



Planning

***Modification to the Concept Plan Approval
for the Road/Rail Freight Terminal at 213
Sydney Road, Kelso***

Proposed by Gateway Land Corporation

Modification 05_0047_Mod 1

Modification of Minister's Approval under Section
75W of the *Environmental Planning and Assessment
Act 1979*

November 2009

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EXECUTIVE SUMMARY

This is an assessment report related to a proposed modification of Concept Plan approval MP 05_0047 Mod 1 for a road/rail freight terminal at Kelso, approved by the then Minister for Planning on 12 August 2006. The modification was submitted to the Department by GSA Planning, on behalf of Gateway Land Corporation (the Proponent) on 11 December 2008.

The Proponent is seeking the following modifications to the existing approval:

- a revised footprint layout for individual allotments and buildings on site;
- introduction of two (2) fast food restaurants with 24 hours operation;
- a reduction in hardstand area storage;
- a revised rail siding and loading area;
- a small reduction in total gross floor area;
- changes to site access;
- changes to the riparian corridor and a revised stormwater management strategy;
- consolidation of the approved truck refuelling facility, railway engineer's facility and forklift maintenance facility into the administrative facility;
- subdivision;
- revised Concept Plan staging;
- exclusion of a portion of the site from the Concept Plan approval; and
- modifications to the conditions of approval, namely conditions 1, 6 and 10.

The Department has assessed the modification request and supporting documentation and submissions received by public agencies and the public. An issue raised by Bathurst Regional Council is its view that the proposed modified development is 'radically different' from that approved and therefore outside the scope of s75W of the *Environmental Planning and Assessment Act, 1979*. Council is of the view that the proposed modification will convert the site from a freight terminal with a minor component of bulky goods/highway uses to a predominately bulky goods development, with the introduction of new uses and components which do not form part of the original approval.

The Department has reviewed the modification request and supporting documentation and is of the view that the proposed changes, by reason of their nature and extent, do not constitute a radical transformation of the terms of the existing development consent. The basis for consideration is discussed in section 5 of this report, and it is concluded that the request is consistent with the intent of the Concept Approval.

Issues raised by Bathurst Council in relation to the scope of the modification have been largely addressed by limiting the total developable floor space to 62,000m² (broadly consistent with the approved Concept Plan) and imposing a condition to ensure uses such as fast food restaurants and the service station are not operational until the inter-modal works have been completed.

The Department considers that the key environment issues related to the proposed modification include: changes in concept plan and uses, future development, operability of the rail terminal, traffic, staging and visual impacts.

On balance, the Department considers the modification request to be justified and improves on existing opportunities for freight transportation at the site. Consequently, the Department recommends that the modification should be approved subject to the Department's recommended conditions of approval.

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1. BACKGROUND

1.1 The Site

The site, identified in Figure 1: Locality Map, is located at 213 Sydney Road (Great Western Highway), Kelso, in the Bathurst LGA, approximately 4km east of the Bathurst Town Centre. The site comprises two allotments, which are legally known as Lot 1 DP 164151, Lots 21 and 22 DP 137352, and Part Lots 60, 68, 73, 81 DP 755781. The site is irregular in shape with a northern frontage of 900m to the Great Western Highway, an eastern boundary of 434.82m, a rounded 575m southern frontage to the Great Western Railway and a western boundary of 279.43m, providing a site of 29.47ha.

The site has been extensively cleared of vegetation, with an old decomposed granite (gravel) quarry located in the south-eastern portion, and a dwelling fronting the Great Western Highway. The site is bisected by Raglan Creek and a minor tributary of Raglan Creek which runs parallel to the Great Western Highway, traversing the northern boundary of the site. The site has historically been used for agricultural and grazing purposes.

1.2 Surrounding Land Use

Development surrounding the site comprises a mix of rural, industrial, service businesses and residential development. The Gold Panners Motor Inn and a caravan park are located directly opposite the site on the Great Western Highway. There are residential developments north of these facilities at Ashworth Drive and Diamond Place and west of the facilities at Sundown Drive. Immediately to the south is railway land, adjoined by land zoned industrial. To the east and west is rural and industrial land, including a food processing complex adjoining the site to the west.

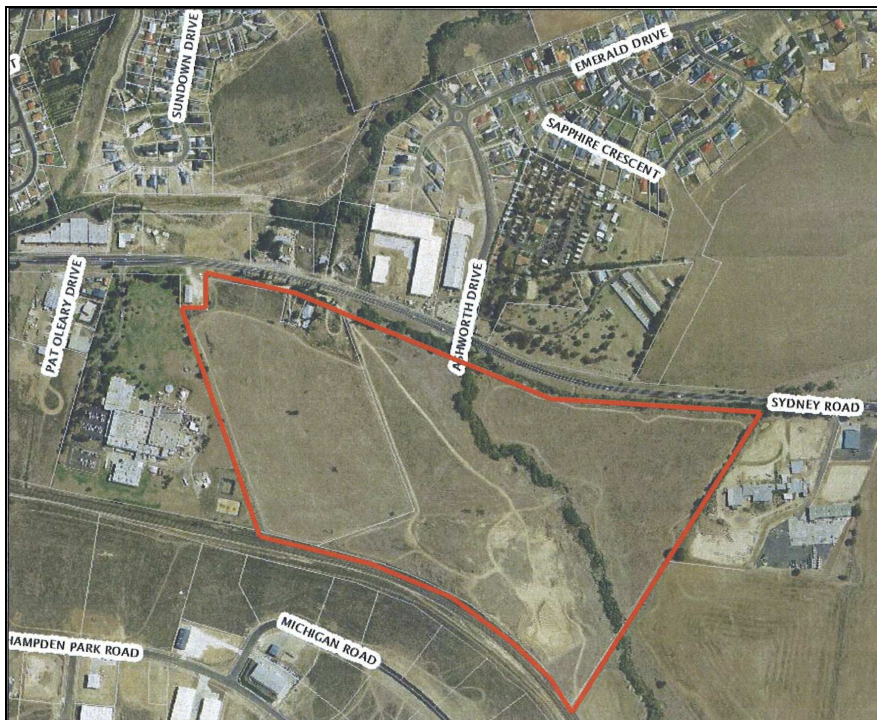


Figure 1: Locality Map

2. MAJOR PROJECT APPROVAL

On 12 August 2006, the then Minister for Planning granted Concept Plan approval for the construction and operation of a rail/road intermodal terminal with associated storage and business facilities. The intermodal terminal would be used to transfer goods and produce from the Bathurst regional area from road to rail for transportation to Sydney, Melbourne and Brisbane. The major components of the approved Concept Plan – identified in Figure 2, include the following:

- two private sidings, each 630m in length, extending from the south-eastern boundary of the site to the north-western corner of the site with turn-around facilities at either end;
- containerised goods storage areas with a total area of 52,180m²;
- eight development sites for warehousing and open storage facilities, with a gross floor area (GFA) of approximately 52,000m² over two levels;
- twenty development sites located along the Great Western Highway frontage for use as bulky goods storage, warehousing and rural produce supplies, with a GFA of 11,250m²;
- a service station with 24 hours operation;
- access and internal service roads and 428 car parking spaces;
- administrative and maintenance facilities; and
- landscaping of the Great Western Highway frontage and public areas and rehabilitation of riparian areas.

