

8.2 DA0329/2022 - Partial Demolition, Commercial/Industrial Redevelopment and Signage - 19, 21 and 23 Sydney Road, Mudgee

REPORT BY THE TOWN PLANNER
 TO 21 FEBRUARY 2024 ORDINARY MEETING
 GOV400105, DA0329/2022

RECOMMENDATION

That Council:

- A. receive the report by the Town Planner on the DA0329/2022 - Partial Demolition, Commercial/Industrial Redevelopment and Signage - 19, 21 and 23 Sydney Road, Mudgee; and
- B. that DA0329/2022 - Partial Demolition, Commercial/Industrial Redevelopment and Signage - 19, 21 and 23 Sydney Road, Mudgee be approved subject to the following conditions and statement of reasons:

APPROVED PLANS

1. Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Title / Name:	Drawing No.	Issue	Date	Prepared by:
Site Plan	591ELD-01	K	29.03.23	Sunrai Designs
Demolition Plan	591ELD-02	D	10.07.22	Sunrai Designs
Overall Perspectives	591ELD-03	D	10.07.22	Sunrai Designs
Units 1-2 – Floor Plan, Elevations & Perspectives	591ELD-10	D	10.07.22	Sunrai Designs
Units 1-2 – Section	591ELD-11	D	10.07.22	Sunrai Designs
Unit 3 – Floor Plan, Elevations & Perspectives	591ELD-20	D	10.07.22	Sunrai Designs
Units 4-9 – Floor Plan	591ELD-30	D	10.07.22	Sunrai Designs
Units 4-9 – Elevations	591ELD-31	D	10.07.22	Sunrai Designs
Units 4-9 – Courtyard Elevations	591ELD-32	D	10.07.22	Sunrai Designs
Units 4-9 – Perspectives	591ELD-33	D	10.07.22	Sunrai Designs
Units 4-9 – Section	591ELD-34	D	10.07.22	Sunrai Designs
Units 10-17 – Floor Plan	591ELD-40	D	10.07.22	Sunrai Designs
Units 10-17 – Elevations	591ELD-41	D	10.07.22	Sunrai Designs
Units 10-17 – Perspectives	591ELD-42	D	10.07.22	Sunrai Designs

Units 10-17 – Section	591ELD-43	D	10.07.22	Sunrai Designs
Units 18-21 – Floor Plan	591ELD-50	D	10.07.22	Sunrai Designs
Units 18-21 – Elevations	591ELD-51	D	10.07.22	Sunrai Designs
Units 18-21 – Perspectives	591ELD-52	D	10.07.22	Sunrai Designs
Units 18-21 – Section	591ELD-53	D	10.07.22	Sunrai Designs
Signage	591ELD-SG01	B	14.08.23	Sunrai Designs
Stormwater Management Plan	TX15963.00 – C4.00	A	Feb 22	Triaxial Consulting
Letter of Response of Industrial Complex Development	220665.03FA	-	18.09.23	McLaren Traffic Engineering

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

GENERAL

2. This development consent provides approval for the redevelopment of the site for 21 units, associated signage and boundary adjustment. The approved use of each unit is as follows:

Unit Number	Approved Use
1	Vehicle Repair Station (existing)
2	Warehouse
3	Light Industry
4	Specialised Retail Premises
5	Specialised Retail Premises
6	Business Premises
7	Business Premises
8	Warehouse
9	Office Premises
10	Self-Storage
11	Light Industry
12	Light Industry
13	Self-Storage
14	Self-Storage
15	Light Industry
16	Light Industry
17	Self-Storage
18	Specialised Retail Premises
19	Specialised Retail Premises
20	Specialised Retail Premises
21	Specialised Retail Premises

3. This consent does not permit commencement of any site works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifier.

4. **Notwithstanding the approved plans the structure is to be located clear of any easements and/or 1.5 metres from any water and sewer mains in accordance with Council Policy.**

No works involving cut or fill within the registered easement or within 1.5m of the water or sewer line.

5. **All earthworks, filling, building, driveways or other works are to be designed and constructed (including stormwater drainage if necessary) to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.**

6. **The letter of concurrence and conditions issued by TfNSW (TfNSW reference WST22/00099/04 | SF2022/107066), dated 30th November 2023, shall be complied with prior, during and at the completion of the development, as outlined within the concurrence letter.**

A copy of the concurrence and conditions is attached to this determination notice.

TfNSW GENERAL CONDITIONS

7. **The TWRTL treatment is to be designed in accordance with *Austrroads Guide to Road Design*, maintain appropriate distances and be designed and located to the satisfaction of TfNSW.**
8. **The development is to provide one (1) dedicated ingress only driveway and one (1) dedicated egress only driveway to the Sydney Road/the state road network with each driveway to be aligned with the internal circulation aisles. The western-most driveway (servicing frontage of Lot 19) is to be ingress only whilst the eastern-most driveway (servicing the frontage of Lots 21 and 23) is to be egress only; to mitigate potential queuing onto the classified road and to promote efficient ingress/egress movements for all vehicles manoeuvring through the site, particularly larger design vehicles. Each driveway is to be appropriately signposted as such. All associated signage related to entry and exiting of the site must be wholly located within the property boundaries and not within the Sydney Road reserve.**
9. **All other works associated with the construction of the development must be wholly contained within the property boundary and must not interfere with the operation and maintenance of the classified road network.**
10. **For the life of the development, the largest vehicle that is permitted to gain access to the site is a 20m long AV.**
11. **The signage required at each driveway to delineate/require egress only and ingress only (as detailed in Condition 8 above) must be in place for the life of the development.**

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. **Prior to the issuing of a Construction Certificate and/or Subdivision Certificate, (whichever comes first) the developer must:**
 - a) **Enter into a Works Authorisation Deed (WAD) with TfNSW, or other suitable arrangement as agreed to by TfNSW, to progress the delivery of all works on Sydney Road as generally shown in plans submitted**

by McLaren Traffic on 18 September 2023, Project no. 2022/665, Drawing reference 2022-665, Revision A (e.g. the relocation of the existing concrete median and signage located within the Two-Way Right Turn Lane (TWRTL) in front of 23 Sydney Road, Mudgee).

Notes:

- **A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a state road.**
- **To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.west@transport.nsw.gov.au . TfNSW will then appoint a project manager who will coordinate TfNSW's involvement in the delivery of the works.**
- **All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor.**
- **A copy of pre-qualified contractors can be found on the RMS website at: www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html**
- **Any new services or modifications to existing services associated with this development application that involve works on, over or under Sydney Road must be incorporated into, and managed under, the Works Authorisation Deed for the project. It is the developer's responsibility to identify these works to the TfNSW project manager.**
- **More information on WADs can be found at: www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf**

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

A Construction Certificate is required for but not limited to the following civil works:

- a) **Car parking area for 111 vehicles (including 4 disabled spaces).**
- b) **Car parking spaces are to be allocated to each unit as shown on the approved plans and the allocation permanently marked on each car parking space.**
- c) **Site entry, exit and circulating carriageway.**
- d) **Stormwater drainage and OSD.**

Note: No works can commence prior to the issue of the Construction Certificate.

14. **A Drainage Report prepared in accordance with the Institution of Engineers publication *Australian Rainfall and Run-off* shall be submitted to and approved by the Certifier (i.e. Council or a private Certifier) prior to the release of the Construction Certificate. The drainage report and design must comply with the following requirements:**

- a) **Drainage design for the proposed detention basin must be accompanied by fully detailed runoff calculations and a structural design for the proposed wall certified by a suitably qualified professional Engineer.**

- b) **Drainage design must also incorporate suitable and appropriate water quality controls to prevent pollution or contamination of downstream environments.**
 - c) **Drainage report and design must demonstrate that stormwater runoff from the site is not increased beyond the site's existing undeveloped state up to and including a 1/5/20/50/100 year event.**
 - d) **Drainage design must ensure that no stormwater runoff is permitted to discharge over adjoining properties. Discharge of runoff onto adjoining properties and any works associated with the control of stormwater discharge over and adjoining property must not occur without the consent of the owner of any affected property.**
- 15. A Traffic Control Plan (TCP) completed by a "Certified Person" for implementation during works is to be submitted to Council prior to any work commencing.**
- 16. A copy of the Contractor's public liability insurance cover for a minimum of \$20,000,000 (twenty million dollars), is to be provided to Council, prior to issue of the Construction Certificate. The insurance cover shall include the following:**
- a) **Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.**
 - b) **Public Liability Insurance is to include Mid-Western Regional Council as an interested party.**
 - c) **The copy of the Contractor's public liability insurance cover is to include the Certificate of Currency.**
- 17. An Erosion and Sediment Control Plan is to be submitted to and approved by the Certifier (i.e. Council or a private Certifier) prior to the issue of a Construction Certificate. The Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:**
- a) **Saving available topsoil for reuse in the revegetation phase of the development;**
 - b) **Using erosion control measures to prevent on-site damage;**
 - c) **Rehabilitating disturbed areas quickly; and**
 - d) **Maintenance of erosion and sediment control structures.**
- 18. Consent from TfNSW / Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993, prior to the issue of a Construction Certificate. The accesses are to be designed and constructed in accordance with Council's Access to Properties Policy. This does not apply to the works associated with the WAD.**
- 19. Details of the access upgrade, internal driveway and car parking spaces are to be submitted to and approved by the Certifier (i.e. Council or a private Certifier), prior to the issue of a Construction Certificate. These details shall comply with the requirements of AS/NZS 2890.1:2004 – Parking Facilities – Part 1: Off-street Car Parking and the relevant conditions of this development consent.**
- 20. Where utilities are to be located within adjoining land, or stormwater discharge to be directed over an overland flow path across an adjoining property, an**

easement of sufficient width to accommodate the utilities or overland drainage path is to be registered on the title of the effected property, prior to issue of any Construction Certificate. Evidence of the creation of such easement is to be provided to Council and the Certifier (if applicable).

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

The application shall contain details demonstrating compliance with the Plumbing and Drainage Act 2011 and/or the Plumbing Code of Australia. The Section 68 application shall be considered and approved by Council prior to the release of any Construction Certificate for the development.

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

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

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

23. In accordance with the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 and the Mid-Western Regional Contributions Plan 2019, a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of local infrastructure, prior to issue of a Construction Certificate.

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

Note: Based on the proposed cost of works being \$4,808,560, it is estimated the contribution amount will be \$48,085.60.

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

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

24. Prior to the issue of a construction certificate, the developer shall obtain a Certificate of Compliance under the Water Management Act 2000, from Council.

Note: Refer to Advisory Notes in relation to payment of contributions to obtain a Certificate of Compliance.

PRIOR TO COMMENCEMENT OF WORKS

25. In accordance with the provisions of the Environmental Planning and Assessment Act 1979 construction works approved by this consent must not commence until:
- a) A Construction Certificate has been issued by the Certifier (i.e. Council or an accredited certifier); and
 - b) A Principal Certifier has been appointed by the person having benefit of the development consent in accordance with the Environmental Planning and Assessment Act 1979; and
 - c) If Council is not the Principal Certifier, notify Council no later than two (2) days before building work commences as to who is the appointed Principal Certifier; and
 - d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.
26. 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***
27. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out:
- a) Stating that unauthorised entry to the work site is prohibited, and
 - b) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - c) The name, address and telephone number of the principal certifying authority for the work,
 - d) The sign shall be removed when the erection or demolition of the building has been completed.
28. If the work involved in the erection/demolition of the building:
- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b) building involves the enclosure of a public place
- A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
29. The development site is to be managed for the entirety of work in the following manner:
- a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - b) Appropriate dust control measures;

- c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
- d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

30. Prior to commencing works within the Sydney Road/the state classified road reserve, the developer must:

- a) Obtain Section 138 consent under the Roads Act 1993 from TfNSW for the works associated with the WAD.

Note: TfNSW will be exercising its powers under Section 64 of the Roads Act 1993 to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for the works.

- b) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Road Access Management Team via OPLINK prior to commencing roadworks or any other works that impact a travel lane of Sydney Road.

Notes:

- *For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.*
- *The applicant will need to create an account (this may take a few days to register) before submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.*
- *The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.*
- *An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the TfNSW Project Manager.*

31. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to Council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.

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

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

DURING WORKS

33. 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.
34. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
35. Construction work noise that is audible at other premises is to be restricted to the following times:
 - Monday to Saturday - 7.00am to 5.00pmNo construction work noise is permitted on Sundays or Public Holidays.
36. 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.
37. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
38. All building work is to comply with the requirements of the Access to Premises Standard.
39. The list of fire safety measures contained in the fire safety schedule attached to the relevant development consent for a change of use, construction certificate or complying development certificate, are required to be installed in the building or on the land to ensure the safety of persons in the event of fire.
40. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.
41. Stormwater drainage is to comply with the Mid-Western Regional Council *Development Control Plan 2013* and the standards referenced in Appendix B and D.
42. A total of 111 car parking spaces are to be provided within the site of the development and comply with AS 2890.1: 2004 – *Parking facilities – Part 1: Off-street car parking* and the following requirements:
 - a) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - b) Car parking spaces are to be allocated to each unit in accordance with the approved plans and the allocation permanently marked on each car parking space.
 - c) Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009 – *Parking facilities – Part 6: Off-street parking for people with disabilities*;
 - d) All car parking spaces are to be line-marked and provided with a concrete surface and must be maintained in a satisfactory condition at all times; and

- e) Off street parking is to be encouraged by the placement of prominent signs indicating the availability of parking.

43. Vehicular entrances comprising kerb laybacks (where roll kerb and gutter does not exist) and concrete footway crossings are to be provided to each lot at a suitable location. These should be constructed in accordance with Aus-Spec #1 and Council's "Access to Properties" Policy.

Concrete must not be poured until the excavation, formwork and reinforcing has been inspected by Council. The contractor/owner must arrange an inspection by contacting Council's Operations Department between 8.00am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice.

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

44. The developer is to provide separate water and sewer reticulation services to each allotment within the development.

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

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

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

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

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE - BOUNDARY ADJUSTMENT

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

Note: The fee to issue a Subdivision Certificate is set out in Council's Fees and Charges.

48. Prior to the issue of a Subdivision Certificate, appropriate instruments, easements, covenants or the like are to be submitted to Council to facilitate the legal use of the lots as one development including the following:

- a) Vehicular access, manoeuvring and movements
 - b) Access and use of car parking spaces
 - c) Access and use of loading facilities
 - d) Stormwater drainage and services crossing cadastral boundaries.
 - e) Ongoing maintenance responsibilities, as relevant
49. A registered surveyor shall provide certification that all services (e.g. drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot, or within appropriate easements to accommodate such services. The certification is to be provided to the PCA, prior to the issue of a Subdivision Certificate.
50. Prior to the issuing of an Occupation Certificate or Subdivision Certificate, (whichever comes first), the developer must:
- a) Complete the works within the Sydney Road reserve. The concrete median and signage associated with the Two-Way Right Turn Lane (TWRTL) is to have been relocated in general accordance with the plans submitted to TfNSW and referenced as 'MTE Concept Plans – Project 2022/665', dated 18 September 2023. Signage must be relocated and installed in accordance with relevant Australian Standards and TfNSW prescriptions.
 - b) Ensure all redundant driveways and access points associated with the subject site are to be made good with kerb and gutters to match existing in accordance with Council's specifications.
 - c) Ensure all access across all lots created as a result of the boundary adjustment is via a 'Right of Way' (ROW) legally certified on the title of the burdened lots by way of a Section 88B Instrument under the *Conveyancing Act, 1919*. The ROW shall be of appropriate size to cater for the swept path of the largest vehicle to enter and exit the site as stipulated in the letter prepared by McLaren Traffic Engineers, dated 18 September 2023 and must contain a provision that it cannot be varied, modified, or released without the written consent of the Council.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

51. 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.
52. Prior to the issue of the Occupation Certificate the owner of the building must cause the Principal Certifier to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Section 41 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the schedule. The certificate must only be in the form specified by Section 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
53. Prior to commencement of use of the development and/or issue of an Occupation Certificate, all approved car parking and associated driveway works are to be completed.

54. Prior to use of the development and/or issue of an Occupation Certificate, a satisfactory final inspection report from the Council must be received by the Certifier, verifying that the building is connected to reticulated water supply, stormwater and/or sewerage in accordance with the relevant section 68 approval/s.
55. Prior to use of the development and/or issue of an Occupation Certificate, the excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.
56. Prior to use of the development and/or issue of an Occupation Certificate, roof water from the building and any rainwater tank overflow shall be piped clear of the building, without creating any nuisance on the property or to adjoining properties.
57. Prior to the use of the development and/or issue of an Occupation Certificate, evidence is to be submitted to Council and the Certifier (if applicable), that the boundary adjustment and relevant requirements set out in Condition 48 of this consent has been registered with NSW Land Registry Services.

SIGNAGE

58. Signage is to be provided in accordance with the approved plans and the following requirements:
- **Sign 1 (19 Sydney Road) – Relocated existing pylon sign**
 - Directory Sign for Units 1 to 3
 - Total advertising area is 4.4sqm
 - Maximum height 5.4m
 - Bottom of sign no less than 3.0m above ground level.
 - **Sign 2 (21 Sydney Road) – Existing pylon sign**
 - Directory Sign for Units 4-17
 - Total advertising area is 7.2sqm
 - Maximum height 6.6m
 - Bottom of sign no less than 3.0m above ground level.
 - **Sign 3 (23 Sydney Road) – New pylon sign**
 - Directory Sign for Units 18-21
 - Total advertising area is 7.2sqm
 - Maximum height 6.6m
 - Bottom of sign no less than 3.0m above ground level.
59. Each directory pylon sign is to only display:
- a) The name of the person or business operating from the relevant Units;
 - b) The nature of the business carried on from the relevant Units;
 - c) The address of the premises; and/or
 - d) A logo or other symbol that identifies the business.

The signs must not contain any advertising of a general nature or relate to a person or business not operating from the site.

60. The approved signage is to be located wholly within the property boundaries of the subject site, with no part of the signage to be located within the road reserve.
61. The signage must not be illuminated, at any time.
62. The approved signage is not to operate as a changeable message sign, at any time.
63. The approved signage and related components are to be maintained in a clean, tidy and structurally sound manner, at all times.
64. The property owner or tenant shall remove and clean any graffiti attacks on the approved signage and related components as soon as practicable, in order to deter future attacks.
65. Any further signage proposed on the site is subject to a separate Development Application, if the additional signage is not exempt development.

ONGOING USE:

66. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of Fire and Rescue NSW with a copy of an Annual Fire Safety Statement certifying that each specified fire safety measure is capable of performing to its specification.
67. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
68. The hours of operation of the development are limited to the following:
 - a) 7am to 6pm, Monday to Friday; and
 - b) 7am to 1pm, Saturday; and
 - c) No activities are to be undertaken on Sundays and public holidays.
69. All activities in connection with the use of the relevant subject units is to be wholly confined within the building.
70. 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".
71. Garbage areas are to be adequately screened from public view with an opaque fence and/or adequate landscaping. All waste must be secured in enclosed containers.
72. 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.
73. The development is to be maintained in a clean and tidy manner, at all times.

74. No display or sale of goods is to take place from public areas or footpaths fronting the premises.
75. 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. Signage identifying the driveway and car park as low speed environments is also to be appropriately located within the site.
76. All loading and unloading in connection with the premises shall be carried out wholly within the site.
77. All car parking spaces, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.
78. Any external plant (generators, air conditioning plant etc.) shall be enclosed to minimise noise impacts to adjoining residential dwellings.
79. Areas set aside for landscaping as indicated on the approved site plan, are to be reserved for landscaping at all times. The landscaping is to consist of mature trees and lawn which are low maintenance, drought and frost tolerant in nature.
80. Measures, such as raised kerb edges, bollards and/or fencing, are to be installed and maintained around all approved landscaped areas in order to prevent vehicles driving over them.
81. Landscaping is to be maintained for the life of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of similar maturity as the vegetation which has died or being removed.

ESSENTIAL ENERGY GENERAL COMMENTS:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995* (NSW); and
- It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice –

Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

COUNCIL ADVISORY NOTES:

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

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

Please be advised that as a precondition to the granting of a Compliance Certificate, a monetary contribution in accordance with the following Schedule of Contributions must be paid in full (including indexation, where applicable).

Section 64 Contributions	
	Value
Water Headworks	\$3,409.00
Sewer Headworks	\$5,644.65
Total Headworks	\$9,053.65

2. 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".
3. 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.
4. Division 8.2 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* gives you the ability to seek a review of the determination. This request is made to Council and must be made within 6 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
5. If you are dissatisfied with this decision section 8.7 of the *EP&A Act* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
6. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the *EP&A Act*.

STATEMENT OF REASONS:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.
2. The proposed development is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*

3. The development was not required to be placed on public exhibition in accordance with the *Community Participation Plan 2019* and no submissions were received.

Executive summary

OWNER/S	Eldro Pty Limited P & D Eldred Holdings Pty Limited
APPLICANT:	Sunrai Designs
PROPERTY DESCRIPTION	The property is comprised of the following sites: <ul style="list-style-type: none">• 19 Sydney Road MUDGEE NSW 2850 (Lot 1 DP614991)• 21 Sydney Road MUDGEE NSW 2850 (Lot 21 DP737341)• 23 Sydney Road MUDGEE NSW 2850 (Lot 22 DP737341)
PROPOSED DEVELOPMENT	Partial demolition, boundary adjustment, commercial / industrial redevelopment (21 units) and signage
ESTIMATED COST OF DEVELOPMENT:	\$4,808,560.00
REASON FOR REPORTING TO COUNCIL:	Exceeds staff's <i>Delegation of Authority</i> , in that the value of the application exceeds \$2 million
PUBLIC SUBMISSIONS:	Nil

Council is in receipt of Development Application DA0329/2022 that seeks approval for boundary adjustment, partial demolition and re-development of the site for 21 units for commercial and industrial purposes (including signage and associated ancillary works) located at 19, 21 and 23 Sydney Road, MUDGEE NSW 2850, Lot 1 DP614991, Lot 21 DP737341 and Lot 22 DP737341, and received by Council on 7 March 2022.

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 10 June 2022. During the notification period, 0 submission/s were received. The application was amended during the assessment of the application; however, the changes were not considered to be significant to require re-notification.

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

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

The application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

SITE DESCRIPTION

The subject site, identified as 19, 21 and 23 Sydney Road, Mudgee is comprised of three lots and located on the north-eastern side of Sydney Road, in the section between Industrial Avenue and Burrundulla Avenue.

The surrounding area is a mix of industrial and commercial businesses. On the opposite side of the road is a tyre repair business, vehicle repair business and Busy Bee Service Station. Adjacent to the site to the south is a residential dwelling on the same lot as a crane and rigging business. On the northern side of the site is a residential dwelling on the same site as Booths wholesale soft drink / confectionary. To the rear of the site are the rear yards of business fronting Industrial Avenue.

The subject site itself is comprised of three lots known as 19 Sydney Road (Lot 1/DP614991), 21 Sydney Road (Lot 21/DP737341) and 23 Sydney Road (Lot 22/DP737341) with a combined site area of 14,115m². Figure 1 shows an aerial image of the subject site and its immediate surrounding area.

19 Sydney Road currently contains two buildings. The building at the front is used by Mudgee Auto Electrical (vehicle repairs) and the building at the rear is approved for use as vehicle repairs.

21 Sydney Road currently contains three buildings including a dwelling, a building formerly used as "Peters Refrigeration" and a second building used for commercial purposes.

23 Sydney Road currently contains four residential units.



Figure 1: Aerial Image of site and surrounds

PROPOSED DEVELOPMENT

It is proposed to redevelop the three sites, 19, 21 and 23 Sydney Road, to provide for 21 units across the three addresses for a range of industrial and commercial purposes including the retention of some existing buildings / businesses. An extract of the proposed site plan is provided in Figure 2. The development will operate as one site, but the lots are not proposed to be consolidated, rather it is proposed that the development will occur over three lots, with easements created to facilitate access and servicing. This is required as the lots are owned by different entities, and are not proposed to be consolidated.



Figure 2: Extract from proposed site plan

The proposed development will comprise the following:

19 Sydney Road

19 Sydney Road will be re-developed to accommodate three units, retaining two existing buildings and one new unit as follows:

Unit number	Proposed works	Use	Floor Area
Unit 1(Existing)	Existing building retained, alterations comprising new awning and entry glazing.	Retain existing use – Vehicle repair Station (DA consent no. 33/3-81 - Auto electrical business)	507m ²
Unit 2 (proposed)	New build attached to rear of Unit 1	Proposed first use - Local Distribution Centre	234m ²
Unit 3 (existing)	Existing building retained, alterations comprising new awning.	Proposed change of use to car detailing business (light industry)	226m ²

Unit 3 will include a change of use to a “car detailing business” which includes internal and external detailing including vacuuming, polishing and cleaning of vehicles. The use is considered to best meet the definition of “light industry” under the Mid-Western Regional LEP. The hours of operation proposed are 6am – 6pm.

21 Sydney Road

21 Sydney Road will be re-developed as follows:

- Demolition of industrial building, dwelling and shed. The existing building formerly occupied by Peters Refrigeration to be retained.
- Construction of a new “U-shaped” building incorporating two existing units and will accommodate Units 4 to 9.
- Construction of a new building to the rear of the “U-shaped” building which will accommodate Units 10 to 17 for use as “self-storage” and “creative industry”. Creative industry is defined as “a building or place the principle purpose of which is to produce or demonstrate arts, crafts, design or other creative products and includes artists’ studios, recording studios and set design and production facilities”. An amenities area between Units 13 and 14 is also proposed which will provide for accessible toilet facilities. In this area four small storage cupboards approximately 3m² in size are also proposed as an alternative to larger storage facilities.

The following units with the following uses are to be located on this site:

Unit number	Proposed works	Use	Floor area
Unit 4 (proposed)	New build (part of U-shaped building containing units 4-9)	Proposed first use – Specialised Retail Premises	342m ²
Unit 5 (proposed)	New build (part of U-shaped building containing units 4-9)	Proposed first use – Specialised Retail Premises	270m ²
Unit 6 (proposed)	New build (part of U-shaped building containing units 4-9)	Proposed first use – Business Premises	220m ²

Unit 7 (proposed)	New build (part of U-shaped building containing units 4-9)	Proposed first use – Business Premises	220m ²
Unit 8 (existing)	Existing building to be integrated with U-shaped building containing units 4-9	Proposed use – Warehouse	175m ²
Unit 9 (existing)	Existing building to be integrated with U-shaped building containing units 4-9	Proposed use – office premises	377m ²
Unit 10 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Self Storage	47m ²
Unit 11 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Creative Industry	63m ²
Unit 12 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Creative Industry	47m ²
Unit 13 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Self Storage	47m ²
Unit 14 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Self Storage	47m ²
Unit 15 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Creative Industry	47m ²
Unit 16 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Creative Industry	63m ²
Unit 17 (proposed)	Proposed new building (part of new building containing Units 10-17)	Proposed first use – Self Storage	47m ²

It is noted that the most recent approval for the retained existing building to be converted to Units 8 and 9 relates to the former workshop and showroom associated with Peters Refrigeration. Accordingly, a change of use to the separate units to accommodate a warehouse and office will be required.

23 Sydney Road

23 Sydney Road will be redeveloped through the demolition of the existing residential dwellings and construction of a new building containing three units (Units 18-21). Details of each unit are as follows:

Unit number	Proposed works	Use	Floor area
Unit 18 (proposed)	Proposed new build (part of new building containing Units 18- 21)	Proposed first use – Specialised Retail Premises	552m ²
Unit 19 (proposed)	Proposed new build (part of new building containing Units 18- 21)	Proposed first use – Specialised Retail Premises	525m ²
Unit 20 (proposed)	Proposed new build (part of new building containing Units 18- 21)	Proposed first use – Specialised Retail Premises	498m ²
Unit 21 (proposed)	Proposed new build (part of new building containing Units 18- 21)	Proposed first use – Specialised Retail Premises	767m ²

Signage

The proposal also includes the provision of business identification signage consisting of three pylon signs as follows:

- Existing sign on 19 Sydney Road to be retained but relocated to the north side of the driveway. The sign is proposed to be updated to allow for business identification signage for the three businesses located on this lot (Units 1, 2 and 3). The sign has a height of 5.4m and will have an advertising area of 4.4m².
- Existing pylon sign on 21 Sydney Road to be retained in same location. This sign received approval under M0054/01. The sign is proposed to be modified to have a maximum height of 6.6m and advertising area of 7.2m². The sign will be updated to allow for business identification signage for Units 4 to 17.
- New pylon sign to be located on 23 Sydney Road. This sign will be similar to existing sign on 21 Sydney Road with a maximum height of 6.6m and advertising area of 7.2m². This sign will advertise Units 18 to 21.

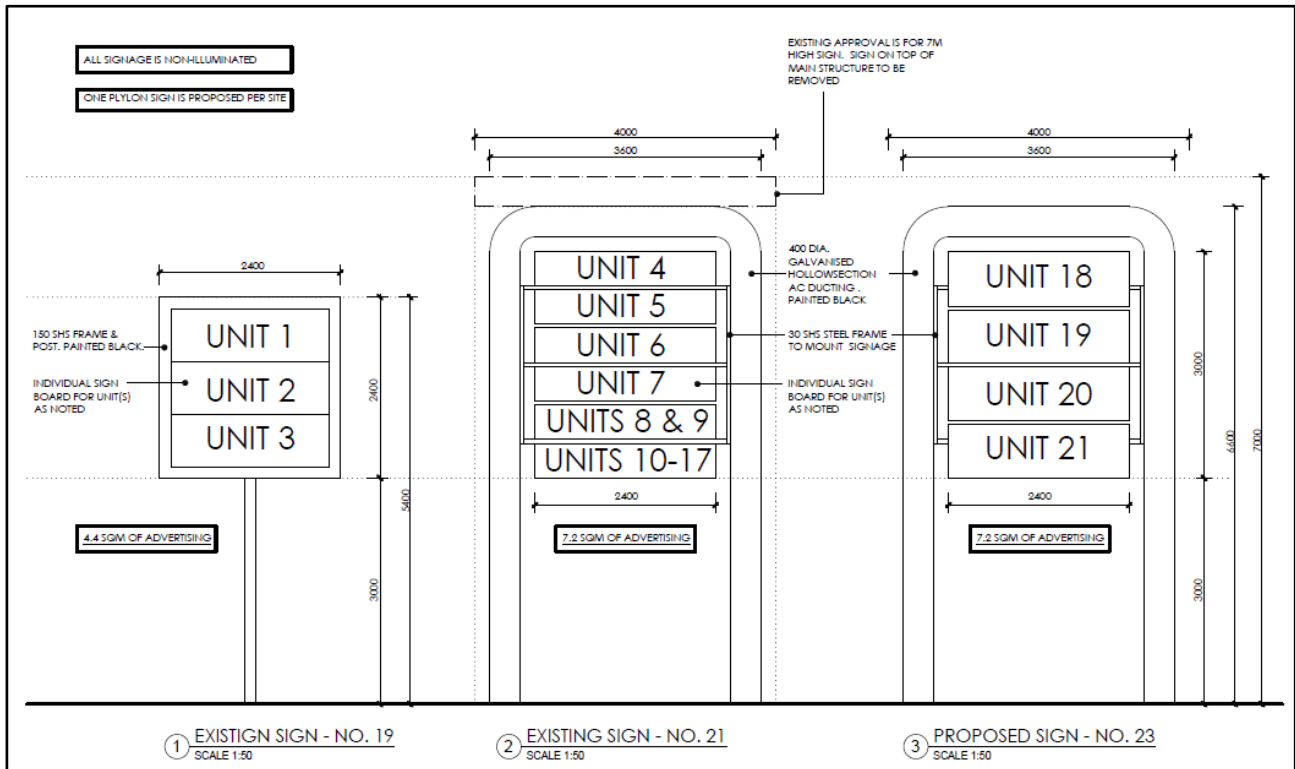


Figure 3: Proposed signage

Car parking and vehicular access

A total of 111 car spaces are proposed to be provided across the three addresses to accommodate the proposed development. Car spaces have been allocated to Units based on the car parking requirements generated for the use. The existing three crossovers to Sydney Road will be redesigned to service the site and reduce the overall number of crossovers to two. The relocation of one crossover will require the relocation of median signage currently in front of 23 Sydney Road to 29 and 58 Sydney Road.

Boundary Adjustment

A minor boundary adjustment between the lots will also be required to ensure a minimum setback of 3m to title boundaries is achieved for all buildings.

ASSESSMENT

LEGISLATIVE REQUIREMENTS

Biodiversity Conservation Act 2016 (BC Act)

The provisions of Part 7 of the *Biodiversity Conservation Act 2016* have been considered as per Part 1.7 of the EP&A Act 1979. The development is not considered “likely to significantly affect threatened species” and does not trigger entry into the biodiversity offsets scheme as the site is not identified on the Biodiversity Values Map (refer Figure 4 below) and the extent of clearing of native vegetation will not exceed the threshold amount of 0.25 hectares.

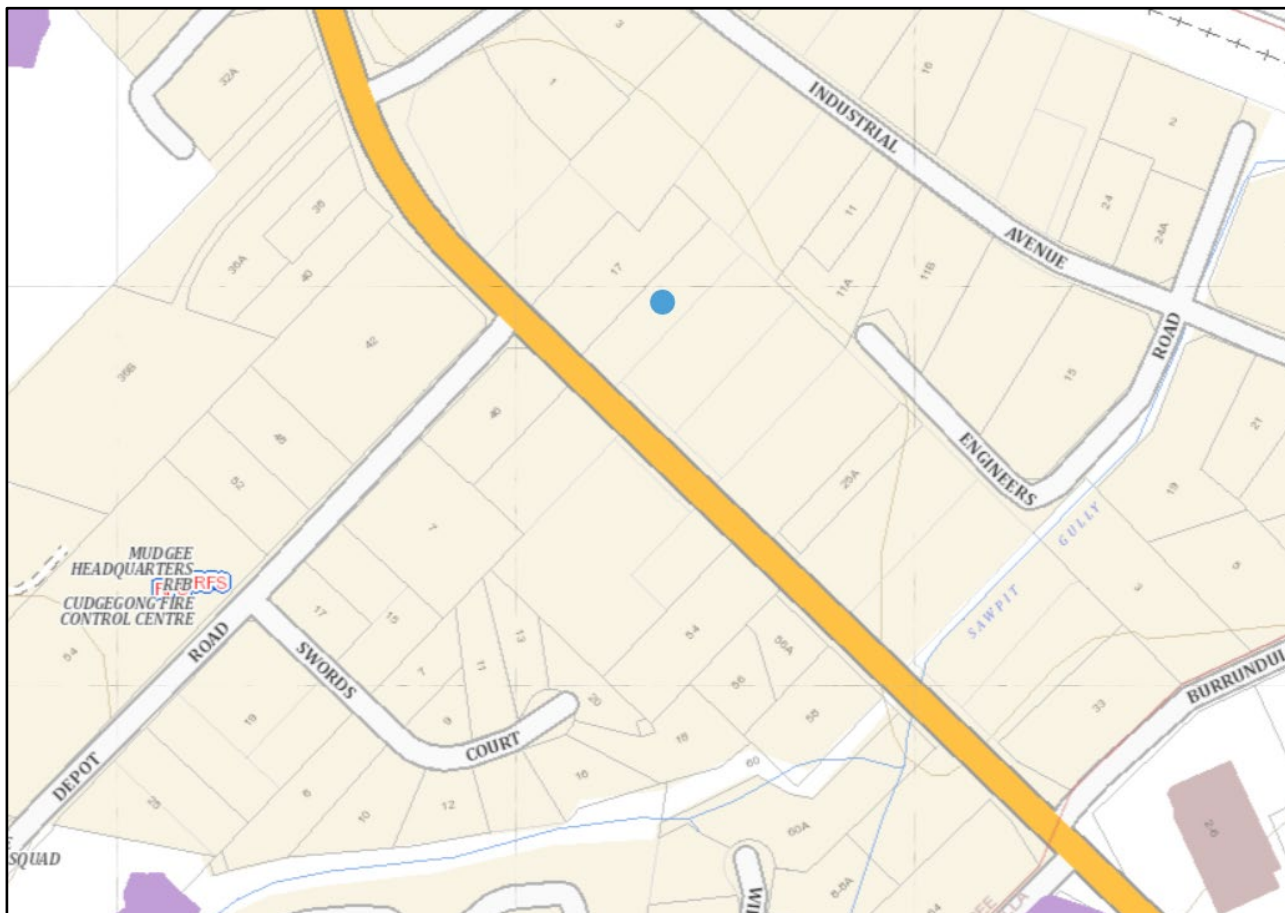


Figure 4: Extract for Biodiversity Values Map

Source: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSEMap>

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

Designated Development

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

Integrated Development

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

SECTION 4.15(1) – MATTERS FOR CONSIDERATION - GENERAL

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

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

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

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

The Biodiversity and Conservation SEPP applies to the proposal as the area of land associated with the proposal is greater than 1 hectare in size including adjoining land within the same ownership and does not have an approved koala plan of management applying to the land. The redevelopment of the site will remove two substantial trees and a number of smaller trees and shrubs.

The development is considered unlikely to have an impact on koalas or koala habitat given the site and surrounds are located in an urban area already developed for industrial / commercial purposes. The trees proposed to be removed were planted as part of previous developments. Accordingly, no further consideration is necessary.

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

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

SCHEDULE 5 REQUIREMENT	COMMENT
<p>1 Character of the area</p> <ul style="list-style-type: none"> • Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<ul style="list-style-type: none"> • There are a range of different types of signage along Sydney Road. A number of signs of similar height to that proposed of approximately 7m, including that of the Shell and Busy Bee Service Stations and the Nissan, Isuzu, Subaru, Hyundai and Toyota car dealership signs found along Sydney Road. • The proposed signage will retain two existing signs with the third new sign designed to match the existing signs to be retained.
<p>2 Special areas</p> <ul style="list-style-type: none"> • Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The proposed signs are within a commercial/industrial area and appropriately located within the site so that they will not detract from the amenity or visual quality of any special areas. The signs are located at the entrance to Mudgee from Sydney and therefore visual impacts should be considered. The signs have been designed to match signage in the immediate surrounds and is considered appropriate.</p>
<p>3 Views and vistas</p> <ul style="list-style-type: none"> • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers? 	<p>The proposed signs will not impact on views or vistas in the vicinity of the site and is appropriately positioned so that it will not impact on views to other advertisements.</p>
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> • Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen 	<ul style="list-style-type: none"> • The proposed signage is appropriate with regards to scale and form in the area. • The proposed signage will be of high quality, contributing to the streetscape • The proposed signage will rationalise the signage for the 21 units over 3 signs evenly spaced across the frontage, reducing potential clutter of the streetscape. • The proposed signage is appropriate to the size of existing development in the area.

<p>unsightliness?</p> <ul style="list-style-type: none"> • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management? 	<ul style="list-style-type: none"> • Existing vegetation including large trees will not be impacted as a result of the signage.
<p>5 Site and building</p> <ul style="list-style-type: none"> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>The proposed signage is considered to be compatible in scale and proportion to the proposed development. The signage will be modern in design to match the redevelopment of the site.</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>No additional devices required for the operation of the signage.</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	<p>Not Applicable – the signs are not proposed to be illuminated.</p>
<p>8 Safety</p> <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>The proposed signs will not reduce the safety for vehicles, pedestrians or bicyclists and does not obscure views along the road, footpath or to any public area or safety zone.</p>

State Environmental Planning Policy (Planning Systems) 2021

The proposed development is not identified as State or Regionally Significant Development nor is impacted by any other requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

State Environmental Planning Policy (Resilience and Hazards) 2021 *Chapter 4: Remediation of Land*

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('Resilience and Hazards SEPP') have been considered in the assessment of the development application. Whilst the site includes some existing uses that may be potentially contaminating (such as vehicle repair station), the proposed re-development of the site will not include a change to a more sensitive use such as for residential, educational, recreational, hospital or child care purposes. The development will continue to be used for industrial / retail purposes. Accordingly, no further consideration is necessary.

State Environmental Planning Policy (Transport and Infrastructure) 2021 *Chapter 2: Infrastructure Division 5 Electricity transmission or distribution Section 2.48 Determination of development applications—other development*

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

Chapter 2: Infrastructure
Division 17 Roads and road infrastructure facilities
Section 2.119 Development with frontage to classified road

The development has frontage to a classified road and accordingly the requirements of Section 2.119 "Development with frontage to classified road" apply.

A Traffic and Parking Assessment prepared by McLaren Traffic Engineering was submitted with the application and considers the potential traffic safety, generation and parking implications of the development and satisfactorily addresses the requirements of Section 2.119.

The application proposes to reduce the number of accesses from three to two. One of the accesses will remain in the same position but will be modified to suit the re-development and the other will be relocated. The relocation of the access will consequently require the relocation of the median and signage associated with the Two-Way Right Turn Lane (TWRTL) from the frontage of 23 Sydney Road to the frontage of 29 and 58 Sydney Road as shown in Figure 5 below. Affected landowners were notified of the proposed relocation of the median and signage, with no comments received by Council.

The application was referred to Transport for NSW, who requested additional information before supporting the proposal subject to conditions. These have been included in the recommended conditions.



Figure 5: Extract from propose plan showing relocation of median and signage associated with the Two-Way Right Turn Lane (TWRTL) in front of 29 and 58 Sydney Road

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

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

Clause 1.2 Aims of Plan

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

Clause 1.4 Definitions

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

Unit 1:

vehicle repair station means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

Unit 2:

Local distribution premises means a building or place used for the storage or handling of items (whether goods or materials) pending their delivery to people and businesses in the local area, but from which no retail sales are made.

Unit 3:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,
- (b) home industry,
- (c) artisan food and drink industry,
- (d) creative industry.

Note: Light industries are a type of **industry**—see the definition of that term in this Dictionary.

Units 4, 5, 18, 19, 20 and 21

specialised retail premises means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- a) a large area for handling, display or storage, or
- b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

Note: Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.

Specialised retail premises are a type of **retail premises**—see the definition of that term in this Dictionary.

Units 6 and 7

business premises means a building or place at or on which—

- a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- b) a service is provided directly to members of the public on a regular basis, and includes funeral homes, goods repair and reuse premises and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note: Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary

Unit 8

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

Unit 9

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Note: Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

Unit 10, 13, 14, 17

self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

Note: Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

Unit 11, 12, 15 and 16

creative industry means a building or place the principal purpose of which is to produce or demonstrate arts, crafts, design or other creative products, and includes artists' studios, recording studios, and set design and production facilities.

Note: Creative industries are a type of **light industry**—see the definition of that term in this Dictionary.

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

- a) An advertising structure
- b) A building identification sign
- c) A business identification sign but does not include traffic signs or traffic control facilities.

Clause 2.2 Zoning of Land to Which Plan Applies

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

Clause 2.3 Zone objectives and Land Use table

The land is zoned E3 Productivity Support pursuant to MWRLEP 2012. The proposal is permissible with consent in the zone and complies with the relevant objectives. The objectives of the zone and how the proposal satisfies the objectives is addressed below:

Zone E3 Productivity Support

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

Comment The proposal is for a range of permissible uses in the zone.

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

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

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

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

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

Comment The proposed development will provide for land uses that meet the needs of the community, businesses and industries that are suitable to the site and surrounding area.

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

Comment The proposed development will provide opportunity for the development of

new and emerging light industries.

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

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

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

Comment The proposal will consolidate three existing sites into one cohesive development, providing elements in the design that assist in creating a visually attractive entry to Mudgee including landscaping, compliant setbacks, appropriate use of building materials and the like.

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

Comment The proposed development includes uses that are not generally desirable in the downtown commercial core of Mudgee.

Clause 2.6 Subdivision – consent requirements

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

Clause 2.7 Demolition requires development consent

In satisfaction of this clause, the development application seeks approval for the demolition of a number of existing buildings across the site including an existing industrial building and residential dwelling on 21 Sydney Road and residential units on 23 Sydney Road.

Clause 4.1 Minimum subdivision lot size

It is proposed to undertake a boundary adjustment between the three lots to ensure a minimum setback of 3.0m is achieved to all buildings. The boundary adjustment is minor in nature and will result in the following changes to the existing lots:

- Lot 1 DP614991 (19 Sydney Rd) = 3528 m²
reduce in size by ~114m², representing 3% change to the overall lot size
- Lot 21 DP737341 (21 Sydney Rd) = 5410 m²
reduce in size by ~42 m², representing 0.77% change to the overall lot size
- Lot 22 DP737341 (23 Sydney Rd) = 5180 m²
increase in size by ~159m², representing 3% change to the overall lot size

The minimum lot size pursuant to the mapping is 2000 m².

Accordingly, the proposal complies with the development standard.

Given it is proposed to utilise the three sites as one development and 21 Sydney Road will no longer have a vehicular access point, conditions will be included to ensure appropriate carriageway easements as well as other service easements are provided.

Clause 4.3 Height of buildings

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

Clause 5.4 Controls relating to miscellaneous permissible uses

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

Clause 5.10 Heritage Conservation

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

Clause 5.21 Flood planning

The subject site is not identified as being within the flood planning area in accordance with Council's maps and the Floodplain Study and Management Plan. No further consideration is necessary.

Clause 6.1 Salinity

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

Clause 6.3 Earthworks

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

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.5 Terrestrial biodiversity

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

Clause 6.7 Active street frontages

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

Clause 6.8 Airspace operations – Mudgee Airport

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

Clause 6.9 Essential Services

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

Clause 6.10 Visually sensitive land near Mudgee

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

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

(ii) Draft environmental planning instruments (EPI)

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

(iii) Any development control plans

Mid-Western Regional Development Control Plan 2013 (DCP)

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

Part 4.4 Signs

The DCP is not clear on what provisions should apply for signage on a mixed commercial / industrial development, therefore, the signage provisions for an industrial area, which typically surrounds the development area, has been used as a guide to ensure consistency with other signs approved along Sydney Road.

INDUSTRIAL AREAS	
REQUIREMENT	COMMENT
<p>(a) Non-Illuminated Pole/pylon signs and directory boards shall be limited to a maximum of 6m² advertising area and a maximum overall height of 5 metres. In general, the bottom of a pole or pylon signs should be at least 3 metres above ground level.</p>	<p><u>Sign 1 - existing sign relocated, 19 Sydney Rd</u> Overall height = 5.4m – Does not comply Sign bottom above ground = 3m - Complies</p> <p><u>Sign 2 - existing sign on 21 Sydney Rd</u> Overall height = 6.6m – Does not comply Sign bottom above ground = 3m – Complies</p> <p><u>Sign 3 - new sign on 23 Sydney Rd</u> Overall height = 6.6m – Does not comply Sign bottom above ground = 3m – Complies</p> <p>Note: The required advertising area is not applied under this section as larger advertising area of 8m² is permitted under part (e) for industrial multi-unit complexes and will be applied for this development.</p> <p>All signs (proposed and existing structures) will exceed the height of 5m for Pylon signs, the applicant has provided an adequate justification for the variation to the new sign stating the following:</p> <ul style="list-style-type: none"> • The sign is intended to match in style and dimensions to the existing lawful sign 2 for cohesion and improvement of the streetscape quality through consistency. • There are numerous other signs in the immediate vicinity that are estimated to be of 7m in height or greater including Busy Bee, Shell, Isuzu Ute, Ford, Hyundai, Nissan, Mitsubishi and Mudgee Business Park. These signs already present as the dominant elements and will continue to dominate the skyline. • The signage readily satisfies the criteria and objectives contained within SEPP (Industry & Employment) 2021 as discussed in table 1 of this statement. • All other controls within MWRDCP 2013 and MWRLEP 2012 are complied with, suggesting that the proposal overall is of an appropriate manner and form.

	The height of the pylon signs are considered acceptable.
(b) Illuminated Pole or pylon signs must have a maximum area of 4m ² .	Not Applicable – pylon signs are not proposed to be illuminated.
(c) A maximum of one pole or pylon sign can be erected without Council approval if the above requirements are met.	Complies - The proposed pylon sign will be the only pylon sign associated with the site / development.
(d) A maximum of two (1) pole or pylon signs shall be permitted per site frontage.	Complies – one directory pylon sign is proposed per site.
(e) In the case of an industrial multi-unit complex, one (1) directory sign board of up to 8m ² in any area may be permitted with approval. Each industrial unit may have a sign at the entrance of each unit having the maximum dimensions of 2000mm by 600mm without approval.	<u>Sign 1 - existing sign relocated, 19 Sydney Rd</u> Advertising area = 4.4m ² – Complies <u>Sign 2 - existing sign on 21 Sydney Rd</u> Advertising area = 7.2m ² – Complies <u>Sign 3 - new sign on 23 Sydney Rd</u> Advertising area = 7.2m ² - Complies
(f) One sandwich board sign per site is permitted without approval however must be located inside the property boundaries and weighted and securely fixed so that it will not blow over. A maximum area of 2m ² per side applies.	Not Applicable – no sandwich boards proposed.
(g) Council will not approve the use of flashing lights, bunting and other devices to attract attention to a business.	No flashing lights, bunting or other devices are proposed.
(h) Individual directional signage will not be permitted.	Not Applicable

Part 4.6 Industrial Development

Whilst the development includes some commercial development the application is assessed against the standards for industrial development as the proposal includes industrial development and this type of development is typical to the surrounds the development.

DEVELOPMENT CONTROL REQUIREMENT	COMPLIANCE / COMMENT
Setbacks	
<i>Less than 2000m²:</i> Front 6m to street; nil side/rear secondary frontage 4m; site coverage 60%	Site area = 14,115m ² Front setback = 17m – complies
<i>2001m² 5,000²:</i> Front 12m to street; nil side/rear; 10m secondary frontage; site coverage 55%	<u>Side / rear</u> North-west = 5m - complies Rear = 3m - complies South-east = 5m - complies Internal lot boundaries = 3m
<i>Over 5,001m²:</i> Front 15m to street; nil side/rear; 12m secondary frontage; site coverage 50%	Site Coverage = 37.7% - complies
Landscaping	
– 5m in front for Sydney Road; 3m in front for all other;	Landscaping is provided to the Sydney road where possible.

DEVELOPMENT CONTROL REQUIREMENT	COMPLIANCE / COMMENT
<ul style="list-style-type: none"> - Landscaping in front to improve visual presentation from street; - Side/rear setbacks to provide visual relief from public areas; - Must consist of mature trees and lawn which are low maintenance, drought and frost tolerant; - Must be provided in car parks if >10 spaces required 	<p>It is noted that part of the frontage of 21 and 23 Sydney Rd have been reduced as a result of historical proposals to widen the Sydney Rd reserve, this has resulted in 19 Sydney Rd Being a deeper lot than 21 and 23 Sydney Rd. As a result, landscaping to 19 Sydney Rd frontage is in excess of 11.1m, 21 Sydney Rd frontage is ~5m and 23 Sydney Rd frontage is ~3.4m. 21 and 23 Sydney Rd have a wider road reserve counteracting any reduction of the 5m landscaping requirement. The extent of proposed landscaping to the frontage is therefore considered to be acceptable.</p> <p>Mature trees will be retained were possible with landscaping proposed in side setbacks where possible.</p> <p>Other landscaping is proposed throughout car park.</p> <p>Suitable conditions in relation to landscaping have been included.</p>
Design	
<p>Low scale building elements (display areas, offices, amenities) to be located at front and constructed in brick or concrete; roof materials non-reflective</p>	<p>Complies and is consistent with other existing building in the street</p>
Fencing	
<ul style="list-style-type: none"> - Must be powder coated - Work/storage areas visible from street must be masonry or pre-coloured metal cladding, min. 2m height and set back from street - Gates set back from street by length of largest vehicle accessing site 	<p>Not Applicable</p>
Utilities	
<ul style="list-style-type: none"> - Statement of servicing to be provided (water, sewer, stormwater) - Adequate provision for storage/handling waste - LTW application to be provided where liquid wastes proposed to be discharged to Council's sewer - No buildings in utility easements 	<p>All essential services are available to the site.</p> <p>Stormwater to drain to an existing drainage pit and pipe system in Engineers Road with post flows equalling pre flows.</p> <p>LTW application not required.</p>
Traffic and Access	
<p>Traffic Access Report</p>	<p>Traffic report provided. Discussed elsewhere in report</p>
<p>Site access: Loading/unloading facilities</p>	<p>Suitable loading /unloading facilities designed</p>

DEVELOPMENT CONTROL REQUIREMENT	COMPLIANCE / COMMENT
designed for largest vehicle	for the largest vehicle provided.
Safe manoeuvring area	Manoeuvring shown on plans
No unsealed manoeuvring areas	Condition to be sealed
All vehicles enter/leave in forward direction; maximum 1 ingress and 1 egress point; no Vehicular access to main road where alternative present	<p>The application proposes to provide two vehicular access points to the development. This will result in the reduction in access points to the site.</p> <p>The access will be restricted to 1 ingress point and 1 egress point in accordance with the Traffic Report provided and comments from TfNSW.</p>
Car Parking	
Refer to Part 5.1 of DCP	Complies. Refer to Part 5.1 for detailed assessment.
Signage	
Refer to Part 4.4 of DCP	Signage proposed – refer to Part 4.4 for detailed assessment.
Outdoor Noise and Lighting	
<ul style="list-style-type: none"> – Must comply with <i>AS4282 Control of Obtrusive Effects of Outdoor Lighting</i> – Windows, doors, wall openings arranged to minimise noise impacts on residences within 400m of residential zone. – External plant (generators, air conditioning plant etc.) shall be enclosed to minimise noise impacts where adjoining residential area. 	<p>Lighting will be conditioned.</p> <p>The site does not adjoin a residential area / is not within 400m of a residential zone. However, a residential dwelling is located on the land to the south and the north of the development within the established commercial /industrial area.</p> <p>No new windows, doors, wall openings are proposed on new buildings (Unit 2) facing the north boundary.</p> <p>Access door openings are proposed on the south elevation of Units 18-21 adjacent to the dwelling on the south boundary, however roller doors for loading will be located on the opposite side. Existing trees are proposed to be retained on the south side between the dwelling and Units 18-21. Further the units are proposed to have a first use of specialised retail premises. The wider development will have commercial and light industrial uses which are not expected to generate significant noise. Notwithstanding this appropriate conditions will be included in relation to external plant as well as the general amenity condition.</p>
Subdivision	
– Minimum 30m frontage; roads designed to AustRoads standards for B-Doubles	It is proposed to undertake a minor boundary adjustment to ensure that all buildings

DEVELOPMENT CONTROL REQUIREMENT	COMPLIANCE / COMMENT
<ul style="list-style-type: none"> – Lots provided with water and sewer – Stormwater drainage and water quality measures implemented (see Part 5.5 of DCP) – Lots serviced with telecommunications/underground electricity – New roads constructed of bitumen 	<p style="margin: 0;">maintain a minimum setback of 3m to lot boundaries.</p> <p style="margin: 0;">The existing lots are already connected to relevant services and will not reduce the frontage width to below 30 metres.</p>

Part 4.7 Tree Preservation Order

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

Part 5.1 Car Parking

In accordance with Council’s DCP, Section 5.1 – Car Parking, the following car parking is required:

- *Office / business - 1 space per 30m² of GFA (817m²)* – 27.2 spaces
- *Bulky Goods - 1 space per 500m² of GFA (3362m²)* – 67.2 spaces
- *Warehouse - 1 space per 100m² of GFA (409m²)* – 4.1 spaces
- *Vehicle Repair Station – 5 spaces per work bay (2) – 10 spaces*

Therefore, a total of 108.5 car parking spaces are required.

The plans detail the provision of 111 car parking spaces, which meets and exceeds the requirements of the DCP. Car spaces have been allocated to the relevant Units to ensure each Unit has parking in accordance with the required DCP rate.

The plans show a swept path assessment for a heavy rigid vehicle (HRV), medium rigid vehicle (MRV), small rigid vehicle (SRV) and a B99 car with the driveway and car parking areas. The entry and exit arrangement shown on the plans provides sufficient area for manoeuvring of the HRV, MRV and SRV in the circulating carriageway of the car park.

Part 5.2 Flooding

Not Applicable

Part 5.3 Stormwater Management

Council’s Development Engineer has provided comments and conditions concerning adequate disposal of stormwater advising that the plans provided show a conceptual drainage and on-site detention system with storm water captured and detained above ground in the car parking areas prior to discharge to an existing drainage pit and pipe system in Engineers Road. This drainage system is covered by an easement to drain water 4.5m wide created by DP 639259.

The calculations and detention storage provided do not cover the full range of storm events. Conditions will be included requiring that calculations and modelling shall be provided demonstrating that post-development flows do not exceed pre-development flows across all storm events up to and including the 1% AEP storm event.

Easements will be required to be implemented in relation to the movement of stormwater over lots, suitable conditions have been included.

Part 5.4 Environmental Controls

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

CONTRIBUTIONS

Mid-Western Regional Contributions Plan 2019

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

1% of \$4,808,560 is \$48,085.60

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

Section 64 - Water/Sewer Developer Services Charges

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

	Total Water Et/unit (including credit/s)	Water Cost (23/24 FY)	Total Sewer Et/unit (including credit/s)	Sewer Cost
19 Sydney Road	0.351	\$3,409.00	0.5616	\$2,490.13
21 Sydney Road	Nil	\$-	0.71144	\$3,154.52
23 Sydney Road	Nil	\$-	Nil	\$-
TOTAL	0.351 ET/unit	\$3,409.00	1.27304 ET/unit	\$5,644.65

A condition has been imposed accordingly.

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

No Planning Agreements are applicable.

4.15(1)(a)(iv) REGULATIONS

Environmental Planning and Assessment Regulation 2021

Clause 61 – Additional matters that consent authority must consider

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

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

(a) Context and Setting

The proposal is appropriate with regards to the surrounding context and setting.

(b) Access, Transport and Traffic

The implications of additional traffic and suitable access are discussed throughout this report. The proposal is considered appropriate.

(c) Public Domain

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

(d) Utilities

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

(e) Heritage

Not Applicable

(f) Other Land Resources

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

(g) Water

No significant impact expected.

(h) Soils

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

(i) Air and Microclimate

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

(j) Flora and Fauna

The vegetation proposed to be removed has been discussed throughout this report.

(k) Waste

Waste service available.

(l) Energy

Not Applicable

(m) Noise and Vibration

The site is located in a commercial / industrial area and accordingly normal noises associated with the uses such as vehicles, unloading and loading during normal business hours (7am to 6pm) is considered acceptable. The application proposed standard operating hours from 6am-6pm. A condition will be included to require this to be 7am to align with standard day operational times. Should an earlier opening time be required this condition may be modified with further consideration of the noise impacts related to the activity and its location within the site.

It is noted that there are dwellings located on adjoining lots to the north and south. The development has been designed so that no roller doors, loading areas or accessways face these dwellings. Standard amenity conditions will be included in relation to noise as well as conditions required industrial activities to be located within the building and screening of noisy external equipment.

(n) Natural Hazards

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

(o) Technological Hazards

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

(p) Safety, Security and Crime Prevention

Increased passive surveillance as a result of the proposed development.

(q) Social Impact in the Locality

Generally positive.

(r) Economic Impact in the Locality

Generally positive.

(s) Site Design and Internal Design

Adequate as discussed throughout this report. As it is proposed to retain the three lots, it will be necessary for easements to cover shared access and facilities is provided. This has been included as a condition of consent.

(t) Construction

To comply with the BCA where relevant.

(u) Cumulative Impacts

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

SUITABILITY OF SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

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

Are the site attributes conducive to development?

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

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

Public Submissions

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 10 June 2022. During the notification period, 0 submission/s were received. The application was amended during the assessment of the application; however, the changes were not considered to be significant to require re-notification.

Consultation was also undertaken in January 2024 with affected property owners in relation to the relocation of the median and signage on Sydney Road.

Submissions from Public Authorities

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

THE PUBLIC INTEREST – 4.15(1)(e)

Federal, State and Local Government interests and Community interests

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

CONSULTATIONS

Health and Building

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

Development Engineering

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

Community Plan implications

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

Strategic implications

Council Strategies

Not Applicable

Council Policies

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

Legislation

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

Financial implications

Not Applicable

Associated Risks

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

SARAH HOPKINS
TOWN PLANNER

ALINA AZAR
DIRECTOR DEVELOPMENT

16 January 2024

- Attachments:*
1. Architectural Plans. (separately attached)
 2. Signage Plans. (separately attached)
 3. Stormwater Management Plan. (separately attached)
 4. Letter of Response from McLaren Traffic Engineering dated 18 September 2023. (separately attached)
 5. TfNSW response dated 30 November 2023. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER