

8.3 MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee

REPORT BY THE PLANNING COORDINATOR
 TO 13 OCTOBER 2021 ORDINARY MEETING
 GOV400088, DA0214/2014

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee; and**
- B. approve MA0001/2022 (DA0214/2014) - Modification to 7 Lot Subdivision and Industrial Development - Hours of Operation at 86 Depot Road, Mudgee subject to the following amended conditions of consent and statement of reasons (in green):**

PARAMETERS OF CONSENT

APPROVED PLANS

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

<i>Title / Name:</i>	<i>Drawing No / Document Ref</i>	<i>Revision / Issue:</i>	<i>Date:</i>	<i>Prepared by:</i>
Site Plan (Lot 6)	3312-A01	A	April 2013	Giselle Denley Drafting Services
Ground Floor Plan (Lot 6)	3312-A02	B	Nov 2017	Giselle Denley Drafting Services
Elevations (Lot 6)	3312-A03	B	Nov 2017	Giselle Denley Drafting Services
Site Plan (Lots 1-4)	3312-A02	D	Feb 2021	Giselle Denley Drafting Services
Ground Floor Plan, South East Elevation and South West Elevation (Lot 1)	3312-A03	D	Sep 2019	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & Elevations (Lots 2 and 3)	3312-A04	E	Feb 2021	Giselle Denley Drafting Services
Ground Floor Plan, First Floor Plan & South East Elevation (Lot 4)	3312-A05	D	Feb 2021	Giselle Denley Drafting Services
Shed 4 South West, North East & North West Elevation	3312-A14	A	May 2021	Giselle Denley Drafting Services

Master Plan	3312-A01	A	April 2013	Giselle Denley Drafting Services
Storage Shed Typical Floor Plan & Storage Shed Front Elevation	3312-A09	A	April 2013	Giselle Denley Drafting Services
Proposed subdivision Showing Existing Improvements	BK041.dwg Sheet 1 of 4	-	14/10/2013	Jabek Pty Ltd
Layout Industrial Development Lots 1-6 (Stage 2)	BK041.dwg Sheet 2 of 4	-	14/10/2013	Jabek Pty Ltd
Service Layout	BK041.dwg Sheet 3 of 4	-	14/10/2013	Jabek Pty Ltd
Detail Lot 7	BK041.dwg Sheet 4 of 4	-	14/10/2013	Jabek Pty Ltd

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

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

(AMENDED MA0043/2021)

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

Note – this condition is applied to ensure that the use of the building matches the number of car parking spaces shown on the approved plans.

(ADDED MA0020/2017)

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

Landscaping Plan	MX-10284.01-	C	23/03/18	Triaxial
------------------	--------------	---	----------	----------

	C4.0			Consulting
--	------	--	--	------------

(ADDED MA0020/2017)

AMENDMENTS TO APPROVED PLANS

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

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

~~(AMENDED MA0043/2021)~~

~~(DELETED MA0001/2022)~~

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

~~(ADDED MA0017/2020)~~

~~(AMENDED MA0001/2022)~~

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

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

(ADDED MA0020/2017)

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

(ADDED MA0020/2017)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - CIVIL

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

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

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

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

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE - BUILDING

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

12. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act, 1993* to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.
13. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.

14. The developer shall obtain a Certificate of Compliance under the *Water Management Act*. This will require:

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

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

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

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

(AMENDED MA0020/2017)

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

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

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

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

(ADDED MA0020/2017)

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

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

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

(ADDED MA0020/2017)

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

(ADDED MA0020/2017)

14D. Prior to issue of a Construction Certificate for Sheds 1 to 4, and where it is proposed to operate the premise in the evening and night-time periods (6pm to 7am) each shed must include the following acoustic measures, also in accordance with the report prepared by Spectrum Acoustics:

- Lining the internal walls (or parts of the walls where workshop equipment or work benches are to be located) with acoustic shielding on the southern and/or western walls;
- Isolating particularly noisy plant, equipment or activities and acoustically shielding these;
- Locating noisy plant or activities “behind” internal partitions or offices relative to receivers; or
- Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.

(ADDED MA0001/2022)

PRIOR TO THE COMMENCEMENT OF WORKS – CIVIL

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

PRIOR TO THE COMMENCEMENT OF WORKS – BUILDING

18. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
19. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.
NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE.
20. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the name, address and telephone number of the principal certifying authority for the work; and
 - d) The sign shall be removed when the erection or demolition of the building has been completed.
21. Prior to the commencement of works on site, the applicant shall advise Council's Operations Directorate, in writing, of any existing damage to Council property.
(AMENDED MA0020/2017)

CIVIL CONSTRUCTION

- 21A. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
(NUMBERED MA0020/2017)
22. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
23. The developer is to grant Council (or an Accredited Certifier on behalf of Council) unrestricted access to the site at all times to enable inspections or testing of the subdivision works.
24. The subdivision works are to be inspected by the Council (or Accredited Certifier on behalf of Council) to monitor compliance with the consent and the relevant standards of construction encompassing the following stages of construction:
- a) Installation of sediment and erosion control measures.
 - b) Water and sewer line installation prior to backfilling.
 - c) Establishment of line and level for kerb and gutter placement.

- d) Road and driveway pavement construction (including excavation, formwork and reinforcement).
 - e) Road pavement surfacing.
 - f) Practical completion.
25. The contractor/owner must arrange an inspection by contacting Council's Development and Community Services Department between 8.30am and 4.30pm Monday to Friday, giving at least twenty four (24) hours' notice. Failure to have the work inspected may result in the access being removed and reconstructed at the contractors/owners expense.
26. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
27. Interallotment drainage is to be provided to remove stormwater from any lots that cannot discharge to the street in accordance with Aus Spec #1. Easements not less than 1m wide shall be created over interallotment drainage in favour of upstream allotments.
28. The requirements for stormwater quality, as specified in the DCP, shall be addressed in the design prior to issue of the Construction Certificate. The design shall be such that there is no increased maintenance burden on Council.
- 29A. The developer must construct the full length of the proposed new extension of Depot Road located in Lot 210 DP775001, to the following standard:

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

(ADDED MA0020/2017)

30. Car parking for lots 1-6 must comply with the following standards:
- a) All vehicles must be provided adequate means to exit the lot in a forward direction;
 - b) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - c) Each disabled car parking space is to be in accordance with the provisions of Clause D3.5 of the Building Code of Australia and Australian Standard as 2890.6 – 2004;
 - d) All car parking spaces are to be line-marked and sealed with a hard standing, all weather material and must be maintained in a satisfactory condition at all times; and
 - e) The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Traffic Authority *Guide to Traffic*

Generating Developments 1992 and Australian Standard AS2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.

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

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

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

WATER AND SEWER

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

BUILDING CONSTRUCTION

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

Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.

39. All mandatory inspections required by the *Environmental Planning & Assessment Act* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
40. The strength of the concrete used for the reinforced concrete floor slab must be 25Mpa.
41. The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.

PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

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

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

43. A linen plan and two (2) copies are to be submitted to Council for approval and endorsement by the General Manager.
44. If the Subdivision Certificate is not issued, for any reason whatsoever, by the end of the financial year immediately following the date of determination, then the charges and contributions contained in this consent, may be increased to the current rate at the time of payment.
45. Underground electricity, street lighting and telecommunications are to be supplied to the subdivision.
46. Prior to issue of the Subdivision Certificate, Council is to be supplied with:
 - a) A certificate from the appropriate power authority indicating that satisfactory arrangements have been made for provision of electricity supply to the subdivision;
 - b) A certificate from the appropriate telecommunications authorities indicating that satisfactory arrangements have been made for provision of telephone services to the subdivision;
 - c) All contributions must be paid to Council and all works required by the consent be completed in accordance with the consent, or an agreement be made between the developer and Council;
 - d) As to the security to be given to Council that the works will be completed or the contribution paid; and
 - e) As to when the work will be completed or the contribution paid.
47. Following completion of the subdivision works, one full set of work-as-executed plans, on transparent film suitable for reproduction, and an "AutoCAD compatible" work-as-executed Plan, (in dwg format including pen-map), is to be submitted to Council. All work-as-executed plans shall bear the Consulting Engineer's or Consulting Surveyor's certification stating that all information shown on the plans is accurate.
48. The developer must provide Council and land purchasers with a site classification for each lot within the subdivision. The classification is to be carried out at a suitable

building site on each lot and is to be carried out by a NATA registered laboratory using method (a) of Clause of AS2870 - 2011. Results are to be submitted to Council prior to issue of the Subdivision Certificate.

49. (DELETED MA0020/2017 – AMENDED CONDITION MOVED TO CONDITION 14A)

50. The developer is to provide a water service and meter for each lot in the subdivision. This can be achieved by making a payment to Council of \$1650 per lot to cover the cost of installing both the service and a 20mm meter on the water main.

TOTAL PAYABLE 6 x \$1650 = \$9,900

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

OR

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

TOTAL PAYABLE 6 x \$370 = \$2,220

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

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

TOTAL PAYABLE 6 x \$1,450.00 = \$8,700

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

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

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

53. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.

54. All car parking and associated driveway works are to be completed prior to occupation of the development.

54A. All plants shown on the approved landscape plan/s are to be planted and all hard landscaping (e.g. rocks, retaining walls, solid garden bed edging) is to be installed prior to the issue of an Occupation Certificate.
(ADDED MA0020/2017)

54B. The 2.5 metre high timber acoustic fencing along the western and southern boundaries of the site shall be completed prior to issue of an Occupation Certificate for Sheds 1 to 4, in accordance with the recommendations of the Noise Impact Assessment Report prepared by Spectrum Acoustics dated July 2021.

(ADDED MA0001/2022)

54.C. Prior to issue of an Occupation Certificate for Sheds 1 to 4 and where operations are proposed between 6pm and 7am (evening and night time periods), all acoustic measures required by this consent shall be installed within the building to the satisfaction of the Principal Certifying Authority.

(ADDED MA0001/2022)

CONDITIONS RELATED TO THE ONGOING USE OF THE SITE

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

~~Monday to Saturday – 7.00am to 6.00pm~~
~~No work is permitted on Sundays or Public Holidays~~
 - a) Monday to Saturday - 7.00am to 10.00pm; and
 - b) Operations from within the industrial buildings are permitted Monday to Saturday - 10.00pm to 7.00am subject to the following;
 - i. Any deliveries that occur during the hours of Monday to Saturday - 10.00pm to 7.00am must be undertaken at the building frontages to Depot Road only; and
 - ii. All roller doors and windows upon the southern and western elevations are to be fully closed during operations of Monday to Saturday - 10.00pm to 7.00am; and

- iii. Any plant or equipment installed on the buildings for air / ventilation purposes must ensure that suitable covers / shielding devices are installed by a suitably qualified person and maintained accordingly; and
- c) No operations are permitted on Sundays or Public Holidays.
(AMENDED MA0001/2022)

63A Where operations during the hours of 6.00pm to 7.00am creates excessive noise or inconvenience to the amenity of the area, the operations are to cease immediately during the evening and night time periods. The operations are to be managed so there is no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
(ADDED MA0001/2022)

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

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

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

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

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

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

ADVISORY NOTES

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

(MODIFIED MA0043/2021)

- 4 If you are dissatisfied with this decision section 8.7 of the EP&A Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).
(MODIFIED MA0043/2021)**
- 5 To ascertain the date upon which the consent becomes effective, refer to section 83 of the EP&A Act.**
- 6 To ascertain the extent to which the consent is liable to lapse, refer to section 95 of the EP&A Act.**
- 7 The development is to operate so as to not emit offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.
(ADDED MA0020/2017)**

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

- 1. The proposed modification is considered to result in minimal environmental impact and is substantially the same development as the originally approved development – thereby satisfying the requirements of Section 4.55(1A)(a) and (b) of the *Environmental Planning and Assessment Act 1979*.**
- 2. The proposed modification complies with the requirements of the applicable environmental planning instruments and *Mid-Western Regional Development Control Plan 2013*.**
- 3. The proposed modification is considered satisfactory in terms of the matters identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
(NEW STATEMENT OF REASONS MA0043/2021)**
- 4. The proposed development satisfactorily addresses the issues raised in the objections received in response to public notification of the development, as follows:
a) The proposed development will not have an adverse noise or amenity impact, subject to compliance with the amended conditions of consent and this includes construction of a 2.5m timber fence along the southern and western boundaries of the site, closing all roller doors and windows during the evening and night periods of operation along with upgrade of the buildings with acoustic measures such as shielding and lining of the walls.
(ADDED MA0001/2022)**

Executive summary

OWNER/S:	DTM Property Enterprises Pty Limited.
APPLICANT:	Mr Daniel J Baggett.
PROPERTY DESCRIPTION:	Lot 2102 DP 1237751 (formerly identified as Lot 210 DP 7750021).
PROPOSED DEVELOPMENT:	Modification to DA0214/2014 to increase hours of operation for future industrial buildings approved under DA0214/2014, and subsequently modified.
ESTIMATED COST OF DEVELOPMENT:	Nil.
REASON FOR REPORTING TO COUNCIL:	Previous applications approved by Council.
PUBLIC SUBMISSIONS:	Two (2) submissions.

Council is in receipt of a Modification Application to DA0214/2014 (MA0001/2022) at 86 Depot Road, Mudgee pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act*.

Council granted consent to the original Development Application on the 21 May 2014.

The applicant seeks to amend the hours of operation for the industrial premises approved under the development consent to 24 hours, 7 days per week and also allow roller doors to be constructed on each shed on the western elevation which borders the current residential area of Inverness Avenue and also the Mudgee Golf Course. The application was supported by an Acoustic Assessment Report.

The modification application was notified for a period of 14 days. Two (2) submissions were received during the notification period.

The application is supported subject to a number of amended and new conditions of consent which aligns with the assessment and recommendations of the Acoustic Report and Council's Environmental Health Officer.

Disclosure of Interest

Nil.

Detailed report

PRECEDING APPROVED DEVELOPMENT

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

At the time of approval, the applicant did not nominate uses of the industrial buildings on the basis that this would be dependent upon finding future tenants for each building. Car parking however, was calculated on the basis of 'Bulky goods and manufacturing warehouse' applying a rate of 1 space per 75m² under the DCP 2013. A variation of 12 parking spaces for the overall development was sought by the applicant at the time. The cost of the development was estimated at \$2,425,000. Stage 1 release of the subdivision to create Lots 2101 and 2102 was registered on the 30 November 2017 (SC009/2018).

Since 2014, the application has been modified three (3) times which is detailed as follows:

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

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



Figure 1 – Site location including zoning

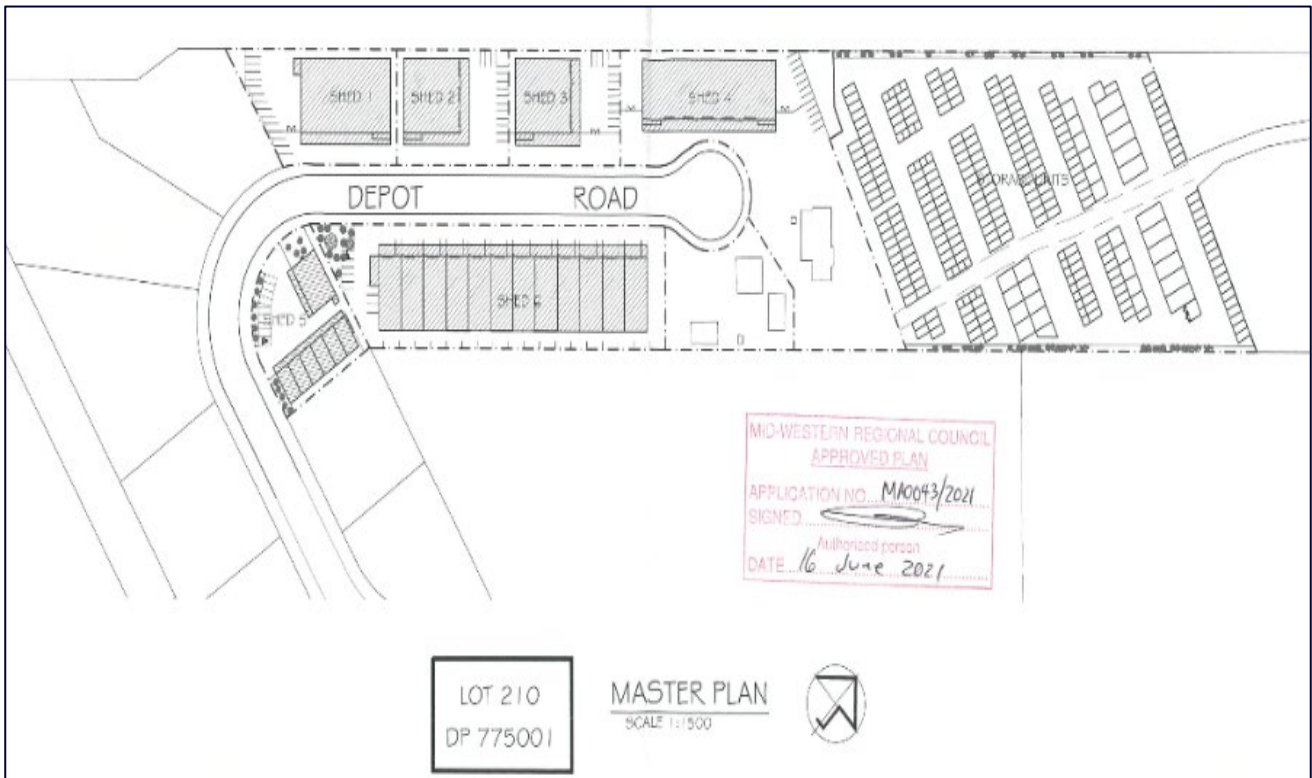


Figure 2 – Modified layout approved by MA0043/2021 – 16 June 2021

PROPOSED MODIFICATION

MA001/2022 has been submitted to Council proposing to modify two (2) aspects of the approved development being:

1. Enable the inclusion of roller doors on the western elevations of the buildings (restricted by condition 4 of the modified consent) despite showing the roller doors on the stamped approved plans; and
2. Enable 24 hour, 7 day a week operations for each industrial development (restricted by condition 63 of the modified development consent).

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

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

The application is recommended for Approval.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

ASSESSMENT

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

4.55(2) Other Modifications

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

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

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

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

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

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

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

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

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

Comment Two (2) submission were received which have been considered within this report.

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

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

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

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

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

MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)

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

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

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

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

MID-WESTERN REGIONAL DCP 2013

The previous application submitted has been assessed in accordance with the DCP. The proposed modification (MA0001/2022) does not propose any changes that would impact upon compliance with the DCP provisions. As a result, the proposal has been assessed upon its merits.

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

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

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

No Planning Agreements are applicable.

(iv) The regulations

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

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

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

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

The proposed changes to the development application conditions are specific to the future operations within the site. The applicant seeks to ensure roller doors are permitted on the western elevations of all buildings (currently restricted by condition 4 of the consent) and also seeks to have 24 hour trading for each industrial building; currently restricted to 7am to 6pm Monday to Saturday under condition 63 of the consent.

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

The report has not assumed a solid boundary fence (for the western boundary) and has presented a theoretical worse-case scenario in terms of having a large mechanical workshop servicing mining machinery in each shed without any internal partition, internal walls, attenuation guards, mufflers etc., and assuming simultaneous operating of machinery. Noise from each source was considered to be impacting across the entire internal wall surfaces of each shed. The existing mound was considered.

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

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

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

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

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

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

Noting that it was recommended by the consultant that:

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

The above assessment resulted in the conditions of consent imposed by Council in May 2014, which also included a condition requiring a 1.8 m high lapped and capped timber fence along the

western and southern boundaries, along with no roller doors on the north western wall of the workshop on future Lot 1.

In support of the modification, the applicant has provided an updated acoustic report prepared by Spectrum Acoustics (July 2021) – copy included as Attachment 1. A summary of the assessment is provided below, which is based on the current operating environment of Shed 1 - an engineering workshop with a roller door facing south (testing from 12A Inverness Avenue), and potential impacts at the residential property 23 Inverness Avenue for future industrial sheds operating within the estate:

- *At the time of the noise measurements the workshop was operating under typical conditions. The measurements included the general operation of the workshop (grinding, welding hammering etc.) as well as specific measurements made of gouging.*
- *The shed has an operable wall in the southern facade (i.e. in the direction of the most potentially affected receivers). The noise levels from the operating workshop were measured at the centre of the opening, and other representative location within the workshop and yard.*
- *There is a 2.4m high fence around the yard to the site and there are currently two storage containers mounted on frames inside the boundary. These storage containers form a partial acoustic barrier, to a height of 5.6m, in the direction of the nearest receivers in Inverness Avenue. There are currently gaps between the two containers and also between the bottom of the containers and the top of the boundary fence. These gaps currently compromise the acoustic integrity of the barrier by allowing some noise to pass through. The calculations made here assume that the work to complete that barrier has been done and they, therefore, include the insertion loss for a 5.6m high solid acoustic barrier.*
- *Under the assessed conditions, and with the acoustic barrier in place, the received noise will not exceed the adopted day time criterion at the most potentially affected receiver.*
- *Attended noise measurements were made at locations in Inverness Avenue on the morning of 1st July, 2021. The noise from the workshop was measured in the reserve behind the residence at 12A Inverness Avenue. The noise included general workshop activity (but did not include gouging). A noise level of 42 dB(A) Leq (15 min) was attributed to emissions from the workshop at shed 1.*
- *Under the assessed conditions (with the doors open), the noise from shed 1 will exceed the evening and night criteria.*
- *During these times it is apparent that the operable wall should be closed to limit noise emissions from the shed.*
- *The calculation assumes all activities are being undertaken inside the shed and that there is no activity in the yard.*
- *The noise from gouging was measured to be approximately 6 dB(A) louder than that of the general workshop. The noise from gouging would be higher than the evening criterion with the wall open, but in compliance with the wall closed. The noise would be marginally higher than the night time criterion with the wall closed.*
- *It is, therefore, recommended that, if gouging is to be undertaken during the evening the wall must be closed. Gouging should not be undertaken at night.*
- *Sheds 2 and 3 are designed with roller door openings in the southern and western facades. These roller doors will face towards the receivers in Inverness Avenue. Noise emissions from the roller doors, particularly those in the southern facade will be partially shielded from the receivers by the acoustic barrier effects of the intervening sheds and/or the orientation of the doors with respect to the receiver boundaries. The location of Shed 2 will shield noise in the direction of the receiver at 12A Inverness Avenue and, therefore, the calculation has*

been made to the boundary of the most potentially affected receiver at 23 Inverness Avenue.

- *Under the assessed conditions, and with roller doors open, the received noise would not exceed the day time noise criterion but would exceed the criteria for evening and night.*
- *Under the assessed conditions, and with roller doors closed, the received noise would not exceed the criteria for any of the day, evening or night times. The calculations are based on the noise levels from the existing workshop but are considered likely to be representative of most typical machinery or light fabrication workshops.*
- *The operation of other commercial activities in the other sheds would require specific assessment but, as a general indication, the noise from workshops as measured is at the upper end of expected noise levels for any activities that may occur in industrial sheds like those to be constructed.*
- *Operational noise during the evening and night indicates that during the night time period all significant noise generating activities should be undertaken inside the various sheds and with all external doors and openings closed.*
- *The consideration of the noise control options for all sheds was included in the original acoustic assessment for the site and is included (not limited to):*
 - *Lining the internal walls or parts of the walls,*
 - *Isolating particularly noisy plant or activities and acoustically shielding these;*
 - *Locating noisy plant or activities “behind” internal partitions or offices relative to receivers, or*
 - *Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.*
- *Potential for sleep disturbance impacts is, therefore most likely to come from loud noise associated with people arriving or departing work (car doors, engine revs etc.) or from noise associated with the delivery or transport of parts or machinery.*
- *A scenario has been assessed where a noise source representing an impact from a truck being unloaded in the yard of shed 2 is potentially impacting on the receiver at 23 Inverness Avenue at a distance of approximately 170m.*
- *Preliminary calculations indicated that, under the conditions, there was a potential for the sleep disturbance criterion to be exceeded and that some form of noise control would be required. **The most feasible option would be to construct an acoustic barrier fence along the western boundary of the site.***
- *The results show that noise from loud impacts in the yards of the sheds can be adequately controlled provided there is a minimum 2.5m high acoustic barrier along the boundary.*
- ***An acoustic barrier is one which is constructed of material with minimum surface density of 15kg/m³ and is impervious from the ground to the recommended height with no gaps for the passage of sound. For the current site a lapped and capped timber fence with minimum 12mm palings and 25% overlap each side would be acoustically adequate.***

In summary, the assessment has concluded that:

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

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

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

In light of the above findings, consideration was given to the compliance efforts required by Council to ensure that all doors and windows are closed on the sheds during evening or night operations on the site to ensure the residential amenity of the area was not impacted. Such compliance with the conditions of consent would be required by the landowner and also the operator of the premises, and Council would be required to issue Notices / Orders to enforce compliance.

Further, the application has been reviewed by Council's Environmental Health Officer who does not support 24 hour trading both internal and external of the building/s based on the existing and potential future land use conflicts.

It should be noted that the application has been approved for 'industrial premises' which may entail a broad range of development types. However, the acoustic assessment has based all noise generating activities on *machinery or light fabrication workshops* and deliveries to the site. A disclaimer has also been included in the report that recommends '*other commercial activities in the other sheds would require specific assessment*'.

The report also does not account for cumulative noise generated by the operation of multiple 24 hour, 7 day per week 'workshops' within this location.

As a result of the above findings, general 24 hour, 7 day a week operations for the industrial sites are not supported in this location without the following controls being implemented to reduce environmental impacts and land use conflicts with the surrounding area into the future:

- Inclusion on each shed proposed to operate in the evening and night-time periods (6pm to 7am):
 - Lining the internal walls or parts of the walls,
 - Isolating particularly noisy plant or activities and acoustically shielding these;
 - Locating noisy plant or activities "behind" internal partitions or offices relative to receivers, or
 - Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.
- A 2.5m high lapped and capped timber fence with minimum 12mm palings and 25% overlap each side along the full western boundary of the site (adjoining the residential land and golf course currently identified as Lot 27 DP 1165146) which must include the western boundary of Shed 1 on the basis that the 'double stacked' shipping containers are not approved by Council in this location and cannot be relied upon as an acoustic measure.
- Limiting trading activities by amending condition 63 of the consent to:
 - Monday to Saturday - 7.00am to 10.00pm; and
 - Operations from within the industrial buildings are permitted Monday to Saturday - 10.00pm to 7.00am subject to the following;
 - i. Any deliveries that occur during the hours of Monday to Saturday - 10.00pm to 7.00am must be undertaken at the building frontages to Depot Road only; and

- ii. All roller doors and windows upon the southern and western elevations are to be fully closed during operations of Monday to Saturday - 10.00pm to 7.00am; and
 - iii. Any plant or equipment installed on the buildings for air / ventilation purposes must ensure that suitable covers / shielding devices are installed by a suitably qualified person and maintained accordingly; and
- No operations are permitted on Sundays or Public Holidays.

With implementation of the above, the removal of the condition 4 which prohibits roller doors being constructed on the western elevation of each shed is supported.

In addition, it is recommended that additional conditions relating to a complaints register being established by the developer and the standard condition regarding "offensive noise" be included in the amended development consent. This is to reinforce that 'offensive noise' can be managed via the development consent and also under the *Protection of the Environment Operations Act 1997*. A noise abatement direction / notice / order may be issued by Council, NSW Police or the Local Court.

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

(A) DOES THE PROPOSAL FIT IN THE LOCALITY?

The development has been approved in the IN1 General Industrial Zone which is consistent with the objectives of the zone and the immediate industrial locality. The modification to the hours of operation is only supported on the basis of the abovementioned controls, including those recommended by the acoustic assessment report, being implemented across the site.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

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

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

(A) PUBLIC SUBMISSIONS

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

Two (2) submissions were received during the notification period. Both submissions raised concerns in relation to the extended hours and impacts of noise on their homes. This concern was particularly heightened as a result of existing business operating from the subject site. A copy of the submissions are included in Attachment 2.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

No submissions were sought or received from public authorities.

4.15(1)(e) The Public Interest

(A) FEDERAL, STATE AND LOCAL GOVERNMENT INTERESTS AND COMMUNITY INTERESTS

No significant issues in the interests of the public are expected as a result of the proposed development, subject to compliance with the recommended amended conditions of consent. The development has been approved in line with the IN1 General Industrial zoning of the land however, it is also important to ensure land use conflicts are appropriately managed for the community. The acoustic matters regarding hours of operation and impacts to adjoining lands have been considered by Council and a suitably qualified person, with recommendations imposed to mitigate

such noise impacts on the surrounding land. This has therefore been considered along with submissions from the community which has resulted in modifications to the proposed operations over the site.

CONSULTATIONS

(A) ENVIRONMENTAL HEALTH OFFICER

Council's Environmental Health Officer has provided an assessment of the application and the Noise report provided to Council dated July 2021. The following comments have been provided for assessment:

The report has provided analysis of noise impacts during three periods over 24hrs: Day (7am to 6pm), Evening (6pm to 10pm) & Night (10pm – 7am).

It has based its' analysis on the activities currently being carried out in Shed 1.

The report concludes that noise criteria is exceeded especially in the evening and night time periods. In particular the activity of metal gouging causes unacceptable noise even when the shed doors and windows are closed. The report does cover sleep disturbance matters and includes deliveries as part of the outside "yard work". The report recommends the erection of an acoustic noise barrier along the western boundary adjacent to the proposed Sheds 2 & 3 and states that the current barrier arrangements adjacent to Shed 1 can be modified to comply.

It is noted from a real estate sign on Inverness Ave that part of the adjoining land to the west of the proposal (currently a golf course) has a residential zoning. It is possible then that residences may be built closer to the proposal than the ones currently on Inverness Ave. This needs to be taken into consideration.

I recommend the following conditions be included in any development consent issued:

- *An acoustic barrier shall be erected along the entire western boundary of the property. The barrier shall be 2.5m high and be constructed in accordance with the recommendations of the Noise Impact Assessment Report by Spectrum Analysis dated July 2021.*
- *Hours of operation shall be limited to the following:*
 - a) *Inside & Outside activities permitted Monday to Saturday from 7am to 10pm*
 - b) *Inside activities permitted Monday to Friday 10pm to 7am*
 - c) *Any western facing openings shall be closed during these times.*
 - d) *No activities permitted on Sundays and public holidays.*

Community Plan implications

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

Strategic implications

Council Strategies

Not Applicable.

Council Policies

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

Legislation

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

Financial implications

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

Associated Risks

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

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

21 September 2021

Attachments: 1. Acoustic Report.
2. Submissions (redacted).

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



Project No: 212122R

**Noise Impact Assessment
Proposed Industrial Development
“Mudgee Industrial Park”
Depot Road, Mudgee - NSW**

Prepared for:

DTM Property Enterprises
Depot Road
Mudgee NSW 2850

Author:



Ross Hodge
B.Sc. (Hons) M.A.A.S.
Principal / Director

July 2021



TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	BACKGROUND TO THE NIA	1
3.0	DESCRIPTION OF TERMS	1
4.0	THE EXISTING ENVIRONMENT	2
5.0	NOISE CRITERIA	4
5.1	Operational Noise Goals	4
5.2	Sleep Disturbance	5
6.0	NOISE IMPACT ASSESSMENT	6
6.1	Operational Noise	6
6.2	Sleep Disturbance	13
7.0	CONCLUSION	15
APPENDIX I		Noise Logger Charts





1.0 INTRODUCTION

This report presents the results and findings of an acoustic assessment of the operation of commercial and industrial facilities at the Mudgee Industrial Park, at Lot 210 D.P. 775001, Depot Road, Mudgee.

This Noise Impact Assessment (NIA) has been conducted in accordance with procedures as detailed in the *Noise Policy for Industry* (NPfI).

2.0 BACKGROUND TO THE NIA

The site of the Mudgee Industrial Park is an industrial area with several commercial and industrial premises currently operating in the vicinity. The site is adjacent to the Mid West Council's works depot.

Spectrum Acoustics previously undertook an acoustic assessment of the suitability of the site for industrial sheds for various uses. The assessment used typical sound power levels for workshop activities to show that noise emissions from the sheds can comply with the day time noise criterion for nearby residential receivers.

Based on the results of that assessment it was concluded that the industrial sheds could operate during the day time without adversely impacting upon the acoustical amenity of any residential receivers.

The site is now being fully developed and some of the tenants and proposed tenants are looking to extend operating hours within their businesses to include the possibility of early morning start up and evening works.

The current assessment will, therefore, consider the potential for noise emissions during those times to create adverse impacts at the nearby residential receivers.

3.0 DESCRIPTION OF TERMS

Table 1 contains the definitions of commonly used acoustical terms and is presented as an aid to understanding this report.





Noise Impact Assessment – Mudgee Industrial Park

TABLE 1
DEFINITION OF ACOUSTICAL TERMS

Term	Definition
dB(A)	The quantitative measure of sound heard by the human ear, measured by the A-Scale Weighting Network of a sound level meter expressed in decibels (dB).
SPL	Sound Pressure Level. The incremental variation of sound pressure above and below atmospheric pressure and expressed in decibels. The human ear responds to pressure fluctuations, resulting in sound being heard.
STL	Sound Transmission Loss. The ability of a partition to attenuate sound, in dB.
L _w	Sound Power Level radiated by a noise source per unit time re 1pW.
Leq	Equivalent Continuous Noise Level - taking into account the fluctuations of noise over time. The time-varying level is computed to give an equivalent dB(A) level that is equal to the energy content and time period.
L1	Average Peak Noise Level - the level exceeded for 1% of the monitoring period.
L10	Average Maximum Noise Level - the level exceeded for 10% of the monitoring period.
L90	Average Minimum Noise Level - the level exceeded for 90% of the monitoring period and recognised as the Background Noise Level. In this instance, the L90 percentile level is representative of the noise level generated by the surrounds of the residential area.

4.0 THE EXISTING ENVIRONMENT

To quantify the existing acoustic environment of the area, an ambient noise survey was conducted on the site from 1 to 8 July, 2021.

An ARL EL316 environmental noise logger, was installed on the site near the boundary with the Mudgee Golf Club (as shown approximately, as a star on **Figure 1**).





Noise Impact Assessment – Mudgee Industrial Park



Figure 1 – Noise Logger Location

The logger location was considered representative of the current acoustic environment of the area. The industries within the existing sheds in the estate do not operate during the evening or night and, therefore, there is no noise associated with them. Other existing industries and the council depot do operate during the night (early morning) and the noise from these is considered part of the ambient acoustic environment and, is therefore, included in the noise logger measurements

The logger was programmed to continuously register environmental noise levels over 15 minute intervals with internal software calculating and storing L_n percentile noise levels for each sampling period. Calibration of the logger was performed as part of the instrument's initialisation procedures, with calibration results being within the allowable ± 0.5 dB(A) range.

All noise levels were monitored in accordance with relevant EPA guidelines and AS1055- "Acoustics - Description and measurement of environmental noise".

Table 2 presents a summary of the ambient noise levels (L90 Rating Background Levels (RBL) and existing Leq) recorded at the monitoring location. The RBL is the median of the daily L90 levels (Assessment Background Levels) in each assessment period (day/evening/night), over all valid days in the monitoring period.



The data are also shown graphically in Appendix I. A full set of logged data is not included in this report but is available on request.

Percentile	Noise Levels dB(A)			
	Day	Evening	Night	Morning Shoulder
L ₉₀	40	35	31	33
L _{eq}	55	45	43	43

NOTE: Day = 7am – 6pm, Evening = 6pm – 10pm, Night = 10pm – 7am.

The graphical representation of these noise measurements shows that the acoustic environment of the area is generally variable during the day and evening and noise levels drop off through the middle of the night. This is indicative of the commercial and industrial activity in the area.

The logger data shows that noise levels increase steadily from about 5am, coinciding, most likely, with an increase in the commercial and commuter activity in the industrial area. In such circumstances the NPfI includes the concept of “shoulder periods” where the RBL is the lowest 10th percentile of the L90 measurements for the equivalent one weeks’ worth of valid data taken over the relevant shoulder period.

The NPfI indicates that shoulder periods are to be considered on a case by case basis. For the current assessment a “morning shoulder” period between 5 and 7am has been included in the assessment and discussion of potential noise impacts.

The measured background noise level, for the morning shoulder period, determined in accordance with the procedures in the NPfI, is shown in Table 2.

5.0 NOISE CRITERIA

5.1 Operational Noise Goals

In setting noise goals for an industrial development, the NPfI considers both Amenity and Intrusiveness criteria. The former is set to limit continuing increase in noise from industry, whilst the latter is set to minimise the intrusive impact of a particular noise source.





Amenity criteria are dependent upon the nature of the receiver area and the existing level of industrial noise. The most potentially affected receiver area near the site would be considered “suburban” as per the definitions in the NPfI.

The Project amenity noise level for an industrial development is equal to the recommended amenity noise level (from Table 2.2 in the NPfI) minus 2 dB(A) (as detailed in notes to **Table 3**).

The intrusiveness criteria are based on the Rating Background Level (RBL) for the time period, plus 5 dB(A). The RBL (L90) is defined as the overall single figure background level representing each assessment period.

Table 3 specifies the Project Noise Trigger Levels (noise criteria) determined for the site based on procedures in the NPfI.

TABLE 3 NOISE CRITERIA					
Location	Criterion	Day (7am-6pm)	Evening (6pm-10pm)	Night (10pm-7am)	Morning Shoulder (5am-7am)
Depot Rd.	Intrusiveness dB(A),Leq(15-min.) ¹	50	40	36	38
	Amenity dB(A),Leq(15 min) ²	53	43	38	n/a
	Project Noise Trigger Levels dB(A) Leq (15 min.)	50	40	36	38

1 Rating Background Level (RBL) + 5dB. RBL is the median value of each ABL (Assessment Background Level) over the entire monitoring period. The ABL is a single figure representing the “L₉₀ of the L₉₀s” for each separate day of the monitoring period.

2. Project amenity noise level (ANL) is suburban ANL (NPI Table 2.1) minus 5 dB(A) plus 3 dB(A) to convert from a period level to a 15-minute level

5.2 Sleep Disturbance

As detailed previously, it is proposed that some of the industries in the sheds may operate during the night time period. The potential for sleep disturbance from maximum noise level events during the night-time period, therefore, needs to be considered. Sleep disturbance is considered to be both awakenings and disturbance to sleep stages.

The NPfI states that a detailed maximum noise level event assessment should be undertaken where the subject development/premises night-time noise levels at a residential location exceed:

- Leq (15 min) 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater, and/or





- L_{max} 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater.

The logger data presented in Table 2 shows that the prevailing RBL is 31 dB(A) L₉₀ and, therefore, the trigger level for a detailed assessment is **40 dB(A) L_{eq} (15 min)** and/or **52 dB(A) L_{max}**.

The detailed assessment should cover the maximum noise level, the extent to which the maximum noise level exceeds the rating background noise level, and the number of times this happens during the night-time period. Some guidance on possible impact is contained in the review of research results in the NSW Road Noise Policy (RNP).

Other factors that may be important in assessing the extent of impacts on sleep include:

- how often high noise events will occur,
- the distribution of likely events across the night-time period and the existing ambient maximum events in the absence of the subject development,
- whether there are times of day when there is a clear change in the noise environment (such as during early-morning shoulder periods), and
- current scientific literature available at the time of the assessment regarding the impact of maximum noise level events at night.

The detailed assessment should consider all feasible and reasonable noise mitigation measures with a goal of achieving the above trigger levels.

6.0 NOISE IMPACT ASSESSMENT

6.1 Operational Noise

The proposed layout of the site is shown in **Figure 2**.



Noise Impact Assessment – Mudgee Industrial Park

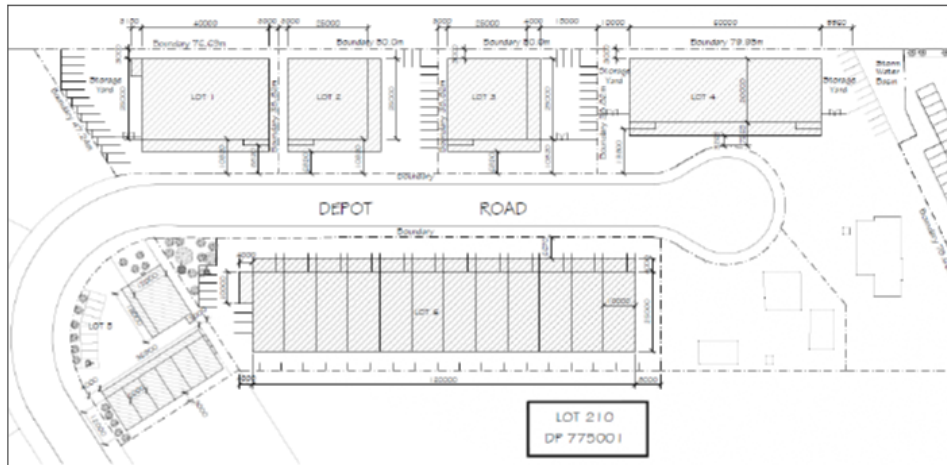


Figure 2 – Site Layout

As shown in Figure 2 it is proposed that the site will be subdivided into separate “lots” with a steel industrial style shed to be erected on these.

At the time of the current reporting Shed 1 was occupied by a small engineering works that operates during the day time. In order to cater for breakdowns and allow for additional works, at peak times, the owner wishes to extend the operating hours. The layout of Shed 1 is shown in Figure 3.

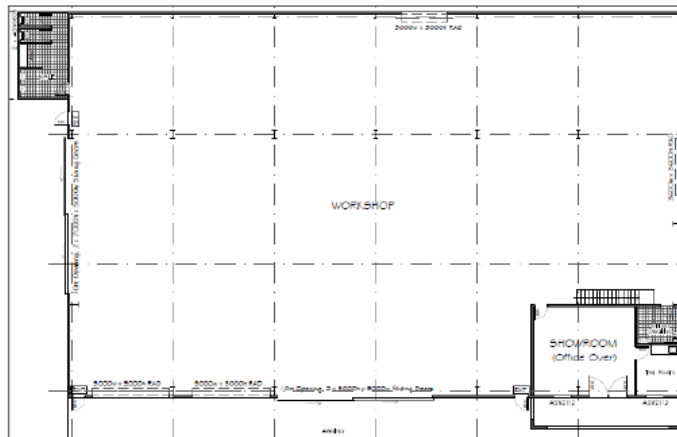


Figure 3 – Shed 1

Noise from the operation of the existing workshop was measured on site in July 2021. All sound levels from various workshop activities were measured with a Bruel & Kjaer Type 2250 Precision Sound Level Analyser with calibration performed before and after the measurements.



Noise Impact Assessment – Mudgee Industrial Park

At the time of the noise measurements the workshop was operating under typical conditions. The measurements included the general operation of the workshop (grinding, welding hammering etc.) as well as specific measurements made of gouging.

As shown in Figure 3, the shed has an operable wall in the southern facade (i.e. in the direction of the most potentially affected receivers). The noise levels from the operating workshop were measured at the centre of the opening, and other representative location within the workshop and yard.

There is a 2.4m high fence around the yard to the site and there are currently two storage containers mounted on frames inside the boundary. These storage containers form a partial acoustic barrier, to a height of 5.6m, in the direction of the nearest receivers in Inverness Avenue.

There are currently gaps between the two containers and also between the bottom of the containers and the top of the boundary fence. These gaps currently compromise the acoustic integrity of the barrier by allowing some noise to pass through. The occupant has indicated that the barrier will be made good along the length of the boundary such that there are no gaps.

The calculations made here assume that the work to complete that barrier has been done and they, therefore, include the insertion loss for a 5.6m high solid acoustic barrier.

Table 4 shows a calculation of the measured general workshop noise propagated from the opening at Shed 1 and impacting on the nearest residential receiver to the south west at 12A Inverness Avenue.

TABLE 4 SHED 1 WORKSHOP NOISE as dB(A) Leq (15 min) 12A INVERNESS AVE – DOOR OPEN									
	TOTAL	Octave Band Centre Frequency, Hz							
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss (80m)		46	46	46	46	46	46	46	46
Barrier Insertion Loss (5.6m)		7	8	10	12	15	18	21	24
SPL at Boundary	41	18	32	29	31	31	34	35	30

The results in Table 4 show that, under the assessed conditions, and with the acoustic barrier in place, the received noise will not exceed the adopted day time criterion at the most potentially affected receiver.





Attended noise measurements were made at locations in Inverness Avenue on the morning of 1st July, 2021. The noise from the workshop was measured in the reserve behind the residence at 12A Inverness Avenue. The noise included general workshop activity (but did not include gouging). A noise level of 42 dB(A) Leq (15 min) was attributed to emissions from the workshop at shed 1. The measurement also included contributions from other noise sources in the industrial area but these were excised from the data during the analysis process. The measured workshop noise is in keeping with the results shown in Table 4.

The results in Table 4 show that, under the assessed conditions, the noise from shed 1 will exceed the evening and night criteria. During these times it is apparent that the operable wall should be closed to limit noise emissions from the shed. **Table 5**, therefore, shows a calculation of the workshop noise propagated through the walls, with the operable wall and doors closed, and impacting on the nearest residential receiver to the south west at 12A Inverness Avenue.

The workshop noise was theoretically propagated to the nearest residences taking into account the effects of transmission loss through building elements, with the wall closed, and hemispherical spreading (distance loss) to the receiver. From consideration of the dimensions and orientation of the various building elements, the sound pressure levels immediately outside these were propagated to the nearest receiver using an equation¹ giving the sound field due to an incoherent plane radiator.

TABLE 5 SHED 1 WORKSHOP NOISE as dB(A) Leq (15 min) 12A INVERNESS AVE – DOOR CLOSED									
	TOTAL	Octave Band Centre Frequency, Hz							
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
STL of wall (0.4mm steel)		13	11	14	18	21	26	24	23
Exterior SPL	65	40	57	53	53	53	46	60	59
Barrier Insertion Loss		7	8	10	12	15	18	21	24
SPL at Boundary	30								

The results in Table 5 show that, under the assessed conditions, with all doors closed, the noise emissions from the assessed activities in

¹ Equation (5.104), DA Bies and CH Hansen, *Engineering Noise Control*, E & FN Spon, 1996.



Noise Impact Assessment – Mudgee Industrial Park

Shed 1 will not exceed the adopted evening or night time noise criteria.

The calculation assumes all activities are being undertaken inside the shed and that there is no activity in the yard.

The noise from gouging was measured to be approximately 6 dB(A) louder than that of eth general workshop. Based on the results in tables 4 and 5 this would indicate that the combined noise from gouging plus the general workshop would be in compliance with the day time criterion with the wall open.

The noise from gouging would be higher than the evening criterion with the wall open, but in compliance with the wall closed. The noise would be marginally higher than the night time criterion with the wall closed.

It is, therefore, recommended that, if gouging is to be undertaken during the evening the wall must be closed. Gouging should not be undertaken at night.

The remainder of the sheds are either under construction, or are proposed for construction. The sheds may be leased or sold to various users.

The designs for Sheds 2 and 3 are shown in **Figure 4**.

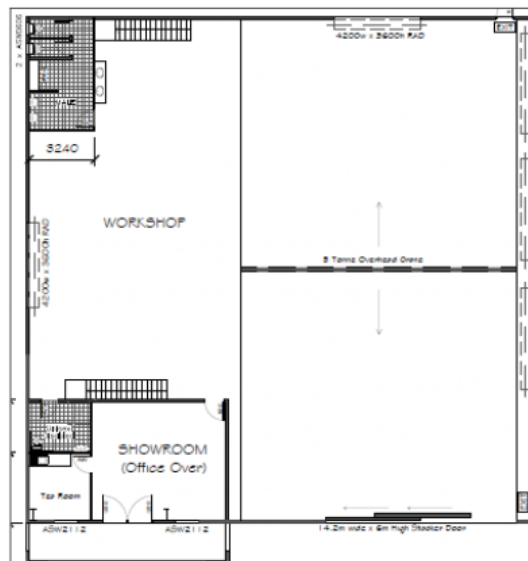


Figure 4 – Sheds 2 and 3





Sheds 2 and 3 are designed with roller door openings in the southern and western facades. These roller doors will face towards the receivers in Inverness Avenue. Noise emissions from the roller doors, particularly those in the southern facade will be partially shielded from the receivers by the acoustic barrier effects of the intervening sheds and/or the orientation of the doors with respect to the receiver boundaries.

The layout of both sheds is such that parking areas for each are located “behind” the sheds with respect to the nearby residential receivers. The building elements of the sheds will provide good acoustic shielding in the direction of those receivers.

Table 6 shows a theoretical calculation of the noise from workshop activities, similar to those operating in shed 1, considered to be operating in shed 3 (as shown in Figure 2). The roller doors to the shed were assumed to be open.

The location of Shed 2 will shield noise in the direction of the receiver at 12A Inverness Avenue and, therefore, the calculation has been made to the boundary of the most potentially affected receiver at 23 Inverness Avenue.

TABLE 6 SHED 3 NOISE as dB(A) Leq (15 min) 23 INVERNESS AVENUE – DOORS OPEN									
	TOTAL	Octave Band Centre Frequency, Hz							
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
Exterior SPL at opening	87	53	71	70	74	77	75	84	82
SPL at Boundary	44								

The results in Table 6 show that, under the assessed conditions, and with roller doors open, the received noise would not exceed the day time noise criterion but would exceed the criteria for evening and night.

Table 7 shows a theoretical calculation of the noise from workshop activities, with roller doors closed, propagated to the nearest potentially affected receiver.





Noise Impact Assessment – Mudgee Industrial Park

Propagation Elements	TOTAL dB(A)	Octave Band Centre Frequency, Hz							
		63	125	250	500	1k	2k	4k	8k
Source Lw	106	71	86	85	89	92	90	102	100
Average distance loss in shed (10m)		18	18	18	18	18	18	18	18
STL of wall (0.4mm steel)		13	11	14	18	21	26	24	23
Exterior SPL at wall	65	40	57	53	53	53	46	60	59
SPL at Boundary	35								

The results in Table 7 show that, under the assessed conditions, and with roller doors closed, the received noise would not exceed the criteria for any of the day, evening or night times.

The calculations in tables 6 and 7 are based on the noise levels from the existing workshop but are considered likely to be representative of most typical machinery or light fabrication workshops.

The operation of other commercial activities in the other sheds would require specific assessment but, as a general indication, the noise from workshops as measured is at the upper end of expected noise levels for any activities that may occur in industrial sheds like those to be constructed.

Other sheds on the site are further away from any residences and are also further shielded from receivers by the structure of the intervening buildings.

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

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

The consideration of the noise control options for all sheds was included in the original acoustic assessment for the site and is included below.

The noise control could include (but not be limited to) relatively simple actions such as;





- Lining the internal walls or parts of the walls,
- Isolating particularly noisy plant or activities and acoustically shielding these;
- Locating noisy plant or activities “behind” internal partitions or offices relative to receivers, or
- Sourcing noise attenuation equipment specific to a particular plant item, e.g. mufflers, attenuator guards, cowlings etc.

6.2 Sleep Disturbance

The discussion of operational noise during the evening and night indicates that during the night time period all significant noise generating activities should be undertaken inside the various sheds and with all external doors and openings closed.

The potential for sleep disturbance impacts is, therefore most likely to come from loud noise associated with people arriving or departing work (car doors, engine revs etc.) or from noise associated with the delivery or transport of parts or machinery. All of these events have relatively loud maximum noise levels which, when averaged out over a 15 minute period have an acceptable Leq noise level.

A scenario has been assessed where a noise source representing an impact from a truck being unloaded in the yard of shed 2 is potentially impacting on the receiver at 23 Inverness Avenue at a distance of approximately 170m.

Preliminary calculations indicated that, under the conditions, there was a potential for the sleep disturbance criterion to be exceeded and that some form of noise control would be required. The most feasible option would be to construct an acoustic barrier fence along the western boundary of the site, as shown in **Figure 5**.

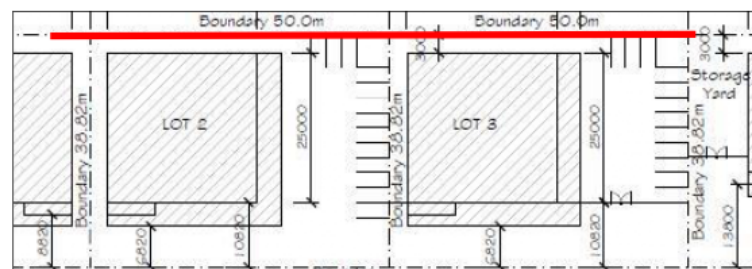


Figure 5 – Acoustic Fence





Noise Impact Assessment – Mudgee Industrial Park

Table 8 shows a calculation of the maximum impact noise propagated from the yard at Shed 2 and impacting on the residential receiver at 23 Inverness Avenue. The calculation assumes a 2.5m high barrier along the boundary as shown in Figure 5. The noise source was considered to be at 1.5 high and the receiver height was assumed to be 2m above ground level.

	TOTAL	Octave Band Centre Frequency, Hz							
		63	125	250	500	1k	2k	4k	8k
Propagation Elements	dB(A)	63	125	250	500	1k	2k	4k	8k
Source Lw	115	94	95	102	108	109	109	106	98
Average distance loss (170m)		53	53	53	53	53	53	53	53
Barrier Insertion Loss (2.4m)		6	6	7	9	11	14	17	20
SPL at Boundary	51								

The results in Table 8 show that noise from loud impacts in the yards of the sheds can be adequately controlled provided there is a minimum 2.5m high acoustic barrier along the boundary as indicated in Figure 5.

An acoustic barrier is one which is constructed of material with minimum surface density of 15kg/m³ and is impervious from the ground to the recommended height with no gaps for the passage of sound. For the current site a lapped and capped timber fence with minimum 12mm palings and 25% overlap each side would be acoustically adequate.

The barrier as shown would also provide additional attenuation of noise from activities in the sheds.

As there are no confirmed end users for the sheds, the calculations and discussion above is a generic sleep disturbance scenario, based on a potential situation. It is noted that the calculation assumes a loud noise source in the yard representing, say, a truck delivering goods or unloading machinery during the night (nominally, early morning prior to 7am).

If this activity, or other loud noise events are not proposed for outdoor areas or yards at the sheds then the barrier would not be required. Under those circumstances, the use of the yards at night would need specific assessment.





7.0 CONCLUSION

An assessment has been conducted to determine the potential for adverse noise impacts arising from potential evening and night time operation at the proposed industrial sheds at the Mudgee Industrial Park on Lot 210 D.P. 775001, Depot Road, Mudgee.

The assessment has shown that operation of the sheds during the evening and night would be possible provided the doors to the sheds are closed during those times.

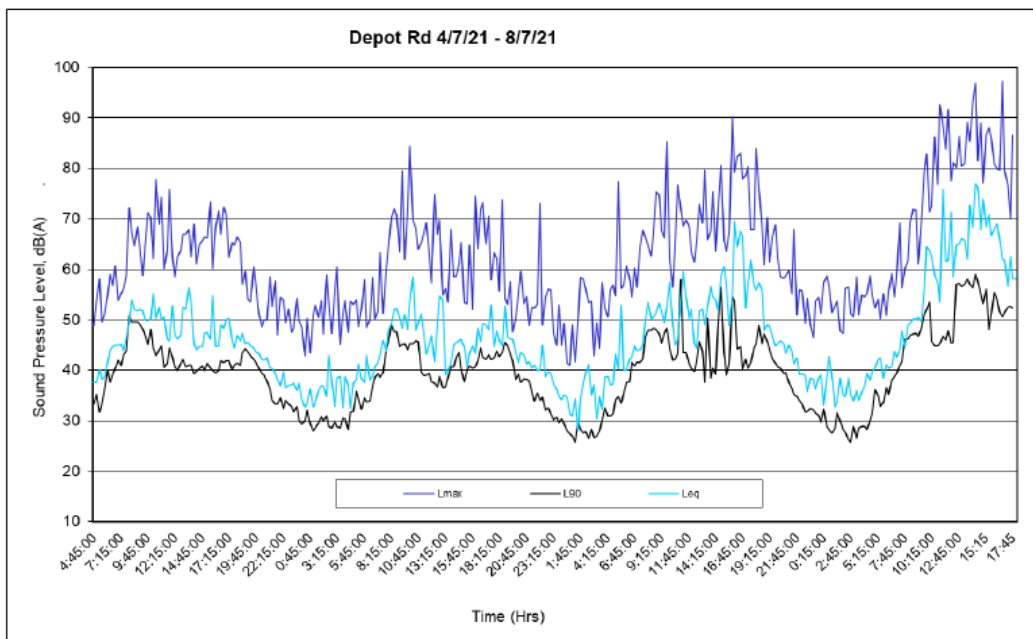
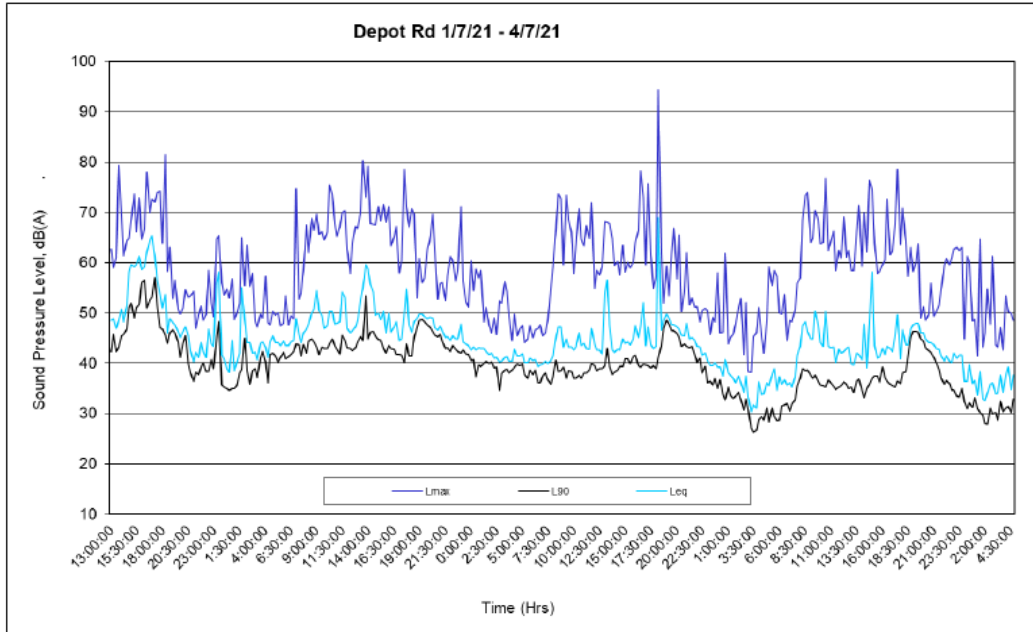
The use of the yards to the closest sheds to residential receivers would be possible provided a minimum 2.5m high acoustic barrier is in place along the western boundary to the site.





Noise Impact Assessment – Mudgee Industrial Park

APPENDIX I
NOISE LOGGER CHARTS



From:
To: [Council](#)
Subject: Development Objection - Proposed Modification to Increase Hours of Operation
Date: Tuesday, 7 September 2021 8:20:11 PM

Mark & Gail Pedron

Att: General Manager

We wish to lodge our objection to the development application MA0001/2022 Proposed Modification To Increase Hours Of Operation to 24 hours @86 Depot Road Mudgee NSW 2850 -Lot 2102 DP 123 7751

We are the closest Resident at Mudgee situated approximately **30 meters** right behind **Shed 1** , This develop application has been deceitfully hidden in lot 86 Depot Road Mudgee when the heavy Industrial Shed requiring the approval in actually Lot 63 Depot Road Mudgee , Even your own Town Planner was surprised when that was brought to her attention .

Our master Bedroom Windows are approximately 30 meters from Shed 1 , the continuous noise during day time operation is already at a point that we do not open our bedroom windows or side alfresco at all .
During the Acoustic report the logger was conveniently placed on the vacant golf course land some **120 metres** from shed 1 not at our residence 30 Metres away .

The Acoustic report says operation of Shed 1 during the evening should be fine subject to doors being closed from 12 midnight to stop noise escaping the buildings , So that means we can hopefully get some sleep after 12 Midnight when the doors are closed , Let me ask you this question would that be acceptable for yourself and your family ?

It states in several tables of the report that the noise from shed 1 will **exceed** the evening and night criteria and the operable wall should be closed and all activities to be undertaken inside the shed and no activity in the yard to limit noise,

during these times , It should not be approved as it does not meet the noise criteria

Which council members are is going to call in after 12 midnight for the next Twenty ,Thirty , Forty plus years to make sure the doors are closed and no yard activity ?

Other comments of concern in the report are

- Only **recommended** that Gouging not be undertaken at night not prohibited again who will guarantee that ?
- Condition of doors closed could be **removed**
- Sleep Disturbance Impact **from** workshop noise car doors ,engines revving , staff coming and going , delivery and transport
- **Assuming** doors are closed
- Acoustic Barriers need upgrading

The Current Acoustic Barriers in place do little to buffer the current noise from the Industrial area , we challenge Council to do their own independent acoustic report without the applicants knowledge of testing date as you would be aware any smart business person can have a report done in there favour if they are the one applying and paying for the service and know when its going to be performed

When we purchased our property The Industrial area behind Inverness Avenue was supposed to be Light Industrial with no Sunday or evening trading and roller doors closed , That has not been the case with doors open all day during the warmer weather , Operating and deliveries on weekends and the shed in question behind us has had work being performed in the shipping containers on the boundary not inside the shed and also at times taking up residence on site , we have hoped that Council would step up and take action but that never happened even though they were aware of this

The applicant said the extended trading would be crucial to the Mudgee economy we don't agree it will not create more jobs just the opposite and possibly take work from the smaller Mudgee businesses that are struggling to survive during these hard times

Good quality Residential streets and Real Estate is also crucial to Mudgee and Council would de value the real estate in the Links Estate if this request was approved

In conclusion we think that Council would be doing a great In- Justice to the Residents and Ratepayers of Inverness Avenue and Links Estate if they were to grant the request to extend trading and Unfortunately we would have to consider legal advice and or class action if this is the case .

We would appreciate notification of when this is to go before council

Kind regards

Mark & Gail Pedron

7 September 2021

Kayla Robson
Senior Town Planner
Mid-Western Regional Council



Dear Kayla

RE: DA MA/0001/22 – 86 DEPOT ROAD, MUDGEE

We, the undersign would like to object to the above DA on the grounds of noise and the setting of a precedence for the rest of the area.

We don't want to stop progress, but as a residential area within metres, the existing 5.5 days of operation is enough.

We experience noise outside the approved operating hours now from 63 Depot Road (have previously reported) and with future development in the area, we feel if this is approved it will allow more heavy industries to operate 24/7.

All we ask for is a little peace and quiet at night and Sundays.

Thank you for receiving our concerns.

Residents of Inverness Ave.

Jeff Morgan

Warwick & Marjorie Marskell

Ian & Jenifer Marchant

Mark & Gail Pedron

Sara Swords