The project has an estimated capital value of \$100 million and is to be constructed in four stages, over a ten year period. The Concept Plan approval required that detailed project applications be submitted to the Minister for the implementation of the Concept Plan.

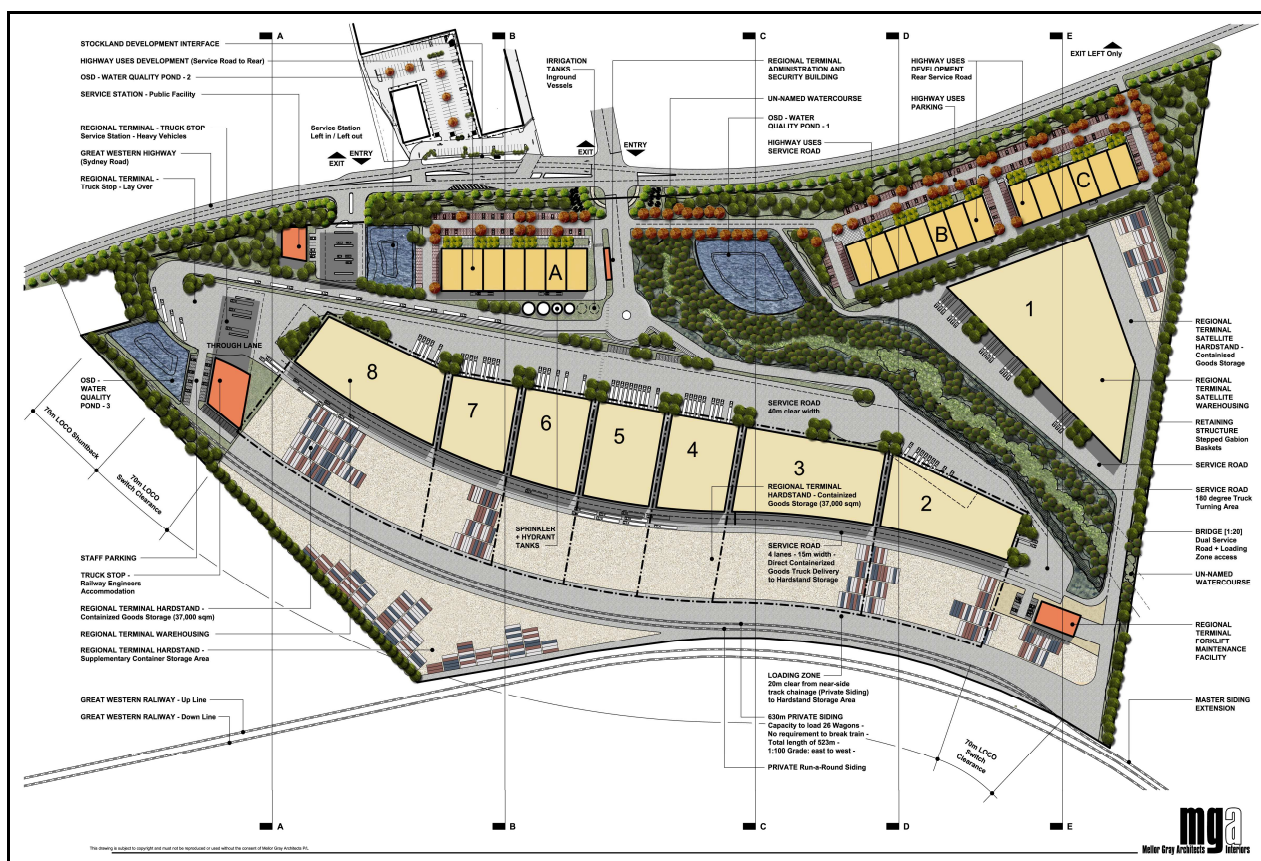


Figure 2: Approved Concept Plan

3. DESCRIPTION OF PROPOSED MODIFICATIONS

The Proponent, Gateway Land Corporation (previously known as Slobobax Pty Ltd) is seeking a modification to the Minister's approval of the Kelso Road/Rail Freight Terminal Concept Plan, under section 75W of the *Environmental Planning and Assessment Act, 1979*. The proposed modification involves the following:

- a revised footprint layout for individual allotments and buildings on site;
- introduction of two (2) fast food restaurants with 24 hours operation;
- a reduction in hardstand area storage;
- a revised rail siding and loading area;
- a small reduction in total gross floor area;
- changes to site access;
- changes to the riparian corridor and a revised stormwater management strategy;
- consolidation of the approved truck refuelling facility, railway engineer's facility and forklift maintenance facility into the administrative facility;
- subdivision;
- revised Concept Plan staging;
- exclusion of a portion of the site from the Concept Plan approval; and
- modifications to the conditions of approval, namely conditions 1, 6 and 10.

Refer to Figure 3 for proposed modifications to Concept Plan.



Table 1 below provides a comparison between the approved Concept Plan and proposed modification in tabular form.

Use	As Approved		Proposed Modification		Implications
	No. of sites	GFA	No. of sites	GFA	
Highway Uses Including Fast-Food Outlets	20	11,250m ²	10	11,250m ² *	No change
Service Station	1	520m ²	1	520m ²	No change
Warehousing/Distribution	8	47,275m ²	12	46,240m ²	-1,035m ²
Road/Rail freight terminal and support facilities		2,865m ²		2,080m ²	-785m ²
Total		61,910m ²		60,090m ²	-1,820m ²

*Proposed Lot 10 which has an area of 39,304m² has been excluded from calculation. If included, the total GFA of the site will indeed increase from that approved.

Table 1: Summary of approved Concept Plan and proposed modification uses and areas

3.1 Justification of the Modification

The Proponent's justification and objectives for the modification are as follows:

- secure finance to undertake the development, in particular the establishment of the intermodal terminal, by allowing highway uses to be established in the same stage as the intermodal terminal;
- to reflect the operational requirements of intermodal operators;
- to cater for greater number of users with smaller space requirements and for known potential tenants;
- to provide better access and traffic control; and
- to provide better stormwater management systems and further enhance the development a wildlife corridor and rehabilitation of a riparian corridor, within the site.

The Proponent considers that the proposed changes will continue to promote substantial economic, social and environmental benefits to the region while maximising opportunities of the site to be developed as a road/rail freight terminal. The Proponent also considers that the project is consistent with the aims and objectives of the relevant State and local policies and plans.

4. STATUTORY CONTEXT

4.1 Modification of a Minister's Approval

The modification request has been lodged with the Director-General pursuant to section 75W of the Act, which provides for the modification of the Minister's approval, including revoking or varying a condition of the approval or imposing an additional condition of the approval and changing the terms of any determination made by the Minister under Division 3 in connection with the approval.

Under section 75W(2), the Minister's approval for a modification is not required if the project, as modified, will be consistent with the existing approval under Part 3A of the Act. In this instance, the proposed modification as described above involves changes that are considered not to be consistent with the approved Concept Plan. The proposal introduces new uses including take-away food outlets and motor showrooms and subdivision of the site. Further, the numbers and layout of the individual allotments and buildings have changed from that approved, with one lot (Lot 10) proposed to be excluded from the Concept Plan approval. Accordingly, the proposed modifications are considered by the Department to be not consistent with the original approval and therefore require a formal application to modify the Minister's approval.

Section 75W(3) of the Act enables the Director-General to issue environmental assessment requirements (DGRs) for a proposed modification that the Proponent must address before the matter will be considered by the Minister. DGRs have not been issued in this case due to the scope of assessment undertaken, which was considered adequate based on the nature of the proposed modification.

Section 75W(4) of the Act gives the Minister the authority to modify the approval (with or without conditions) or not approve the modification. Following consideration of the proposed modification (see below), the Department recommends the modification be approved through a mechanism of adding new conditions to the Minister's approval as attached to this Report.

A key concern raised by Council in its submission relates to a claim that the modification is substantially and radically different to the approved Concept Plan and therefore the application cannot be considered under section 75W of the Act. The Department does not consider that the project is a radical transformation from that approved by the Minister for the following reasons:

- the intermodal terminal will continue to be the main driver of the project and will be developed in stage 1;
- changes to the GFA of the key components of the project remain substantially the same;
- the proposed new uses are ancillary uses that make up a small component of the site and are permissible under both the current and draft LEP;
- the size of lot 10 is relatively small when compared to the whole of the site; and
- subdivision of lots and dedication of internal roads are matters directed to be addressed under Part 4 of the Act with separate assessment to be undertaken by Council.

As such, the Minister may exercise her powers to determine the modification under section 75W of the Act.

4.2 Permissibility

The site is zoned 1(a) Inner Rural zone under the *Bathurst Regional (Interim) Local Environmental Plan (LEP) 2005*. The proposed new uses including take away food outlets and motor showrooms are permissible development in the zone. Nonetheless, the LEP has identified bulky goods salesrooms or showrooms and motor showrooms as usually not consistent with the objectives of the zone.

The Department notes that a new comprehensive LEP for the LGA has been drafted and will be exhibited in the near future. As the site would be developed over an extended period of time, consideration of the proposed zonings and the permissibility of the new uses is appropriate. Under the draft Bathurst LEP, the site would be zoned B5 – Business Development. Take away food premises are proposed to be permissible with consent and service business activities such as bulky goods salerooms or showrooms are encouraged.

The Department is satisfied that the Minister may determine the project as the LEP is discretionary in relation to the proposed land uses. Notwithstanding the Concept Plan process permits the Minister to consider a development that is not permissible.

4.3 Approval Authority

On 4 March 2009, the Minister for Planning delegated her powers and functions under s75W of the Act to the Director-General, in the case where:

- a. there are less than 25 public submissions in respect of the project; and
- b. the modification involves development that has a capital investment value of less than \$50 million.

The modification request does not comply with criteria two as the development has a capital investment value of \$100 million. Consequently, the Minister for Planning is the approval authority.

5. CONSULTATION

Under section 75W of the Act, a request for a modification of approval is not required to be publicly exhibited. Notwithstanding, due to the scope of the modifications, the application was publicly exhibited from 29 January 2009 to 2 March 2009, and made publicly available in accordance with section 75X of the Act. Eleven submissions were received on the modification, comprising of:

- nine submissions from public authorities; and
- two from the general public.

A summary of the issues raised is listed below in Table 2.

Public Authority	Issues/Comment
Department of Primary Industries (DPI)	<ul style="list-style-type: none"> • The modification does not significantly change the creek rehabilitation, and may bring improvement by increasing the riparian corridor creek. • The desired channel bank slope should be determined from either geotechnical investigations, a bank slope similar to an existing stable upstream or downstream bank, or according to the table provided. • Disturbance to the banks should be rehabilitated quickly with appropriate endemic species. • Supports the bed control and riffle elements proposed for Raglan Creek.
Western Region Development Committee (WRDC)	<ul style="list-style-type: none"> • Does not oppose to the planned development. • Provided comments and recommendations on traffic control and access and general road safety for drivers and pedestrians.
Roads and Traffic Authority (RTA)	<ul style="list-style-type: none"> • The RTA Property Services has a plan to widen the Great Western Highway through Kelso, which may restrict access to the left-in left out access point of the site. • Concurs with the WRDC's recommendations and raises no further issues.
Department of Environment and Climate Change (DECC)	<ul style="list-style-type: none"> • Supports the project. • Sediment and erosion control measures should be designed and implemented in accordance with relevant guidelines. • Concurs that the project is not likely to have a significant impact on flora and fauna and endorses the proposed statement of commitments summarised in the EA. • Concurs that the project is unlikely to have any adverse effect on Aboriginal Cultural Heritage, given the absence of any identified sites and the previous usage of the site.
Department of Water and Energy (DWE)	<ul style="list-style-type: none"> • Supports the rehabilitation of Raglan Creek. Further comments on the proposed rock riffles in the bed of Ragland Creek will be provided at the detailed design stage. • Recommends a review of the capacity of the culverts. • Requests that additional information be provided on a well on the south bank of Raglan Creek. As this well can potentially be a conduit for contamination of groundwater and a hazard if inappropriately managed, the DWE requests the Proponent to include the well as part of the development. • Recommended a number of conditions of approval.
Bathurst Regional Council	<ul style="list-style-type: none"> • Objects to the proposed modification as in its view constitutes a radical transformation from the original Concept Plan approval.
Ministry of Transport	<ul style="list-style-type: none"> • Length of the rail siding is insufficient to accommodate 600m push-pull trains out of Port Botany as recommended in the 2005 Freight Infrastructure Advisory Board report. Requests the Proponent to justify the incompatibility. • Recommends that RailCorp be consulted as permission for trains to access paths on its network would be required. Further, the Proponent shall demonstrate the proposed works will not adversely impact on the operation of buses along the Great Western Highway and ensure the frontages of the site allow safe pedestrian and cycle access along the highway during the demolition and construction period.
Public	<ul style="list-style-type: none"> • Traffic and access. • Aesthetics of leaning tower boxes.

	<ul style="list-style-type: none"> • Noise. • Noise monitoring and follow ups.
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Table 2: Summary of submissions received

5.1 Response to Submissions

Upon review of the submissions received, the Department directed the Proponent to respond to all issues raised in the relevant submissions.

A response to submissions was submitted to the Department on 27 March 2009.

6. ASSESSMENT OF ENVIRONMENTAL IMPACTS

The Department has identified the following key environmental issues associated with the modification:

- changes in Concept Plan and uses;
- future development zone;
- operability of the rail terminal;
- traffic generation and management;
- staging; and
- visual impact and landscape and building setbacks.

All other issues are considered to be minor and have been adequately addressed as part of the Proponent's assessment.

6.1 Changes in Concept Plan and Uses

Issue

The Proponent proposes to revise the footprint layout for individual allotments and buildings on site and to introduce two fast food restaurants and two motor showrooms adjacent to the Great Western Highway, which were not specified under the original Concept Plan.

Issues raised in submissions

Council does not support the fast food outlets and motor showrooms as it considers they are not consistent with the objectives of the 1(a) Inner Rural zone and inappropriate within the context of a rural zone. Council claims that the gross floor area (GFA) of the bulky goods/highway uses component of the development has increased from 5,625m² to 11,770m², whilst there is a significant reduction in the warehousing component from 57,625m² to 46,240m², resulting in the transformation of the site to a bulky goods precinct. Council also considers that the modification is radically different to the approved Concept Plan, and therefore a new application should be submitted.

Consideration

With regards to the land use issue, the Proponent advises that whilst the site is currently zoned 1(a), the Bathurst Region Urban Strategy recommends the rezoning of the site to Service Business Zoning as part of a new LEP. Under the new LEP, service business activities such as showrooms are encouraged. The proposed modification is therefore consistent with the strategic direction of Council as set out in the Strategy. In relation to the gross floor area of the bulky goods/highway uses, the Proponent disputes Council's calculation and states that the GFA for the bulky goods/highway uses component remains as approved, nonetheless, there is a reduction in the GFA for warehousing and the intermodal terminal.

The Department considers that the proposed new uses are suitable for the site. Fast food take-away outlets and motor showrooms are permissible within the 1(a) Inner Rural Zone and an objective of the rural zone is to provide for a range of compatible land uses to be carried out on land within the zone that are in keeping with the rural character of the locality and do not unnecessarily convert prime crop and pasture land to non-agricultural land uses. The site was previously used for a slaughter house, stock grazing and granite quarry, resulting in the removal of top soil. The site is therefore not considered to be productive land for agricultural uses.

The proposed uses are similar in nature and operation of the approved uses. In particular, motor showrooms are similar to bulky goods retailing as both uses require large floor area for the display of goods, and the number of clientele visiting the site will be relatively low. Similarly, take-way food outlets are similar to the service station as they will cater for clientele who will remain on site for a short period of time, including passing traffic. The site is also bounded by compatible land uses comprising rural, industrial, service business and residential uses. Specifically, a motel, caravan park, a Harvey Norman store with carpark and a residential area is located to the north of the site. To the south of the site is railway land, and further south is more industrial land. A food processing/manufacturing complex is located to the west of the site.

With respect to discrepancies in floor space, the Department has undertaken its own calculation. Whilst the Proponent claims that the proposal will result in a decrease in GFA from 61,910m² to 60,090m², this figure is misleading as it excludes the future development zone (lot 10). If lot 10 was included in the calculation, the GFA of the modification would increase to 73,090m² (an overall increase of 18%), assuming lot 10 has the same GFA as the approved lot 1. Such an increase is considered unacceptable by the Department, thus a condition is recommended to limit the total GFA of the site to 62,000m² to ensure consistency with the approved Concept Plan (refer to discussion below in section 6.2).

Notwithstanding, the Department does not consider that the modification constitutes a development that is radically different to that approved and that the site will continue to operate as a road/rail freight facility with associated storage facilities. The provision of additional warehousing is consistent with the objects of the original Concept Plan.

6.2 Future Development Zone

Issue

The modification proposes to exclude a part of the site (formally Lot 1 and occupied by a large warehouse) from the Concept Plan approval. The reason for this exclusion is the site's isolation from the rail siding due to the presence of Raglan Creek and therefore the lack of required connectivity to the rail line for operational efficiency.

Issue raised in submissions

Council raised concern that excision of such a large area from the Concept Plan, which intends to establish the development parameters for the whole of the development site, will result in a potentially different development from that originally approved.

The Proponent contends that exclusion of this area does not result in a significant different development, and any new or future development will be subject to a new application and its planning implications will then be assessed at the time accordingly.

Consideration

The Department does not accept this component of the modification for the following reasons:

- the site provides a logical expansion of the proposed bulky goods (retail) development fronting the Great Western Highway, and is suitable for service business and bulky goods development due to its proximity to the highway;
- exclusion of the site allows for an increase in development that has not been assessed, including traffic impact of up to an additional 39,000m² developable area; and
- the Concept Plan should enable the Department and Council to consider development on this site at a future time in a holistic manner.

In order to control future land uses on this site, the Department has recommended appropriate development controls governing the site such that it is consistent with the Concept Plan approval. These controls include development parameters on floor space, height, setbacks and site access.

6.3 Operability of Rail Terminal

Issues

Under the original Concept Plan, the Department approved two private sidings, each 630m in length, allowing 567m length trains (2 locos/26 wagons) to enter and exit the site in a forward direction. The length of these sidings is proposed to be decreased to 607m, allowing 523m length trains (2 locos/26 wagons) to continue to move in a forward direction.

The modified Concept Plan also proposes to reduce the total hardstand area from 52,180m² to 41,624m²; a reduction of 10,556m² or 20%, with different configurations to that approved. There is also a reduction in the operating distance between the siding and lot boundary of warehouses G to M. This operating distance provides hardstand areas to warehouses G to M and manoeuvring space for forklifts to load and unload containers on site.

Issues raised in submissions

The Ministry of Transport (MoT) raised concern that the proposed rail sidings is insufficient in length to accommodate a 600m (trailing length) push-pull trains out of Port Botany as recommended in the 2005 *Freight Infrastructure Advisory Board* (FIAB) report.

Consideration

The Department shares the MoT's concern and requested the Proponent to undertake further investigation and seek opportunities to increase the length of the siding to that recommended in the FIAB report.

In the revised scheme, the private siding was increased in length to 607m with the eastern loco switch clearance (run-around points) located on the rail corridor. The Proponent advised that the ARTC has confirmed no objection to this arrangement and has previously advised that the proposed train configuration would meet future requirements.

Based on the information provided, the Department is satisfied that the proposed rail siding is of sufficient length to connect freight trains from Kelso to Port Botany and other destinations, subject to the provision of a Safety Interface Agreement prepared in consultation with the ARTC. A new condition is recommended.

The Department was concerned that a loss in hardstand area, including a reduction in the operating distance and circulation space for forklifts to the rear of warehouses G to M, could severely disrupt the reliability of operation of the intermodal terminal and warehouses. The Proponent was requested to provide details on the logistics management and movement within the site, in particular the transfer movements of goods and containers between the rail and road transport.

In response, the Proponent states that the current intermodal terminal is envisaged for a throughput of 100,000 Twenty Foot Equivalent Container (TEU) units per annum. ie 50,000 TEU each way per annum (this volume is based on the market research of potential container customers but will take a number of years to reach this volume). Generally, the internal container transfer method for containers between rail siding and warehouses is unknown at this stage, as this will be dependent on the intermodal operator, however, it is suggested that an internal 'container-carrying-truck' would cart between the forklift track side and warehouses with a second forklift at the warehouse end. Although this method introduces a degree of double handling, this method is considered by the Proponent as more economical than provision of an additional 30 tonne capacity forklift, as well as allowing lot F to function as part of the terminal operations without prejudice due to its location. The Department considers that the current layout is workable based on the volume envisaged.

6.4 Traffic Generation and Management

6.4.1 External Access

Issue

The original approval provided for access and egress to the site via the Great Western Highway with three access points for vehicular access, including a signalised intersection at Ashworth Drive/Great Western Highway, a left-out egress towards the eastern end of the site, and a left-in and left-out ingress and egress towards the western end of the site.

The modification proposes to change the eastern access point on the Great Western Highway to left-in left-out and reconfiguration of the internal road circulation and layout. This is supported by the Western Regional Development Committee (WRDC) and by the Department as it provides better access to lots on the eastern side of the site.

Issues raised in submissions

A number of submissions, including submissions from the WRDC and the public, raised concerns on increased traffic generation and traffic distribution. There was also question on the need to upgrade the Great Western Highway to a 4 lane highway to cater for traffic generated by surrounding development.

Consideration

A Traffic Report was prepared to support the justification and impact assessment for the proposed modification. The report predicted that a minor reduction in warehouse area and terminal support facilities in conjunction with the proposed new uses, would generate an additional 140 vehicles per hour at peak periods, equating to an additional 1400 traffic movements a day.

Condition 19 of the Concept Plan approval sets a maximum cap of 2000 traffic movements per day from the site. This cap is consistent with the traffic predictions contained in the EA which was based on a 50-50 split of the highway uses being bulky goods retailing and warehousing. The Proponent revised this figure to incorporate changes proposed under the modification, and it is envisaged that a maximum of 3400 vehicles per day will be generated. The WRDC is generally of the view that the project is acceptable subject to implementation of road works on the Great Western Highway.

A model on traffic flows and traffic signal phasing was undertaken which concluded that the road network will be able to cater for the additional traffic generated by the proposed modification, which would operate within acceptable levels of service. The report also stated that with the approved signalisation of the main site access at the Great Western Highway/Ashworth Drive, and the proposed left-in left-out at the eastern site access, the road network would be able to cater for the additional traffic from the proposed modification. The Department concurs with the findings of this report. Notwithstanding, it is noted that this level relates to the identified floorspace and uses across the total site. Any additional floorspace above the recommended cap would require a further modification to the Concept Plan. Condition 19 of the Concept Plan approval is thus recommended to be revised to 3400 vehicles.

The WRDC has made other recommendations with regard to road works and safety design measures, including the installation of appropriate intersection controls to provide safe access to motorists and pedestrians. Such details would be assessed and finalised as part of the stage 1 development. Notwithstanding, the Department recommends the revision of condition 9 and a new condition requiring that future road design and intersection treatment be undertaken in consultation with relevant road authority and be consistent with relevant design standards.

6.4.2 Parking

Issue

Refinements in the design and use of the site were contemplated by the Department in the concept approval, as changes to the containerised storages areas and the regional terminal warehousing could result in changes to parking demands. The Department considered that there would be sufficient land on site to enable minor changes and/or reduction in the proposed uses, in the event that additional parking was required.

The Concept Plan approval is silent with respect to the number of parking spaces required on site, but condition 20 of the approval requires the Proponent to ensure that there is sufficient parking on site to accommodate all parking demand generated by the development in a safe and orderly manner. The Proponent has committed to the provision of 428 spaces as part of the approved Concept Plan, which is 37 spaces in excess to that required based on Bathurst Regional Council's *Off-Street Parking Code* and the RTA's *Guide to Traffic Generating Developments* (refer to Tables 3 and 4 below respectively).

Land Use	Standard
Bulk Stores	Related to area: 1 car space per 120m ² GFA Related to employees: 1 car space per 4 employees Whichever is the greater
Commercial premises, offices and professional chambers	1 car space per 50m ² of GFA
General Business – Retail shops	1 car space per 35m ² of GFA
Motor Showrooms	1 car space per 95m ² of display area, plus 1 car space for the Manager, plus 1 car space per employee

Refreshment Rooms	Related to area: 1 car space per 6.5m ² service area; or Related to seating: 1 car space per 6 seats Whichever is greater
Warehouses	Related to area: 1 car space per 300m ² Related to employees: 1 car space per 4 employees Whichever is greater
Service Stations	10 car spaces, plus 1 car space per employee

Table 3: Bathurst Council's schedule of minimum parking requirements

Land Use	Standard
Bulky Goods	1 car space per 53m ² GFA
Motor Showrooms	1 car space per 133m ² site area
Refreshment Rooms (with internal and external seating and drive through)	1 car space per 3 seats
Warehouses	1 car space per 300m ² GFA
Service Stations	5 spaces per 100m ² of convenience store plus parking for employees

Table 4: RTA's Guide to Traffic Generating Developments

As shown in tables 3 and 4 above, the number of parking spaces required for a fast food restaurant and motor showroom is significantly more than a warehouse. The modification is therefore required to provide additional parking to cater for these new uses.

Issues raised in submissions

Parking was not raised as an issue by submitters.

Consideration

Based on Council's and the RTA's requirements and guidelines, the modified Concept Plan requires 555 spaces. The Proponent proposes to provide 611 parking spaces, an estimate of 10% more than that recommended, or a net increase of 183 to that approved. The Department is generally not supportive of development that provides significantly more parking spaces than that required as it could promote private vehicle usage. However, since the site is not highly accessible by public transport and given the nature of the proposed uses (bulky goods warehousing and containerised goods storage areas), the proposed increase is considered acceptable.

6.5 Staging

Issue

A component of the proposed modification involves changes to the project staging whereby the Proponent seeks to develop the highway uses in stage 1 rather than in stage 4 and defer the freight terminal administration building until stage 2.

The Proponent argues that there have been increased pressures on project viability and greater hurdles in securing finance in the current economic climate. Changes to the design and layout of the intermodal facility and staging of the highway uses arise partly to cater for known market demand (the Proponent has indicated conditional contracts have been issued for Lot 1 to a major bulky retail store and Lot 6 to a fast food restaurant). Early development of the highway uses could also assist in obtaining finance to undertake development of the site, in particular the establishment of the intermodal terminal, which requires major bulk earthworks and roadworks to access the facility.

Issues raised in submissions

Bathurst Council has raised concern that development of the highway uses in stage 1 before the intermodal terminal would undermine the integrity of the freight terminal which is suppose to be the primary driver behind the development. Council objects to the changes as it could lead the development to become a bulky goods precinct in a rural zone.

Consideration

The Department considers that the Proponent has provided a reasonable justification for the change in staging which is tied to market demand and ensuring the long term viability of the intermodal terminal and operation of the site. The original approval also allowed the Director-General to vary the staging of the Concept Plan so as to provide sufficient flexibility for the Proponent to consider project options and stages within an overall approved envelope.

However, in order to ensure that the intermodal terminal remains the main driver of the project and developed in stage 1, it is recommended that existing condition 6 regarding the staging of the development be replaced with a new condition which ensures that the highway frontage uses are not be operational until other scheduled stage 1 works (including the freight terminal and associated infrastructure) have been completed.

In relation to Council's concern that the proposal is inconsistent with the objectives of the 1(a) Inner Rural Zone under the LEP, as previously commented, the immediate area is no longer rural in character. The site has been used as a quarry for a number of years, and development surrounding the site comprises a mix of industrial, service businesses, rural and residential development.

Also, Council's Urban Strategy proposes to rezone the site to Service Business zone. Objectives of this zone include the establishment of service business activities (such as bulky goods salerooms or showrooms) away from the Bathurst Central Business District and ensure that the type of retail activity does not prejudice the status and viability of the Bathurst Central Business District as the retail centre of Bathurst. The proposal is consistent with the objectives of the Service Business zone. The Department therefore considers the proposed modification to be compatible with surrounding land uses.

6.6 Visual Impact, Landscape and Building Setbacks

Issue

The modification proposes a revised scheme to the stormwater system, landscaping and building massing and setbacks. A revised Landscape Plan and Landscape Design Report were prepared to detail changes in the design principles envisaged in the approved Landscape Plan. The main changes include reduction in building setbacks from the Great Western Highway, changes to landscape screening devices and the riparian corridor and new stormwater control mechanisms. The proposal will also change the built form of the approved buildings.

Issues raised in submission

A submittor raised concern on the aesthetics of the leaning tower boxes located along the northern (front) boundary of the site.

Consideration

A notable improvement in the visual impact of the proposed modification is the division of the highway uses development into nine separate structures which will reduce the bulk of the built form, particularly when viewed from the Great Western Highway. In conjunction with the 30m setback provided, comprising a 20m building setback from the highway with a 10m landscape component (screening, mounding and bio retention swales), the proposed built form is considered suitable in context of the use of the site and surrounding land uses. The height of the highway uses development will remain to be 10m whilst the regional warehouse uses will remain to be 15m. There is no increase in the overall height of the approved buildings.

The visual assessment undertaken for the modification identified the same visual receptors as those identified in the original Environmental Assessment, including the residential areas in Diamond Close, Sundowner Drive to the north of the site, the adjoining business to the west and Scots School further south of the site.

Key elements of the approved landscaping program are to remain and the visibility of the proposal would remain to be limited when viewed from the Great Western Highway due to the proposed landscaping at the front of the site (refer to

Figure 4), and existing and approved bulky goods developments to the north of the site. Due to modifications to the stormwater controls and treatment system, a change to vegetation and a review of benching to suit the detailed design of the railway interface to the rear of the site and floor levels are proposed. Potential visual impacts of the proposal are alleviated by landscaping of the site, where the Landscape Plan is to be developed in consultation with Council.

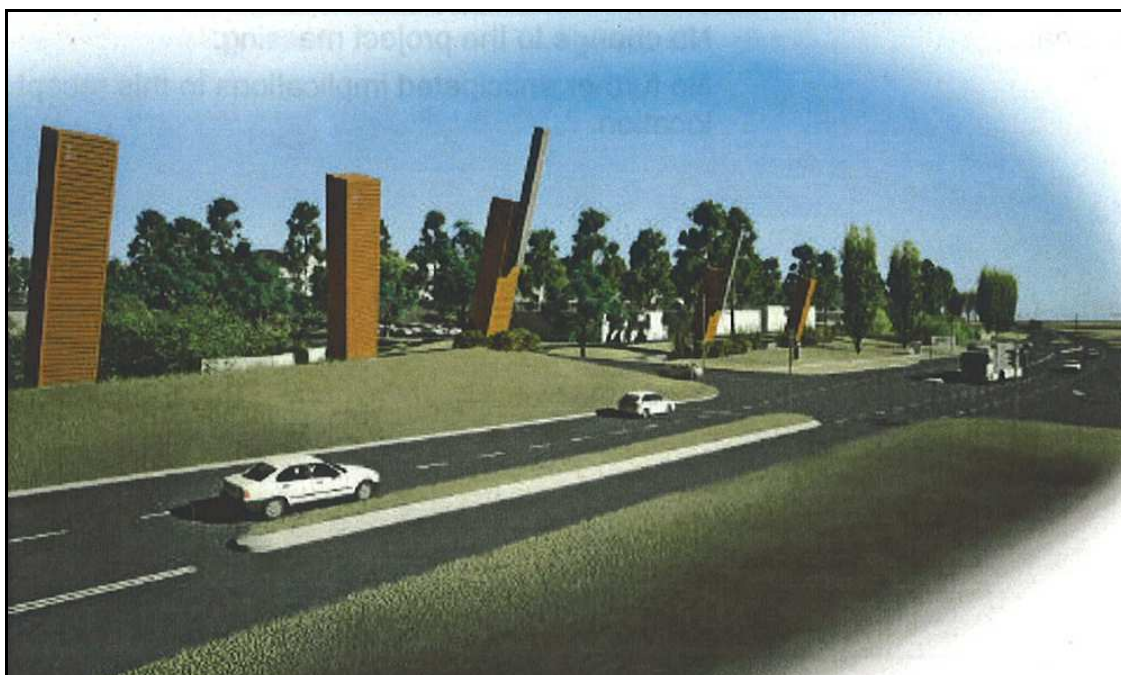


Figure 4: Perspective of the proposal from the opposite side of the Great Western Highway

Bathurst Council's Urban Strategy 2007, which was conditionally endorsed by the Director-General on 21 May 2008, identified the site as being suitable for 'service business use'. To prevent land use conflict between business development and competing uses and protect the visual amenity of the City's gateways along major roads, the Strategy recommends the following land use buffers:

Land Use Buffer	Required Width	Landscaping Requirements
Land fronting a major road	20 metres wide (wholly within the service business site)	10m landscaped component and mounding
Land adjoining a competing land use (ie residential, rural residential, special use, and industrial development)	40 metres wide (wholly within the service business site)	10m landscaped component

The modified Concept Plan maintains a 20m building setback from the Great Western Highway with a 10m landscape component, in accordance with the Strategy. However, proposed lots 1 and M do not achieve the 40m buffer as stipulated. Bathurst Council objects to the inconsistency claiming that it would significantly undermine the strategic planning outcomes of its Urban Strategy.

Strict imposition of the buffer zone is not considered reasonable by the Department. The developments to the east and west are not 'competing' land uses. To the east of the site is vacant land currently used for agricultural purposes and the site to the west is a food manufacturing and processing complex. Additionally, a 40m buffer zone would reduce the size of the site and result in inefficient use of land.

With regards to the tower structures, it is noted that similar structures were approved under the original Concept Plan. These structures are considered acceptable by the Department as they provide an entrance feature to the site and

contribute as a component of the gateway to Bathurst. They also help delineate the site from the public space. Notwithstanding, assessment on the design, colour and finishes of the structures will be carried out as part of the landscaping plan which is to be prepared in consultation with Council.

6.7 Other issues

6.7.1 Subdivision

The information provided in support of subdivision of the site and associated subdivision works is deemed to be insufficient and therefore the Department has recommended that further assessment be undertaken and approval sought for this aspect of the proposal under Part 4 of the Act. This allows the Proponent to reach an agreement with Council on issues such as proposed ownership of the internal roadways, as well as the required services and infrastructure to serve individual lots of the site, and the ongoing management of the stormwater management plan and the maintenance of the rehabilitated riparian zone.

6.7.2 Noise

The existing approval included exceedances of up to 3dB(A) above the noise goals at Diamond Close in the daytime and 1dBA in the evening.

The noise assessment carried out on the modified Concept Plan indicates noise levels from the development would generally meet the noise goals, with the exception of Gold Panner Motor & Lot 35 (a residential area located to the north of the site) where noise levels could exceed the criterion by up to 2dB(A) in the evening, and Diamond Close and Sundowner Drive where noise levels could exceed by 1dB(A) in the daytime and evening. Given the predicted noise exceedance is marginal and the affected locations are already impacted by truck noise from the Great Western Highway at higher noise levels than those predicted, the increase is unlikely to be noticed or cause adverse amenity impacts.

A submitter raised concern on the need to carry out noise monitoring to meet noise criteria goals. In this regard, the Department considers that conditions 11 and 22 are adequate which require the Proponent to undertake noise monitoring to verify compliance with the defined noise criteria and to investigate and respond to any complaints raised from the community.

6.7.3 Hydrology

Assessment of stormwater, flooding and riparian issues was undertaken by Worley Parsons to examine the impact of the modification on the water system. The assessment found that the proposal could potentially increase peak flows from the proposed development area by an estimated 3.2m³/s in a 2 year ARI storm and approximately 6.0m³/s in a 100 year ARI, which could result in increased erosion rates of downstream waterways. The report therefore recommended the provision of 20mm of retention storage per unit area of impervious surfaces via the provision of ten evenly distributed bio-retention areas throughout the site and a water quality control pond to mitigate the increase in peak runoff flow rates and volume during the high return period events. The report stated that the implementation of these measures is paramount to reduce peak flows during a major storm event.

A flood assessment was undertaken to determine the 100 year ARI flood extent and flood planning levels within Raglan Creek. The assessment confirmed that a 100 year ARI flood would be contained within the existing channel provided the proposed culverts are adequately sized. Preliminary culvert sizes have been provided and detailed assessment is recommended to be undertaken at the Project Application stage.

The NSW Department of Primary Industries (DPI) has recommended that the design and construction of the culverts be undertaken in accordance with the DPI's publication *Why Do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings*. In this regard, the Proponent advises that compliance would be difficult to achieve due to technical difficulties in the design of the culverts. Also, the aquatic ecology assessment undertaken as part of the modification did not observe any fish within the site, and Raglan Creek is known to be ephemeral, which reduces the possibility of fish habitat occurring with the site. The Department therefore considers that strict compliance with the DPI's guideline on the design and construction of the culverts to accommodate fish habitats to be unnecessary.

The Department of Water (DWE) recommended an upgrade of the culverts to accommodate a 100 year ARI flood to mitigate the potential for water to travel via overland flow and potentially degrade the watercourse and the culverts at a downstream point, and any hazards associated with water crossing the Great Western Highway. Condition 9b) of the Concept Approval requires the Proponent to prepare a detailed stormwater management scheme in the Project

Application stage for stage 1, demonstrating that the project would not result in any increase downstream flooding impacts. Based on the information provided by the Proponent, the Department considers that this condition is adequate and that it is not the Proponent's responsibility to upgrade the existing culverts.

The modified development incorporates a Water Sensitive Urban Design approach and includes controls such as gross pollutant traps, bio-retention basins and water quality control pond to reduce the water quality and quantity impacts on the downstream watercourse and receiving waters. The proposed stormwater management measures are considered to be an improvement from that approved and the Department is satisfied that stormwater impacts can be adequately managed by existing condition 9b.

The modification also proposes to rehabilitate the majority of Raglan Creek, including the removal of willow and the provision of rock riffles at selected locations along the channel, with the aim to minimise further stream bank erosion and significantly enhance the environmental and aesthetic qualities of the channel. The works are supported by the Department of Planning, DPI and DWE. The existing condition of approval (subject to changes recommended as part of this modification) requires the Proponent to prepare a detailed plan of the proposed restoration of the watercourse and riparian zone as part of the Project Application for stage 1. The plan is to be prepared in consultation with DWE and Council, and must describe measures to: restore the creek and riparian zone, integrate the works into the proposed landscaping of the site, manage impacts on fauna, maintain the creek and riparian zone during restoration and over the life of the project and monitor the performance of the proposed restoration works over time.

The DWE requested additional information on a well on the south bank of Raglan Creek, which could potentially be a conduit for contamination of groundwater. The Proponent contacted the DWE in this regard and both parties agreed that the well should be sealed (decommission, fill and capped) in accordance with Queensland's Department of Natural Resources guideline on construction requirements for water bores. A new condition is recommended to include this work as part of the Concept Plan approval.

6.7.4 Future Development Paths

To facilitate the assessment of future project applications made on the site, the Department recommends the following determination paths to be exercised:

- a) subdivision and associated subdivision works require further environmental assessment under Part 4 of the Act;
- b) utility undertakings by or on behalf of a public authority require further environmental assessment under Part 5 of the Act;
- c) development with a capital investment value of less than \$30 million requires further environmental assessment under Part 4 of the Act; and
- d) development with a capital investment value of equal to or more than \$30 million requires further environmental assessment under Part 3A of the Act.

6.7.5 Miscellaneous

The Department has considered other miscellaneous impacts associated with the modification and it is considered that the existing conditions of approval adequately address these matters and no further assessment is necessary.

7. CONCLUSIONS

Under section 75W (4) of the Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The preceding report describes the Department's assessment of the requested modification and supporting documentation as provided by the Proponent, and recommends approving the proposed modification, subject to the amendments as discussed.

The most prominent aspects of the proposed modification involve changes to the intermodal facility. There is general support from those agencies that have made a submission to the Department, with the exception of Bathurst Regional Council who expressed strong objection to the proposed modification. The Department has imposed conditions to resolve Bathurst Council's concern, particularly in relation to maintaining an intermodal focus and excessive development on the site.

In consideration of the nature and extent of the proposed changes and the justification provided in support of the request, the Department is of the view that the proposal achieves the same objectives as assessed for the originally approved project under the Concept Plan approval. The project, as modified, would provide significant economic, social and environmental benefits to both NSW and the Bathurst region, with minimal environmental impacts which can be adequately mitigated through the imposition of the recommended conditions.

On balance, the Department considers the project to be justified and in the public's interest and should be approved.

APPENDIX A – RECOMMENDED CONDITIONS OF APPROVAL

The approval is modified by:

1. adding the following to the Glossary and Abbreviations Table:

Approval	With reference to a project or concept under Part 3A, a development under Part 4 or an activity under Part 5 of the EP&A Act
DWE	Department of Water and Energy
Transport Infrastructure	Includes road, rail, pedestrian and cycle facilities, but excludes any building associated with the use of these facilities

2. deleting reference to the 'Concept Plan' in the Glossary and Abbreviations Table.

3. replacing reference to 'Slobobax Pty Ltd' with 'Gateway Pty Ltd' in the Glossary and Abbreviations Table.

4. replacing existing condition 1 with a new condition 1, as follows:

ADMINISTRATIVE CONDITIONS

Terms of Concept Approval

1. The Proponent shall carry out the project generally in accordance with the:
 - a) Concept Plan Application 05_0047;
 - b) *Central West Regional Road/Rail Freight Terminal at Great Western Highway, Kelso, Bathurst*, prepared by GSA Planning Pty Ltd and dated January 2006;
 - c) Statement of Commitments prepared by Mellor Gray Architects Pty Ltd and dated May 2006;
 - d) Modification Application 05_0047_Mod 1 accompanied by document titled *Section 75(W) Planning Assessment December 2008 – Issue A*, prepared by GSA Planning Pty Ltd and dated December 2008;
 - e) Documentation titled '*DoP Submissions Response Document*', issue A, prepared by Crawford Architects and dated 27 March 2009;
 - f) correspondence prepared by Crawford Architects and dated 16 April 2009;
 - g) revised plans numbered MA-002, MA-005 and MA-007, all revision C, dated June 2008; and
 - h) the conditions of this approval.

5. replacing existing condition 2 with a new condition 2, as follows:

2. In the event of an inconsistency between:
 - a) the conditions of this approval and any document listed from conditions 1a) and 1g) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
 - b) any document listed from conditions 1a) and 1g) inclusive, the most recent document shall prevail to the extent of the inconsistency.

6. replacing existing condition 4 with a new condition 4, as follows:

4. To avoid any doubt, this concept approval does not permit subdivision, subdivision works or the construction of any other aspect of the proposal which will be the subject of separate approvals.

7. adding new condition 4A after condition 4, as follows:

- 4A. Future project applications are to be assessed and determined subject to the following provisions of the EP&A Act:
 - subdivision and associated subdivision works require further environmental assessment under Part 4

- of the EP&A Act;
- utility undertakings by or on behalf of a public authority requires further environmental assessment under Part 5 of the EP&A Act;
- development with a capital investment value of less than \$30 million requires further environmental assessment under Part 4 of the EP&A Act; and
- development with a capital investment value of equal to or more than \$30 million requires further environmental assessment under Part 3A of the EP&A Act.

8. adding new conditions 5A to 5F after existing condition 5, as follows:

- 5A. To avoid any doubt this approval applies to the whole site as described in schedule 1 of this approval, including lot 10.
- 5B. The total developable floor space for buildings on the site (excluding transport infrastructure and hard stands) is not to exceed 62,000m².
- 5C. Warehousing and distribution buildings (G to M inclusive) are to have a minimum setback of 25m from the northern side of the rail siding.
- 5D. Warehousing and distribution buildings (A to M inclusive, with the exception of F) shall be designed to ensure that they can be serviced by B-double vehicles on their northern and southern frontages and in accordance with relevant Australian Standards.
- 5E. Vehicular access to and from within the site must be designed to facilitate the safe movement of B-double vehicles in accordance with relevant Australian Standards.
- 5F. Vehicles, other than those associated with the loading and unloading of goods and containers to the rail siding and emergency services, must not access the rail freight terminal area IMT.a and b. Measures including signs and physical barriers shall be erected to prevent unwarranted access.

9. replacing existing condition 6 with a new condition 6, as follows:

SPECIFIC REQUIREMENTS AND PROJECT APPLICATIONS

Staging and Subdivision

- 6. The Proponent shall implement the concept plan in accordance with the revised staging as outlined in Table 5 of the document identified in condition 1d).

Tier 1 uses (highway frontage, fast food restaurants and service station) are not to be operational until other scheduled Stage 1 works have been completed.

The staging and timing of works may be revised subject to the approval of the Director-General.

10. adding new conditions 6A after condition 6, as follows:

- 6A. Any future subdivision of the site shall identify through appropriate mechanisms, the ongoing ownership and management of site infrastructure, including stormwater, riparian zone and landscaping maintenance.

11. replacing existing condition 7(c) with a new condition 7(c), as follows:

- (c) pay Council the contributions required in Council's *Section 94 Contribution Plan Raglan Creek Stormwater Drainage Management Plan* prior to implementing each stage (or component) or the concept plan.

12. replacing existing condition 8 with a new condition 9, as follows:

9. Prior to any development occurring on site, the Proponent shall ensure that the following plans have been prepared:
- detailed plans of the proposed development;
 - demonstrate that the proposed development is consistent with the approved concept plan and requirements of this approval;
 - include a detailed stormwater management plan for the proposed development that has been prepared in consultation with Council and is consistent with the scheme for the whole site (see condition 8);
 - include a detailed landscaping plan for the proposed development that has been prepared in consultation with Council;
 - include an external lighting plan that is consistent with the requirements in AS 4282 – 1997: *Control of Obtrusive Effects of Outdoor Lighting*, or its latest version;
 - include a construction management plan for the proposed development that includes:
 - a soil and water management plan that has been prepared in accordance with the relevant requirements of Landcom's *Managing Urban Stormwater: Soils and Construction*, and describes the measures that would be implemented to minimise erosion and the discharge of sediments from the disturbed area during construction;
 - a construction noise management plan that describes what measures would be implemented during construction to ensure compliance with the relevant construction noise criteria in the Environmental Noise Control Manual;
 - a construction waste management plan that describes what measures would be implemented to avoid, minimise, recycle/reuse and/or dispose of the waste generated by the proposed construction works; and
 - an access management plan to ensure the safe movement of construction vehicles and to maintain access for all users adjoining the site in accordance with Council and RTA guidelines.

13. replacing existing condition 9 with a new condition 8, as follows:**Stage 1**

8. The Proponent shall ensure that any application for Stage 1 (or a component) of the concept plan includes:
- a detailed plan of the proposed roadworks and intersections along the Great Western Highway that has been prepared in consultation with Council, and to the satisfaction of the RTA;
 - a detailed stormwater management scheme for the whole site that has been prepared in consultation with Council, and describes the measures that would be implemented to ensure that there is no increase in the downstream flooding impacts as a result of the proposal;
 - a detailed plan for the proposed restoration of the watercourse and riparian zone on site that has been prepared in consultation with DWE and Council, and describes the measures that would be implemented to:
 - restore the creek and riparian zone;
 - integrate these works into the proposed landscaping of the rest of the site;
 - manage impacts on fauna;
 - maintain the creek and riparian zone during restoration and over the life of the development; and
 - monitor the performance of the proposed restoration works over time.

14. adding the following to existing condition 10 :

Fast-food Outlets	Monday – Sunday	Anytime
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15. replacing existing condition 16 with a new condition 16, as follows:**Riparian Zone and Watercourse**

16. The Proponent shall restore the Raglan Creek and the riparian zone to achieve a sound naturalised watercourse and long term riparian area stabilisation and then maintain the restored creek and riparian zone during the life of the project.

16. adding new conditions 16A and 16B after existing condition 16, as follows:

16A. Riparian zones shall be populated with endemic species and shall extend at least 10m landward either side from the top bank of the watercourse.

16B. Crossing or instream works shall be designed with consideration of *Guidelines for Controlled Activities Watercourse Crossings* (DWE February 2008) and *Guidelines for Controlled Activities Instream Works* (DWE February 2008).

17. adding new condition 17A after existing condition 17, as follows:

17A. The well on the south bank of Raglan Creek shall be decommissioned and sealed in accordance with Queensland's Department of Natural Resources guideline *Minimum Construction Requirements for Water Bores in Australia*, edition 2, dated September 2003.

18. replacing existing condition 19 with a new condition 19, as follows:**Traffic**

19. The Proponent shall ensure that the site does not generate more than a total of 3400 traffic movements, including truck and private vehicles, a day.

19. adding new condition 19A after condition 19, as follows:

19A. Internal roads and vehicular access shall be designed to meet Council design standards.

20. adding new conditions 21A and 21B after existing condition 21, as follows:**Lot 10**

21A. Future uses of lot 10 shall be consistent with the approved concept plan and shall be subject to the following development controls:

- a) a maximum height of 10m for future buildings;
- b) a 20m building setback from the Great Western Highway with a 10m landscape component;
- c) a 15m building setback from the eastern boundary with a 5m landscape component;
- d) a 5m setback from internal service roads; and
- e) no direct access to the Great Western Highway.

Rail

21B. The rail siding configuration and connections to the rail network will be undertaken in consultation with the ARTC and shall be subject to a rail Safety Interface Agreement.

21. replacing the first part of existing condition 22 with the following:

22. Prior to carrying out any construction on the site, the Proponent shall prepare (and following approval implement) an Environmental Management Strategy for the development, in consultation with Council, the RTA and DWE. This strategy must: