.

The discussion above is general and the condition for doors to be closed could be removed pending the results of any acoustic assessment based on specific details of proposed activities within a particular shed.

The use of the yards to the closest sheds to residential receivers would be possible provided a minimum 2.5m high acoustic barrier is in place along the western boundary to the site.'

As a result of the above findings and review by Council's Environmental Health Officer, number of new and amended noise control restrictions were imposed as a result of MA0001/2022.

For the current modification and the proposal to amend the building layouts and increase the height of sheds 2, 4 and 6, an acoustic addendum report was provided to Council. This was reviewed by Council's Environmental Health Officer, which concluded that amended conditions should be imposed which align with the recommendations of the amended acoustic report dated September 2022 and 17 March 2023. This results in the need to increase the height of the acoustic fencing in specific locations to a maximum of 5.6m, 5m and 4.2m respectively. This follows the height of the roller doors orientated towards the western boundary / residential area. This may be achieved via use of concrete or Hebel panels as noted in the addendum report dated 17 March 2023.

In conclusion, as per the submitted noise report, noise can be appropriately managed, subject to conditions of consent.

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

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

The development has been approved in the IN1 General Industrial Zone which is consistent with the objectives of the zone and the immediate industrial locality. The modification to the building layout and heights of sheds 2, 4 and 6 does not alter the previous findings in relation to the location of the development in the locality, with a number of conditions remaining in place to enforce the amenity that is required to be preserved for the northern area of the site.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

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

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

(A) PUBLIC SUBMISSIONS

As the original development application was notified, the proposed modification was also notified.

No submissions were received during the notification period of this modification.

(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, subject to compliance with the recommended amended conditions of consent. The development has been approved in line with the IN1 General Industrial zoning of the land however, it is also important to ensure land use conflicts continue to be appropriately managed for the community which is reinforced via conditions of consent.

CONSULTATIONS

(A) ENVIRONMENTAL HEALTH OFFICER

Council's Environmental Health Officer has provided an assessment of the application and the addendum Noise report provided to Council dated September 2022 and further information supplied dated 17 March 2023.

The following comments have been provided for assessment:

A response has been received from Spectrum Acoustics.

They also did the acoustic report for DA0178/2022 on the adjoining land.

They clarify in their response that the required 5.6m barrier is to mitigate the noise from Shed 1 only.

A 4m barrier for the subject property is required to mitigate noise from Sheds 2 & 3.

They have also provided an assessment of noise impacts from Shed 4 on the current nearest residence at Lot 7 Inverness Ave and conclude no barrier is required.

I believe the nearest proposed dwellings to Shed 4 in the adjoining development would be on the proposed Lot 7 and/or Lot 8. There is a vegetation zone of approx. 50m and a detention basin between Shed 4 and Lots 7 & 8.

I agree that the proposed acoustic assessment is acceptable for the approval of the modifications under MA0009/2022.

In regards to Condition No 5 of MA0001/2022, I recommend it be deleted and new one inserted in the Prior To Commencement of Construction section:

In accordance with the acoustic report by Spectrum Acoustics dated September 2022:

- a) A 2.5m high acoustic barrier is required along the western boundary adjacent to Shed 1.*
- b) A 4m high acoustic barrier along the western boundary is required adjacent to Sheds 2 and 3.*
- c) An acoustic barrier is one which is constructed of material with a minimum surface density of 15kg/m³ and is impervious from the ground to the required with no gaps for the passage of sound.*

(B) HEALTH AND BUILDING OFFICER

The following comments have been provided for assessment:

Works will require a s68 and CC for each building. Plans indicate compliance with BCA is achievable.

Refer to Environmental Health Officer regarding noise.

Therefore - no new conditions required based on the proposed amendments.

(C) DEVELOPMENT ENGINEERS

The following comments have been provided for assessment:

1 Increase to overall building height of shed 2, 4 & 6.

No engineering impact or requirement for changes or additional conditions due to changes in shed height.

2 Reconfiguration of the buildings including new wash bay in shed 4, new office building to shed 4, additional 3 showers and 1 toilet to shed 4, new office building to shed 6 (reducing the workshops from 12 to 10 units).

The inclusion of a wash bay in Shed 4 will likely trigger a requirement for Liquid Trade Waste (LTW) approval from Council's W&S team. An additional condition will be detailed below. The additional showers and toilet are not considered to add significantly or excessively to the capacity of the sewer system.

3 Increase the total floor areas of sheds 2 and 4.

Shed 2 – The increase in floor area and additional awning increases roofed area by approximately 30%. This will have some implication on the management of stormwater runoff and the capacity of stormwater drainage infrastructure.

A condition requiring detention storage provided in rainwater tanks, some of which could be retained for re-use, is recommended for inclusion.

Shed 4 - The increase in floor area and additional awning increases roofed area by approximately 15%. This will have some implication on the management of stormwater runoff and the capacity of stormwater drainage infrastructure.

A condition requiring detention storage provided in rainwater tanks, some of which could be retained for re-use, is recommended for inclusion.

4 Car Parking

The amended plans submitted with this application appear to show an increase of 26 spaces above that shown on the car parking layout on the original (DA0214/2014) endorsed plans. However, it should be noted that an amended car parking layout (refer endorsed plan for DA0433/2021 – Recreation Facility Dwg 3710-A01 Rev B) already shows a similar increase in the number of car parking spaces required by that approval.

Summary / Conclusion:

Based on comments above it is considered that the only additional or amended engineering related conditioning is required to address amended plans, stormwater management and Liquid Trade Waste requirements.

The majority of original conditions detailed in DA0214/2014 also remain applicable and should be included in any Modified Consent that might be issued.

Community Plan implications

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

Strategic implications

Council Strategies

Not Applicable

Council Policies

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

Legislation

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

Financial implications

The applicant will still be required to pay developer contributions in accordance with the relevant Contributions Plans required by the previous approval issued by Council.

Associated Risks

Should Council refuse the Modification 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

4 April 2023

Attachments: 1. MA0009/2022 - Amended Plans. (separately attached)
2. MA0009/2022 - Acoustic Report Addendums. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER