

# LISTED ITEM

26 October 2011  
To the Ordinary Meeting

Director's Report  
Environment and Planning Services  
Department

## 2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation

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TRIM REFERENCE: DA/204/2007/A - D02803275

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### SUMMARY

An application has been received for the modification of conditions of development consent relating to the construction of an access driveway and intersection to an existing timber product manufacturing/storage operation. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Eaton and Sons Pty Ltd C/- ADW Johnson
<b>Owner</b>	Eaton and Sons Pty Ltd
<b>Application No</b>	DA/204/2007/A
<b>Description of Land</b>	Lot 11 DP 1091396 464 Ruttleys Road Mannering Park
<b>Proposed Development</b>	Modification of conditions of Development Consent No DA/204/2007 relating to the construction of an access driveway and intersection to an existing timber product manufacturing/storage operation.
<b>Site Area</b>	5.266 Ha
<b>Zoning</b>	5(a) Special Uses - Power Station

### RECOMMENDATION

**1 That Council, having regard to the matters for consideration detailed under Section 96(1A) and Section 79C of Environmental Planning and Assessment Act, 1979, modify Development Consent No 204/2007 in the following manner:**

**A Delete Condition 9 and insert in that place a new condition 9 to read as follows:**

**“9 The driveway/intersection onto Ruttleys Road shall be relocated approximately 135 metres south of the existing unsealed site access.**

**Detailed construction design plans and specifications shall be prepared in accordance with the following requirements and submitted for approval by Council prior to issue of a Construction Certificate.**

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- *A Detail Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the intersection design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Construction Certificate.*
- *The design shall be prepared in accordance with Austroads 2009 "Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections "BAR" treatment on a major road and Wyong Shire Council's Development Control Plan 2005, Chapter 67 Engineering Requirements for Development.*
- *The design shall be supported by a Geotechnical Investigation and pavement design report prepared by a suitably qualified practising Geotechnical Engineer.*
- *The design of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development.*
- *The design of the intersection should take into account the location of the existing large power poles and guard fencing. Note: The widened pavement required in accordance with the BAR (Austroads Figure 7.5 treatment) should be formed, sealed and the outside edge line a sufficient offset from any guard fencing.*

**B Delete Condition 10 and insert in that place a new condition 10 to be read as follows:**

***"10 The preparation and submission to the Council as the Roads Authority of a 'pre-opening stage' Road Safety Audit for the works within the Ruttley's Road prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the acceptance of the works and release of a Construction Certificate."***

**C Delete Condition 11 and insert in that place a new Condition 11 to read as follows:**

***"11 Detailed construction design plans and specifications shall be prepared for the construction of the internal roadway providing vehicular access from the new Ruttleys Road access intersection connecting to the carparking and loading area within the site. The construction shall include the sealing and drainage of the existing carpark area. The design shall be in accordance with the following requirements and shall be submitted and approved by Council/Accredited Certifier prior to issue of any Construction Certificate:***

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- *The driveway accessway shall be a minimum 7.5 metres wide sealed pavement in accordance with the requirements of the current Australian Standard AS2890 and Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development.*
- *The driveway accessway is to be of sufficient width to ensure heavy vehicles /semi trailers can pass at any point along the driveway access with adequate clearances.*
- *The design plans shall include a pavement design prepared by a suitably qualified Geotechnical Engineer.*
- *The internal driveway construction works shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate.*

**D Delete Condition 36 and insert in that place a new Condition 36 to read as follows:**

***"36 The completion of the construction of the new access/intersection onto Ruttleys Road approximately 135 metres south of the existing unsealed access in accordance with the plans approved under Condition No 9 and 10.***

***In this regard, all access construction works and associated "BAR" intersection works within Ruttleys Road shall be completed, surveyed and identified by "Works as Executed" information in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to Council's satisfaction prior to the issue of an Occupation Certificate. Note: All recommendations of the Road Safety Audit approved under Condition 10 shall be implemented to the satisfaction of Council prior to the issue of the Occupation Certificate.***

**E Delete Condition No 40 and insert in that place a new condition 40 to read as follows:**

***"40 Upon completion of the construction of the new access intersection the existing unsealed access is to be closed. The works shall include the restoration of the damaged carriageway pavement within Ruttleys Road, reinstatement of the line marking, removal of excess road base material and the stabilisation of the area with suitable mulch and the planting of native vegetation prior to the issue of an Occupation Certificate."***

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**F Delete Condition 41 and inserting in that place a new condition 41 to read as follows:**

***“41 The construction of the carpark and internal driveways detailed on the design plans approved in accordance with the requirements of Condition 11 within six (6) months from the date of issue of the modified consent. Certification of the construction by a suitably qualified consultant is to be provided to Council prior to the issue of an Occupation Certificate.”***

**PRECIS**

- An application has been lodged pursuant to the provisions of Section 96(1A) of the Environmental Planning & Assessment Act 1979 (EP&A Act) for the modification of conditions of development consent relating to the relocation and construction of an access driveway and intersection to an existing timber storage/manufacturing operation approved under development consent No DA/204/2007.
- Development Consent (DA/204/2007) was granted by Council on 10 March 2010 for the “Adaptive re-use of a heritage item for industrial purposes”. The approved operation, namely a timber manufacturing/storage operation involved predominantly with the manufacturing of timber frames and trusses, was in operation on the subject site prior to the granting of the development consent for the use. The Development Application (the DA) seeking to regularise the use was submitted in response to Orders issued by the Land & Environment Court of NSW (L&E Court). The DA relied upon the ‘Heritage Provisions’ contained within the Wyong Local Environmental Plan 1991 (WLEP 1991) to permit the activity. A detailed history is provided further in the report.
- A number of conditions were imposed on the consent requiring the relocation of the existing access driveway to Ruttleys Road and the construction of a new access driveway and intersection. In particular, Condition 9 of DA/204/2007 states:

*“The design of an access onto Ruttleys Road approximately 135 metres south of existing intersection. The access onto Ruttleys Road is to be designed in accordance with Austroads ‘Guide to Road Design – Part 4A: Unsignallised and Signallised Intersections’. Council’s Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development to a type BAR treatment. The design plans must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.”*
- Condition 10 requires a ‘Detailed Design – Road Safety’ Audit prepared by a qualified Road Safety Auditor to be undertaken on the intersection design. Condition 36 requires the completion of the new access onto Ruttleys Road in accordance with the approved design.

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- The Section 96(1A) application seeks to amend the required access to Ruttleys Road from a BAR treatment as per 'Austroads Road Design' to "a driveway access in accordance with "AS 2890.2-2002 "Parking Facilities - Off Street Commercial Vehicle Facilities". Essentially, the proposed modified intersection design sought by the Applicant is of a lesser standard to the BAR intersection treatment currently required under the conditions of development consent. It should be noted that the intersection treatment under AS 2890.2-2002 relies upon Ruttleys Road.

### **INTRODUCTION**

#### **The Site**

The site is located on the western side of Ruttleys Road and is occupied by Eaton Building Materials Pty Ltd and used for the purposes of manufacture of timber frames and trusses, timber mill, building material store and associated office and amenities.

The property is known as Lot 11 in DP 1091396 Ruttleys Road, Mannering Park. The subject site is zoned 5(a) (Special Uses Zone) – Power Station under WLEP 1991 and has an area of 5.266ha. The site contains a large shed which appears to have been constructed around 1985 which was previously used for the maintenance of equipment for the coal mine which supplied the nearby electricity power station.

A two-storey office/amenities building is located to the north of the large shed and is used for administrative purposes associated with the business. Surrounding the curtilage of the large shed are open storage areas for timber and manufactured products. A large 'stockpile' of waste material is situated at the rear (west) of the shed. The waste material stored on site is the subject of separate legal action as no development consent has been obtained for the stockpile.

An existing private access driveway intersection with Ruttleys Road is located towards the northern boundary of the subject site. The driveway intersects near a bend on Ruttleys Road and is located close to the existing accessway to the Coal & Allied site opposite. An internal 'loop' roadway extends through the property and is currently unformed.

#### **The Proposed Modification**

Development Consent was granted by Council on 10 March 2010 for "*adaptive re-use of a heritage item for industrial purposes*". The use of the site has a long history, including previous Class 4 Proceedings in the LEC against the owner/operator Eaton & Sons Pty Ltd which were resolved with Court Consent Orders dated 15 December 2006. The Orders required the lodgement of a Development Application with the Council for the use of the subject land for the purpose of manufacture of frames and timber trusses, timber mill, building materials, storage and associated office and amenities. The Court Orders specifically envisage the Development Application to include construction of a new access driveway for the subject land or the upgrade of the existing access from Ruttleys Road in accordance with the Development Consent requirements. At the time the Orders were entered into, the exact location, design etc of the driveway was not known and accordingly, the specific requirements for the access driveway/intersection were to form part of the development consent process.

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The Court Orders did specifically state that the design of the new access driveway was required to be “ ..... approved by Council as part of a Development Consent”. Further, the Orders specifically required “the new or upgraded driveway shall be constructed within 6 months of the receipt of the Development Consent”.

A Traffic Report was prepared and submitted with the Development Application in accordance with the requirements of the Court Orders which specified that the exact location of the accessway/driveway was to be determined by suitably qualified Traffic Engineer as part of the Traffic Report to be submitted under the Statement of Environmental Effects accompanying the Development Application. The Traffic Report suggested four options for access to the development which were considered and assessed by Council’s Traffic Engineer who subsequently formulated four further options that could provide for a satisfactory access being:

1. Widen Ruttleys Road on the eastern side at the location of the existing driveway to include a Right Hand turning lane. Widen Ruttleys Road on the western side at the location of the existing driveway to include a right hand turning lane. The construction of a new access/driveway approximately 135 metres south of the existing driveway within a previously cleared area along the frontage of the subject site. The construction of an access/driveway approximately 95 metres south of the existing driveway, in the area between the existing high voltage power poles on the eastern side of the road. Option 3 above was considered to be the preferred option for the intersection/driveway construction for reasons as follows:

- Improved site lines along Ruttleys Road
- Area along property frontage had been previously cleared with only minor regrowth
- The construction of a driveway 10 metres wide in width is likely to only require removal of one Scribbly Gum (*Eucalyptus haemastoma*). The tree identified did not have any visible hollows
- Increasing the width of the existing clearing to accommodate the driveway 10 metres wide was unlikely to create a barrier to fauna movements, such as the Squirrel Glyder

Option 3 was the most preferred option from an Ecological perspective. At the time, Council’s Traffic Engineer suggested traffic safety could be improved by increasing the length of the guardrail and erecting signage or moving an electricity pole situated on the opposite side of the road.

Consequently, conditions were imposed on the Development Consent requiring the preparation of design plans for the construction of a new access road onto Ruttleys Road which was to be located approximately 135 metres south of the existing intersection. The design was to include a minimum 7.5 metre wide sealed vehicular access from the end of the intersection to the main factory building on the site (existing unformed internal loop road).

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Condition 36 of the consent requires the completion of the access onto Ruttleys Road prior to the issue of an Occupation Certificate for the premises. More specifically, the Court Orders require the new or upgraded driveway to be constructed within 6 months of receipt of Development Consent ( i.e.by 17 September 2010).

The Applicant in correspondence dated 21 September 2011, provided details of the proposed modification, the subject of this Report and states:

*"It is understood that one of Council's primary reasons for the imposition of this requirement was a concern that the existing driveway location was sub-optimal in terms of sight distances for vehicles travelling south along Ruttleys Road. The concern was that these south travelling vehicles would round the bend, and not have enough time to respond if a heavy vehicle was turning right out of or into the site. These concerns are noted, and it is for this reason that this application does not seek to alter the location of the access into the site, merely the design of the facility. The proposed driveway is still proposed to be 135m to the south of the existing driveway.*

*The current proposal seeks to amend the requirement for the access from Ruttleys Road to be a BAR treatment as per Austroads; to a driveway access in accordance with AS 2890.2 – 2002 "Parking Facilities, Off Street Commercial Vehicle Facilities". Given that the sight distance issue is acknowledged by the proponent, hence the proposed location being consistent with the approval, it is considered that the provision of a BAR treatment for the access is not warranted in this instance. It is further noted that the heavy vehicles which use the site typically only operate during daylight hours, thereby not causing a potential traffic complication at night.*

*The proposed driveway services a bulk store handling facility. From previous studies, it is understood that traffic movements from heavy vehicles into and out of the site are small (of the order of 6 vehicles per day). The proposed access can comply with the requirements of AS2890.2 – 2002 in terms of the plan geometry and midblock configuration of the main road – and sight distance as shown on the attached preliminary arrangement.*

*Ruttleys Road in the vicinity of the access driveway is straight in plan alignment and longitudinally flat allowing for good sight distance. Sight distances to the south are well beyond those required under the Australian Standard and the sight distance to the north exceeds the code requirement of 200m for an 89 second gap at a design speed of 90km/hr. The left out movement for an articulated vehicle can be accommodated without forcing vehicles across the centreline into opposing direction traffic.*

*Council is therefore requested to modify the consent in the following manner:*

### *1. Conditions of Consent*

*As a result of the proposed changes, the following conditions are requested to be modified:*

#### *i. Condition 1*

*Add to this condition a reference to the drive way plans prepared by ADW Johnson, Project No. 150153 No. 001 Rev A.*

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### *ii. Condition 9*

*This condition is proposed to be amended to read as follows:*

*“The design of a driveway access onto Rutleys Road approximately 135m south of the existing driveway access to the site. The driveway is to be designed in accordance with Figure 3.2 of AS 2890.2 – 2002 “Parking Facilities – Off Street Commercial Vehicle Facilities”, and DCP 2005, Chapter 67 – Engineering Requirements for Development. The design plan must be approved by Council as the Roads Authority prior to commencement of construction”.*

### *iii. Condition 10*

*It is proposed that condition 10 be deleted, given that the proposed amendments can comply with AS 2890.2, therefore obviating the need for an RSA.*

### *iv. Condition 36*

*This condition is proposed to be amended to refer to the driveway being constructed in accordance with Figure 3.2 of AS 2890.2 – 2002 “Parking Facilities – Off Street Commercial Vehicle Facilities”.*

## **VARIATIONS TO POLICIES**

Nil

## **HISTORY**

The site has been historically used for mining and power station related uses since the 1950s. The land was zoned 5(a) Special Uses – Power Station under Interim Development Order No. 58 dated 18 February 1977. The large industrial building was erected around 1985 and appears to have been used for storage of mining equipment, though there is evidence that there were some industrial processes conducted at the site during this time. There is no evidence that Council consent was gained by the Electricity Commission for the construction of this building although there is evidence of a certificate of compliance under Section 15B of the Mines Subsidence Act being issued for the building by the Mines Subsidence Board.

The subject lot was created by a subdivision in 1989, which separated the shed and curtilage from the parent lot which is currently in the ownership of Delta Electricity. The Centennial Coal Company purchased Powercoal (formerly Elcom Collieries) in 2002 and occupied the site prior to purchase by Eaton and Sons in 2004. Centennial Coal used the building for storage of mining equipment.

Council records indicate that formal discussion with regard to legal occupation of the site by Eaton and Sons Pty Ltd for the manufacture of timber frames and trusses and associated administrative activities commenced in June 2005. The most relevant events since this time are summarised below:



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- 23 August 2006 - At the Ordinary Meeting of Council a Question Without Notice was raised seeking a report on “the activities being carried out on Lot 11 DP 1091396 Ruttleys Road, Mannering Park and actions being taken in regard to these activities?”
- 27 September 2006 – A response to the Question Without Notice was reported to Council and advise if an unauthorised operation has been or is continuing on site and if it appears to be expanding. Council had already commenced Class 4 action in the L&E Court requesting the use to cease.
- 15 December 2006 – The L&E Court issued Consent Orders requiring the Respondent (Eaton and Sons Pty Ltd) to undertake action including the lodgement of a development application with an appropriate Statement of Environmental Effects and additional information with regard to traffic, access, waste management, disabled facilities and heritage. The Order also required the construction of a new/upgraded access driveway envisaged to be provided under the terms of the Orders within 6 months of receipt of the development consent (i.e. 10 September 2010).
- 22 February 2007 – Development Application lodged (DA 204/2007). The assessment process had been protracted due to legal argument concerning whether or not an application was necessary and whether the site benefitted from existing or continuing use rights. During the assessment process, the Applicant lodged a Rezoning Application (RZ/1/2007) for the recognition of the Heritage value of the Bulk Store Building located on the site.
- 20 March 2009 – Wyong LEP (1991) (Amendment No. 175) was gazetted in the New South Wales Government Gazette 2009 No 101. The Local Environmental Plan included the industrial (Bulk Store Building) as a Heritage Item of Local Significance under Schedule 1 of Wyong LEP 1991, effective as of 20 March 2009.
- 17 March 2010 – Development consent granted (after Council determined the application on the 10 March 2010) for the “Adaptive re-use of a heritage item for industrial purposes”.
- 29 November 2010 – Notice of Intention to issue an Order issued pursuant to the provisions of Section 121H of the EP&A Act requiring the operator (Eaton and Sons Pty Ltd) to “cease using the premises for industrial purposes”. The reasons given for the proposed Order being the premises are being used in contravention of the conditions of Development Consent No DA/204/2007 resulting in potential life safety, environmental and amenity issues.
- 14 December 2010 – Representations made by Eaton and Sons Pty Ltd in response to Council’s Notice of Intention.
- 21 September 2011 – Inspection of the subject premises undertaken by Council’s Solicitor and Council Officers in response to representations made by Eaton and Sons Pty Ltd.
- 22 September 2011 – Section 96(1A) application submitted seeking to modify condition No’s 1, 9, 10 and 36 of DA/204/2007 to permit an amended access driveway/intersection construction. This application is the subject of this report.

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### PERMISSIBILITY

The subject Lot and its previous Portions 467, 477, 478 were zoned 5(a) – Special Uses Power Station under Interim Development Order No 58 dated 18 February 1977. At that time, the premises were being used for such purposes consistent with the zoning applicable to the land. This zoning continued when the property was subdivided in 1986. With the introduction of the WLEP 1991 which was gazetted in 1991, the zoning remained as 5(a) – Special Uses with a notation on the current zoning map as “Power Station” across the land.

As previously mentioned, the existing building located on the site (large shed) has been classified as being a item of ‘Heritage Value’ by the NSW Heritage Council through the gazettal of WLEP 1991 (Amendment No 175). Council in its assessment of the Development Application raised issues in regard to the permissibility of the use as the objectives of the 5(a) – Special Use Zone are restrictive only permitting Community and Public uses and not Private Commercial enterprises.

Following the gazettal of Amendment No 175, the Development Application (DA 204/2007) made to regularise the use of the land for its current purpose, relied upon the Heritage Conservation Incentives contained under Clause 36 of the WLEP 1991. Council in granting development consent supported the Applicant’s argument that the proposed development was consistent with the Conservation Incentives and therefore, Council could grant consent to the use being satisfied that:

- (i) The proposed use would not adversely affect the heritage significance of the item and would have little or no adverse affect on the amenity of the area; and
- (ii) The conservation of the building depends on the granting of the consent.

The correct proposed modifications under the subject application seek to amend the requirements of conditions of the Development Consent in relation to the upgrade and construction of the access/driveway and intersection to Ruttleys Road.

Under the provisions of Section 96(1A) of the EP&A Act, Council may consider an application to modify a Development Consent provided that, interalia:

#### ***”(1A) Modifications involving minimal environmental impact***

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

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
  - i. the regulations, if the regulations so require, or*

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

*Subsections (1), (2) and (5) do not apply to such a modification.”*

In determining an Application for Modification of a consent under Section 96(1A), the Council is required to take into consideration such matters referred to in Section 79C(1) of the EP&A Act as are of relevance to the development. Those matters of relevance are discussed in further detail under a separate heading in this Report.

Pursuant to the provisions of Section 96(1A)(a) of the EP&A Act, Council must be satisfied that the proposed modification is of minimal environmental impact. The amendment sought to the driveway/intersection construction involve changes to works essentially within the existing Ruttleys Road Reservation. The extent of clearing of natural vegetation to provide the driveway for the development will not be altered from the location currently approved.

Pursuant to the provisions of Section 96(1A)(b) of the Act, Council must be satisfied that the development to which the Consent as modified relates is substantially the same development. The existing development consent provides for the relocation of the proposed access driveway/intersection to Ruttleys Road in the same location as that sought under the currently application. Essentially the changes to the driveway/intersection construction involve works within the existing Ruttleys Road Reservation. The modifications sought under the current application will not result in any significant material change to the external appearance of the development and are essentially contained to upgrading works within the Ruttleys Road Reservation.

In both qualitative and quantitative terms, the proposal is substantially the same development as that which was originally approved by the Council.

### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

The proposal has been assessed against the relevant provisions of the following environmental planning instruments, plans and policies:

- Wyong Local Environmental Plan 1991
- Development Control Plan 2005 – Chapter 67 Engineering requirements for Development
- Austroads – Guide to Road Design – Part 4A : Unsignalised and Signalised Intersections
- AS 2890.2 – 2002 “Parking Facilities – Off Street Commercial Vehicle Facilities”

### **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

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The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

### **THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**

Council in its assessment of the Application must give consideration to any relevant Environmental Planning Instrument and Development Control Plan which apply to the land to which the Development Application relates. A detailed assessment in relation to the issue of permissibility of the development and subsequent Section 96 Application has been provided previously in this Report. Development Control Plan 2005 – Chapter 67 provides relevant Engineering Design detail which have formed part of the assessment. Such matters are discussed in detail under a separate section later in this Report.

### **THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b) ):**

#### ***The access, transport and traffic management measures***

The subject site Lot 11 DP 1091396 Ruttleys Road, Mannering Park is located along Ruttleys Road approximately 580.0 metres north from the Pacific Highway Intersection.

An existing unsealed vehicular access onto the site from the Ruttleys Road carriageway currently services the development within the site which is located approximately 800.0 metres from the Pacific Highway.

Ruttleys Road is currently sign posted at 80kph however traffic surveys indicate that the 85th percentile speed exceed this at 86kph (2010 Traffic Count), 92kph-(2004 Traffic Count) and 97kph (2002 Traffic Count) at several locations along Ruttleys Road. The 2010 Traffic survey undertaken adjacent to the subject site recorded a maximum speed of 147kph and average daily volume of 8,693 daily vehicles with 7.9% being heavy vehicles.

RTA statistics indicate that a total of 42 recorded accidents have occurred between 1994 - 2010 along Ruttleys Road from the Pacific Highway to Government Road. These records also include details of 23 accidents with 14 injured during 2009/10 and three fatal accidents occurring in 2004 and 2010 (refer attachment 5). It is noted that these statistics only include reported accidents.

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Opposite the subject site on Ruttleys Road is the existing Centennial Coal Operation. Centennial Coal's Mannering Colliery continuation of the existing mining operation was approved on 12 March 2008 by Department of Planning & Infrastructure. Mannering Colliery is located approximately 100.0 metres north along Ruttleys Road from the subject site.

The approval granted to Centennial Coal required the completion and implementation of a Road Safety Audit of the intersection of Ruttleys Road and the Mannering Colliery access road. The access road to the Mannering Colliery is located approximately 300.0 metres north of the proposed new access to the subject site.

The Road Safety Audit identified a number of safety issues including the upgrading of the intersection to a Basic Rural Intersection (BAR). This treatment was further reviewed to a Channelised Treatment (CHR) to accommodate a sheltered north bound right turn lane entering the Centennial Coal facility. The design plans detail extensive construction works approximately 350.0metres in length along the western alignment of Ruttleys Road. The construction engineering design plans, geotechnical pavement design and specification have been lodged with Council for assessment and determination as a Construction Certificate Application and Roads Act Approval.

In regard to the subject site, the development consent includes conditions for the construction of a new access to a "BAR" treatment in accordance with the Austroads 2009 "Guide to Road Design" – Part 4A: Unsignalised and Signalised Intersections relocated approximately 135.0 metres south from the existing access within Ruttleys Road. The new access will increase the site distance requirements for south bound vehicles travelling along Ruttleys Road.

The proposed Section 96 Amendment seeks to modify the intersection upgrade conditions to a reduced standard with an access driveway treatment in accordance with the Australian Standard AS 2890.2-2002 "parking Facilities, Off Street Commercial Vehicle Facilities".

Examination of AS 2890.2-2002 with reference to Figure 3.2 (Minimum Design for a Major Access Driveway catering for HRVs and AVs) identifies that the supporting access driveway Plan 150153 -001 prepared by the applicant's consultant (ADW Johnson) does not comply with the standard. The Australian Standard relates to a major road with a 13.0 metre wide two way (2 lanes in each direction) roadway to provide passing lanes for stationary vehicles into the site access.

The submitted plan prepared by the applicant's consultant details a 7.0 metre wide two way carriageway eliminating any road shoulder widening along Ruttleys Road required to provide sufficient carriageway width to enable the passing of through traffic around right turning ingress & egress and left turning traffic.

The provision of a "BAR" treatment required by the current condition will however create sufficient lane width for through traffic to pass in a safer alignment along Ruttleys Road.

The Australian Standard AS 2890.2-2002 recommended by the applicant's consultant is a Standard that has been developed to set out the minimum requirements and recommendations for the provision of off-street parking, loading and manoeuvre areas for commercial vehicles. The standard however is only a starting point as indicated in both the Australian Standard and the Austroads Guidelines.

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These documents state that for any design process one standard should not be relied upon in isolation when other factors such as high speed, large traffic volumes and accident history indicate that other guidelines and requirements should also be considered.

The subject site is located on a highly trafficked route where a high 85<sup>th</sup> percentile speed has been measured much higher than the sign posted speed, it is a route between destinations i.e. (Coal Mining Operations, The Freeway and the Pacific Highway) and is used by a high percentage of heavy vehicles. The standard AS 2890.2-2002 Access Driveways Section 3.4.1(c) recommends that with high traffic volumes on a major public road that the provision of deceleration or slip lanes be provided to take a turning vehicle out of the traffic flow before the vehicle turns. The provision of a "BAR Treatment" will achieve this design requirement.

The RTA "Guide to Traffic Generating Developments" 2002 specifies that "safety is a primary consideration in planning for developments". Section 6.2.3 Auxiliary Lanes of this guide recommends that right turn bays for vehicle movement into proposed developments should be provided on major roads where there is conflict potential between right turn vehicles and the opposing major road traffic that may create a substantial traffic delay or present danger. Section 6.2.1- Access Driveways of the guide also acknowledges that in non-urban areas, particularly on high speed roads, access should be subject to special consideration, determined by consultation with the road authority.

Austrroads 2009 "Guide to Road Design-Part 4A Unsignalised and Signalised Intersections" Section 4.5.1 Rural Basic Turn Treatments (Type BA) details BAR treatments which feature a widened shoulder on a major road that allows through vehicles, having slowed, to pass to the left of turning vehicles. This standard is recommended by Council's Development Engineer as the minimum treatment for the access and associated roadworks within Ruttleys Road subject to the preparation and completion of the Design and a Road Safety Audit (RSA).

In conclusion the investigation of the records and traffic survey data reveal the high speeds, accident history, high volumes of heavy vehicles along Ruttleys Road identifies that the safety of all uses along Ruttleys Road is considered paramount.

Council's Development Engineer after close examination and consideration of the Australian Standards, RTA and Austrroads specifications and design guidelines recommends the construction of the new access, intersection works and widening along Ruttleys Road to provide a Basic Right Turn Treatment following the completion of a Design Road Safety Audit should be retained as a condition of consent. The recommended re-drafted conditions as part of the Section 96 application are proposed to more accurately describe the required access and intersection construction works within Ruttleys Road and the subject site.

Council's Traffic Engineer has also assessed the proposed modifications and comments as follows:

*"The applicant's consultants have requested a change in Condition 9, that the driveway be designed in accordance with Figure 3.2 of Australian Standard AS 2890.2-2002. They have consequently also requested changes to Conditions 1, 10 & 36. "*

*Australian Standard AS 2890.2-2002 is not sufficiently definitive to use it as a condition of this consent.*

## **2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation (contd)**

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*However, it is agreed with the applicant's consultants that Figure 3.2 ("Minimum design for a major access driveway catering for HRVs and AVs") is the correct diagram to use in lieu of Figure 3.1 – "Minimum design for an access Driveway on a minor road catering for HRVs and AVs".*

*Even though Rutleys Road is not 12 metres between kerbs, it performs the function of a through road, and therefore it is more appropriate for Rutleys Road to be considered as a "major road", Definition 1.4.8 (Australian Standard AS 2890.2-2002) – "A road carrying predominantly through traffic, generally either a two-way roadway and generally more than 12 m between kerbs, or a divided road" rather than a "Minor road" (Definition 1.4.11 – A cul-de-sac or a road carrying predominantly local traffic).*

*Given the use of the road, evidenced by the significant volume and speed of through traffic, Rutleys Road should be considered as a "Major road" in terms of facilities that are required and hence the use of Figure 3.2 is more appropriate, than Figure 3.1, when considering Australian Standard AS 2890.2-2002.*

*The plan attached in the consultant's submission is not in accordance with Figure 3.2 of Australian Standard AS 2890.2-2002. The southbound pavement, shown on the diagram submitted by the consultant, is only being 3.5 metres wide. Figure 3.2 is based on a pavement width of 13 metres and therefore the southbound pavement should be 6.5 to 6.6 metres wide. This pavement width (6.5 to 6.6 metres for the southbound carriageway) is no different to the widening identified in Austroads 2009, Figure 7.5, "Basic right (BAR) turn treatment on a two-lane rural road". Figure 7.5 in Austroads 2009, identifies a requirement for the southbound pavement to be a minimum of 6.5 metres wide. Also Figure 3.2 (AS 2890.2-2002), identifies provision for a left turning lane. This also is not shown on the diagram submitted by the applicant's consultant.*

*As Rutleys Road is a rural road, Austroads 2009 is considered to be the correct document to use in identifying requirements for the development, relating to the accessway intersection. Section 7.5.1 of the Austroads document identifies that the treatment identified in Figure 7.5 is applicable to "local access points", which is the type of access under consideration.*

*It is considered that Conditions, 1, 9, 10 and 36 imposed on the development consent are appropriate and should remain. Condition 9 should be expanded to include:*

- "The design of the intersection should take into account the location of the existing large power poles. The widened pavement required in accordance with the BAR (Austroads Figure 7.5 treatment) should be sealed and the outside edge of it offset a minimum distance of 1 metre from any guard rail."*

*In accordance with Austroads 7.5.1, consideration should be given to the "substantial speed reduction" that would occur in the vicinity of the driveway when assessing the requirements for the dimensions of the intersection being designed in accordance with Figure 7.5.*

*In consideration of the matters above, the Applicants request to modify the consent in the manner sought is not supported. However, it is recommended that the Terms and Conditions of the development consent be modified to provide clarity to the precise nature of the intersection upgrade works required".*

## **2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation (contd)**

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### **Independent Review of Applicant's Proposal**

Following receipt of the subject application, Council has sought an independent review of the appropriateness of the Council required intersection upgrade compared to the applicant's proposal in accordance with the Australian Standard. The Traffic Consultant engaged is an Accredited RTA Traffic Auditor. From the findings of the Consultant, the following recommendations with regard to the modified access are made:

*"a) The access to the site should be designed in accordance with the requirements for a speed limit of 90 km/h, to ensure road safety is maintained along this section of the road. The accident data shows that there have been a number of accidents along this length of Ruttleys Road which is possibly reflective of both the road alignment as well as the actual speed that drivers are comfortable with on this road.*

*b) The use of AS2890.2 is not considered appropriate in this location, due to the volume of traffic, measured 85<sup>th</sup> percentile speed and the requirement for heavy vehicles to enter and exit the site.*

*c) The appropriate design standard to use in this instance is Austroads Part 4A : Unsignalised and Signalised Intersections. With regard to Figure 4.9 of this publication, taking into account the two-way peak hour flow along Ruttleys Road (between 696 and 1,043) the minimum intersection layout to be provided is a type BAR. This allows for shoulder widening to allow for the southbound traffic movement to pass any vehicle waiting to turn right into the site access road. This type of intersection layout will avoid rear end type accidents that can occur on this type of road, given the traffic volumes and the vehicle speeds."*

#### ***The effect on heritage significance.***

The modifications sought will have no impacts on the heritage significance of the existing heritage item on the site. The modifications relate predominantly to intersection/upgrade works within the Ruttleys Road Reserve.

#### ***Any effect on the flora and fauna.***

Council's Development Ecologist has undertaken assessment of the modifications sought and advises as follows:

#### **Ecological Assessment**

*"In 2009, Council's Development Planner (Ecologist) commented on the ecological impact of four proposed options for upgrading the access into the site to improve traffic safety (refer to memo dated 16/03/2009 D01862179). Several threatened species were identified as having the potential to occur on the site. Option 3 was identified as the preferred option from an ecological perspective, as it utilised areas that had been previously disturbed thus minimising any impacts on threatened species. The consent required the access to be constructed as per Option 3.*



## **2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation (contd)**

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*The proposal seeks to amend the current requirement for the access from Rutleys Road to be a BAR treatment as per Ausroads, and instead construct a driveway access in accordance with AS 2890.2 – 2002. Council’s Engineer, provided diagrams of the BAR treatment and advised that the BAR treatment requires road widening to accommodate a right hand turning lane therefore will require more vegetation clearing than the proposed alternative driveway access. The proposed amendment will therefore minimise the ecological impact of the required works by reducing the total area of native vegetation cleared. Neither option is likely to create a significant barrier to wildlife movement, including species such as the Squirrel Glider.*

*Council’s Development Planner (Ecologist) has no objection to the proposed amendment provided the Tree/Ecology and Landscaping conditions included on the original consent remain unchanged.”*

### **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**

The application was not required to be advertised under the provisions of DCP 2005 Chapter 70 - Notification of Development Proposals and accordingly no submissions have been received. Likewise, no submissions have been received from any public authority as Notification of the Proposal to a public authority was not required.

### **THE PUBLIC INTEREST (s79C(1)(e)):**

***Any Federal, State and Local Government interests and community interests.***

The modifications sought by the Applicant are not considered to be in the public interest as Council’s Traffic Assessment which has been supported by an independent Traffic Assessment concludes that the appropriate design standard to use in this instance is Austroads Part 4A – Unsignalised and Signalised Intersections as required under the terms of the current development consent. It is considered that this type of intersection layout will avoid rear end type accidents that can occur on typical roadways such as Rutleys Road, given the traffic volumes and speeds travelled along the roadway.

### **CONCLUSION**

Under the Terms and Conditions of Development Consent DA/204/2007, a new vehicle access is to be provided to the development approximately 135 metres south of the existing unsealed site access. The new access is to be constructed to a sealed pavement standard to accommodate the loadings generated by heavy vehicles entering and exiting the site. The intersection of the access with Rutleys Road is to be constructed to a “BAR” treatment on a major road in accordance with Austroads 2009 “Guide to Road Design – Part 4A : Unsignalised and Signalised Intersections”.

The Section 96 Application seeks to modify the intersection upgrade requirements currently required under the terms of the Development Consent by the provision of an intersection at Rutleys Road as suggested by the Applicant to AS2890.2 – 2002 “*Parking Facilities, Off Street Commercial Vehicle Facilities*”.

## **2.4 DA/204/2007/A - Application to Modify the Design of a new Access Driveway and Intersection required for an Existing Timber Product Manufacturing/Storage Operation (contd)**

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As discussed in the body of the Report, the Applicant has misinterpreted the standard of roadway and intersection construction required under the Australian Standard and accordingly, the intersection upgrade works proposed under the application are considered to be unsatisfactory and do not provide the level of safety as currently required under the terms of the consent.

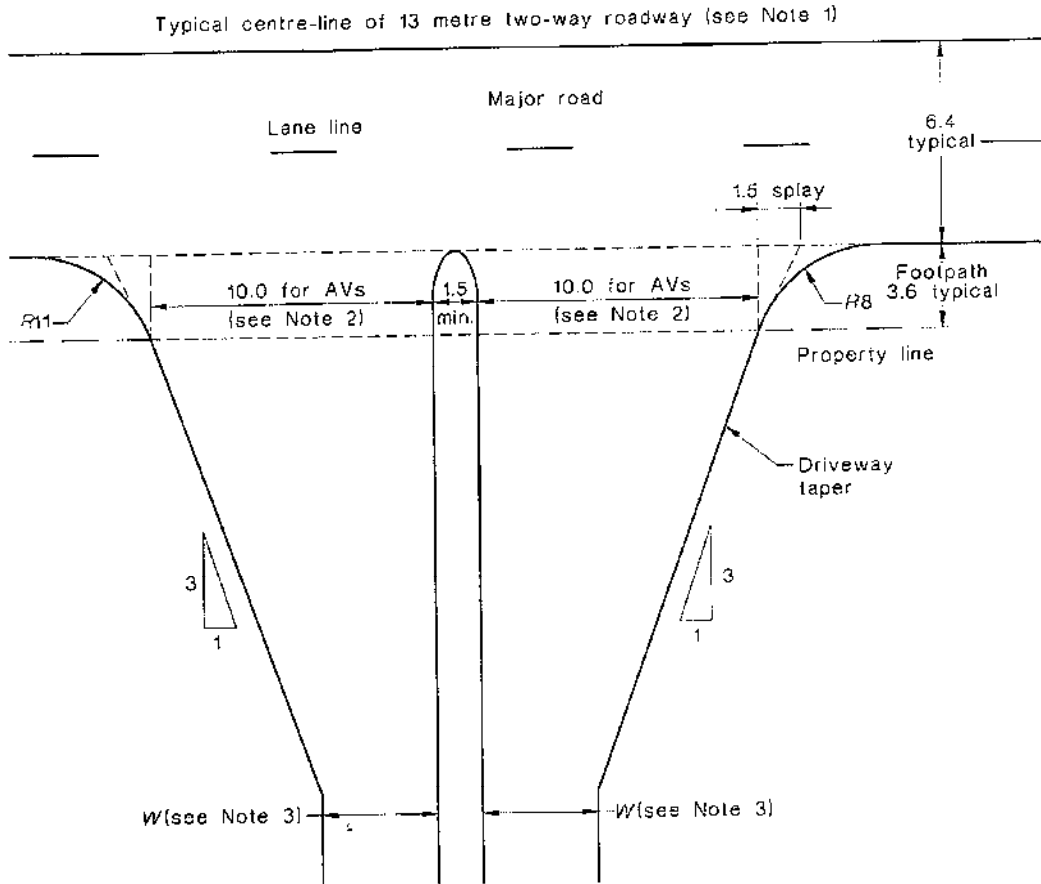
Accordingly, it is recommended that the Development Consent not be modified in the terms sought by the Applicant. However, it is appropriate to re-word a number of the relevant Conditions of the consent to clearly reflect the necessary intersection upgrade works required to meet the Austroads Standard.

### **ATTACHMENTS**

<b>1</b>	Plan of Proposal Sought	D02806091
<b>2</b>	Figure 3.2 - Minimum Design for a Major Access Driveway Catering for HRV's and AV's	D02806114
<b>3</b>	Basic Turn Treatments - Unsignalised and Signalised Intersections	D02806119
<b>4</b>	Drawing - Proposed BAR Treatment (Colour A3)	D02807465
<b>5</b>	Site Plan showing Amount of Accidents 1994-2008 (A3Colour)	D02806131
<b>6</b>	Photos of Existing Access, Unsealed Gravel Surface - Noting Skid marks and Accident Debris	D02806137
<b>7</b>	Consultant Report - "Better Transport Futures"	D02806212
<b>8</b>	Current Consent and Development plan - DA 204/2007	D02806271

SECTION 9.6





NOTES:

- 1 In the case illustrated, the HRV can turn left into the driveway entirely from the left lane and can turn out without encroaching over the public roadway centre-line. AVs up to 17 m in length, likewise, can turn in from the left lane and can turn out without encroaching over the centre-line. The design (19.0 m long) AV specified in this Standard can turn into the driveway by using the second lane out from the kerb as permitted by the Australian Road Rules 2000.
- 2 The corresponding dimensions for the MRV and SRV are 7 m and 5 m respectively. Larger vehicles may be able to use these narrower driveways depending on the width of public road available for manoeuvring in or out.
- 3  $W$  = width of circulation roadway (see Table 3.1).
- 4 The access driveway median should be either fully- or semi-mountable kerb.

DIMENSIONS IN METRES

FIGURE 3.2 MINIMUM DESIGN FOR A MAJOR ACCESS DRIVEWAY CATERING FOR HRVs AND AVs

## 4.5 Basic Turn Treatments (Type BA)

BA turn treatments comprise:

- basic right-turn treatment (BAR) on the major road (two-lane undivided roads only)
- basic left-turn treatment (BAL) on the major road (two-lane undivided roads and multi-lane roads)
- basic left-turn treatment (BAL) on the minor road (lane also used for right-turn movements).

These type of turn treatments (Figure 4.1) are:

- the simplest layouts
- designed to be as compact (and inexpensive) as possible
- most appropriately used where the volume of turning and through traffic is low. The BAR turn treatment is only used on two-lane, two-way roads (i.e. it does not apply to multi-lane roads)
- comprised of carriageways that intersect with an appropriate corner radius and taper to suit the swept path of the design vehicle
- used with any wearing surface
- required to be located where good perception of the treatment is provided (e.g. BAR turn treatments should not be located on small to moderate sized crests as insufficient visibility to the treatment will be provided).

### 4.5.1 Rural Basic (BA) Turn Treatments

Figure 4.1 shows the features of rural BA turn treatments at T-intersections, namely:

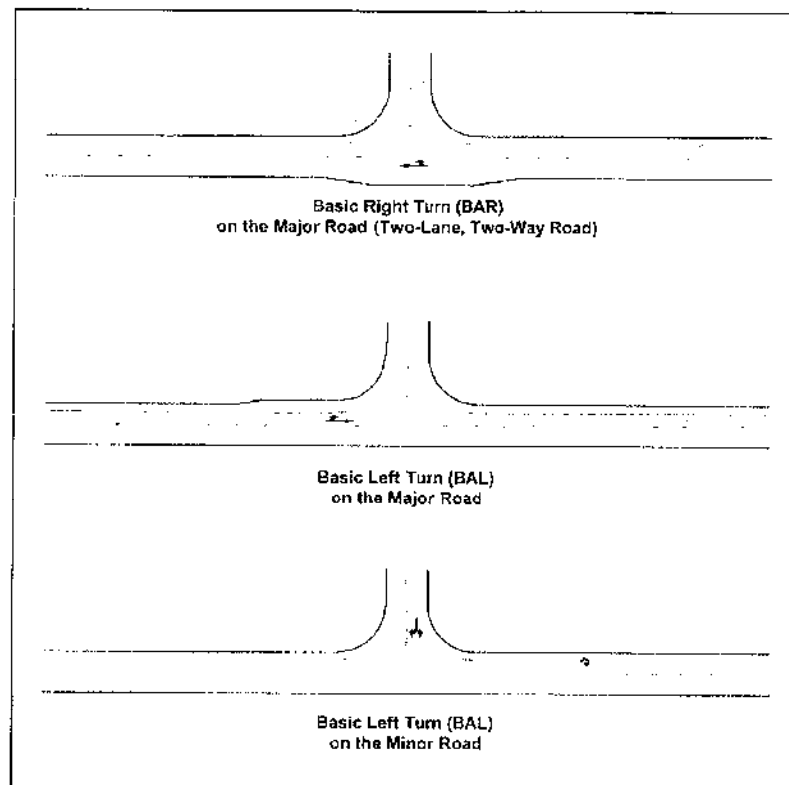
- the BAR treatment features a widened shoulder on the major road that allows through vehicles, having slowed, to pass to the left of turning vehicles
- the BAL treatment on the major road has a widened shoulder, which assists turning vehicles to move further off the through carriageway making it easier for through vehicles to pass
- the BAL turn treatment on the minor road allows turning movements from a single lane with a shoulder that is too narrow to be used by left-turning vehicles (to prevent drivers from standing two abreast at the holding line).

Where the major road is sealed it is preferred that the widened shoulders are also sealed, unless the shoulders can be maintained with a sound and even surface in all weather conditions. Research (Arndt 2004) has shown that BAR turn treatments record a rear-end major vehicle crash rate 52 times higher than do CHR turn treatments. The research also found that the rear-end major vehicle crash rate decreases substantially with increased median width, regardless of the type of median (painted, raised or depressed). Commentary 3 provides some more information in relation to the findings in Arndt 2004.

For design details of rural basic turn treatments refer to:

- Figure 7.5 for a BAR treatment on the major road
- Figure 8.2 for BAL treatments on major and minor roads.

Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections



Note: Arrows indicate movements relevant to the turn type. They do not represent actual pavement markings.

Source: QDMR (2006).

Figure 4.1: Rural basic BA turn treatments

Figure 4.1 shows only basic T-intersection treatments because unsignalised and signalised crossroads should not be provided because of road safety risk in high speed situations (e.g. > 80 km/h) unless treated with channelisation (e.g. roundabout, wide median treatment) and/or traffic management devices. However, CHR treatments may be applied to existing crossroads where there is a need to shelter turning vehicles on the major road and the risk associated with crossing traffic is considered to be low (e.g. no crashes recorded, very low approach speeds, negligible traffic crossing). This treatment is implemented under extended design domain principles (Appendix A and the *Guide to Road Design – Part 2: Design Considerations*, (Austroads 2006c).

#### 4.5.2 Urban Basic (BA) Turn Treatments

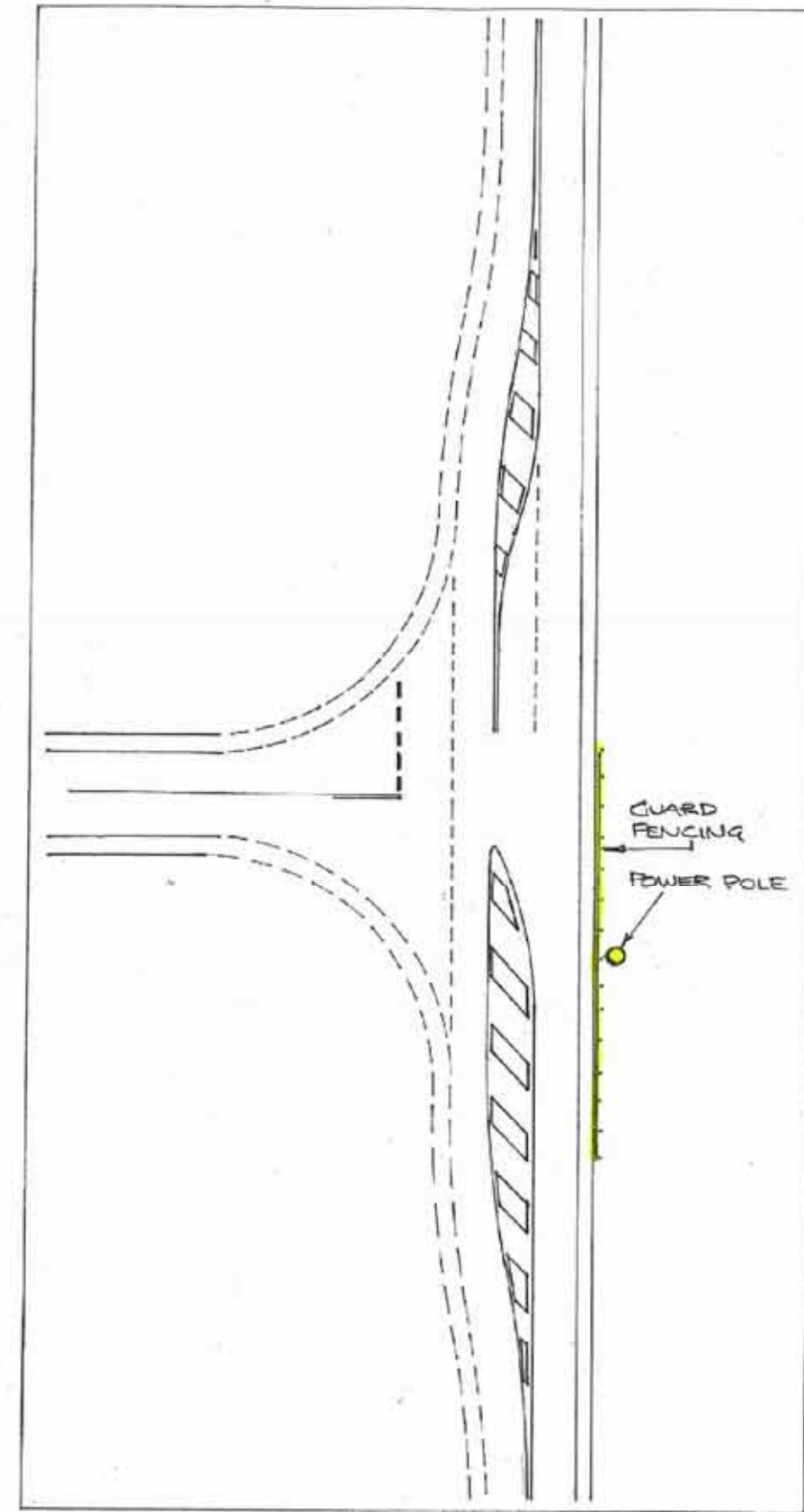
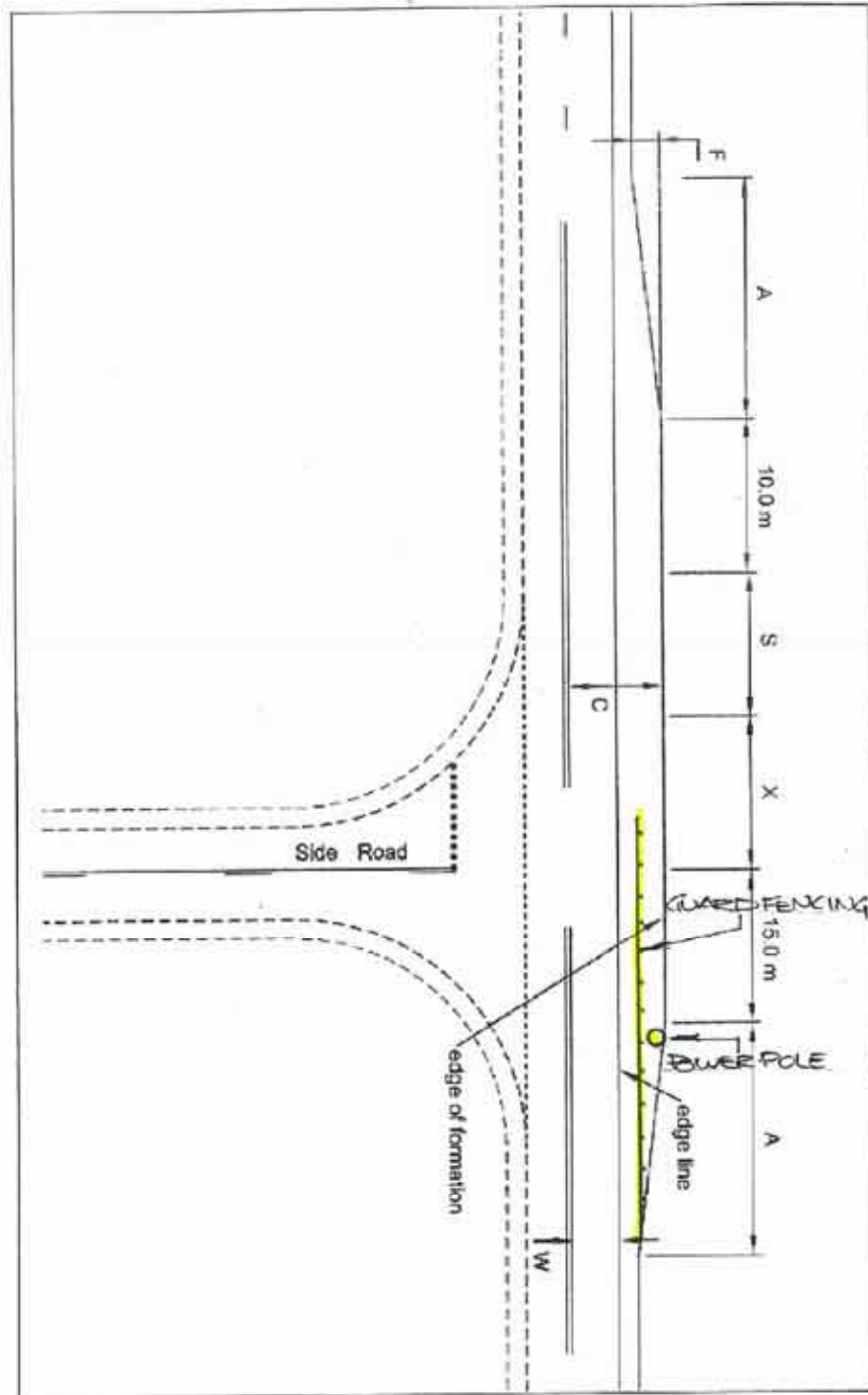
Figure 4.2 shows the features of urban BA turn treatments. It can be seen that:

- the basic right-turn treatment and basic left-turn treatments are achieved by resuming parking space at and near the intersection
- a bicycle lane on the major road may be incorporated into the treatment and should always be continued through unsignalised intersections.

Austroads 2009

– 35 –

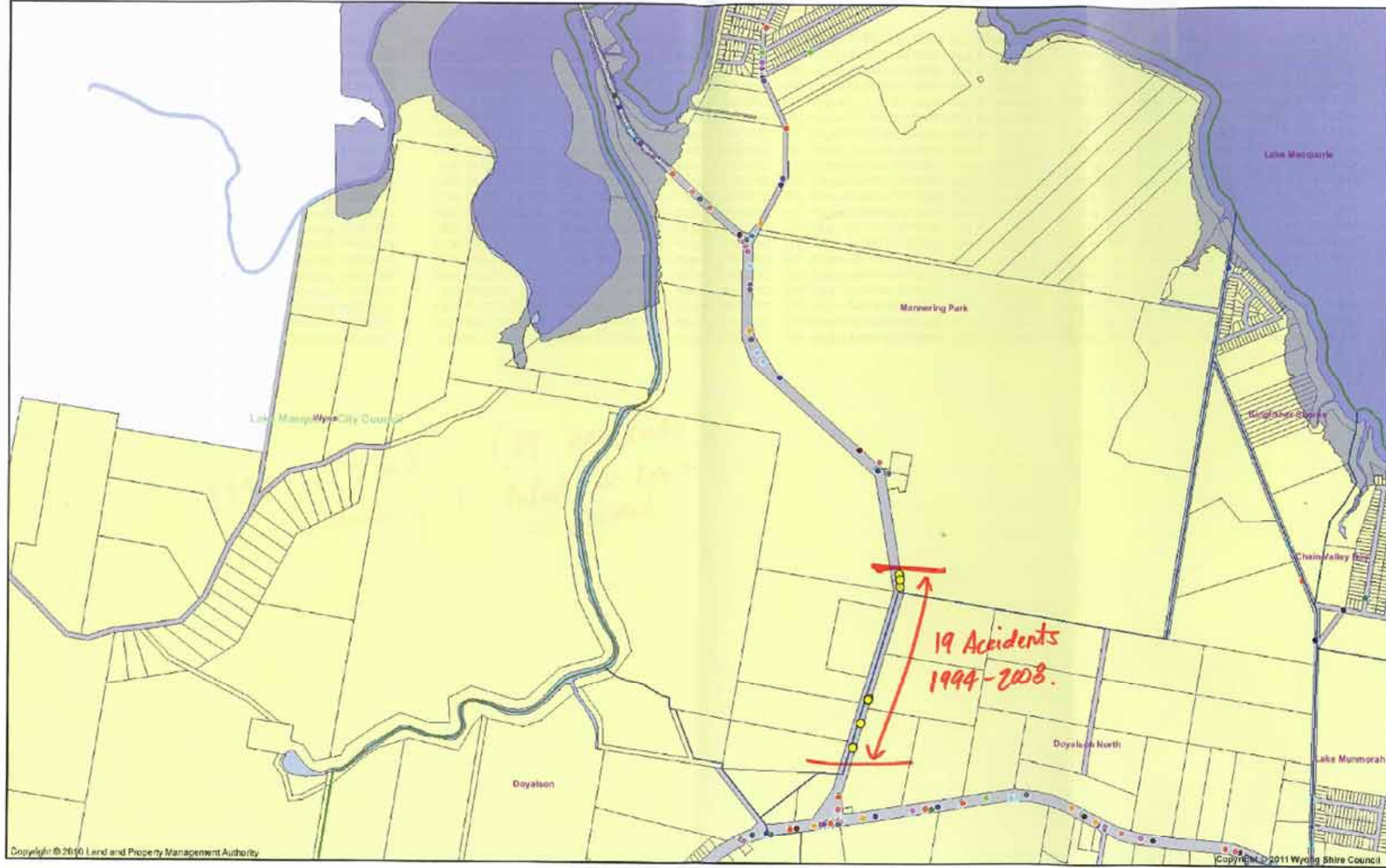




7.5.1 Rural Basic Right-turn Treatment (BAR)

Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections

NOTE: NOT TO SCALE



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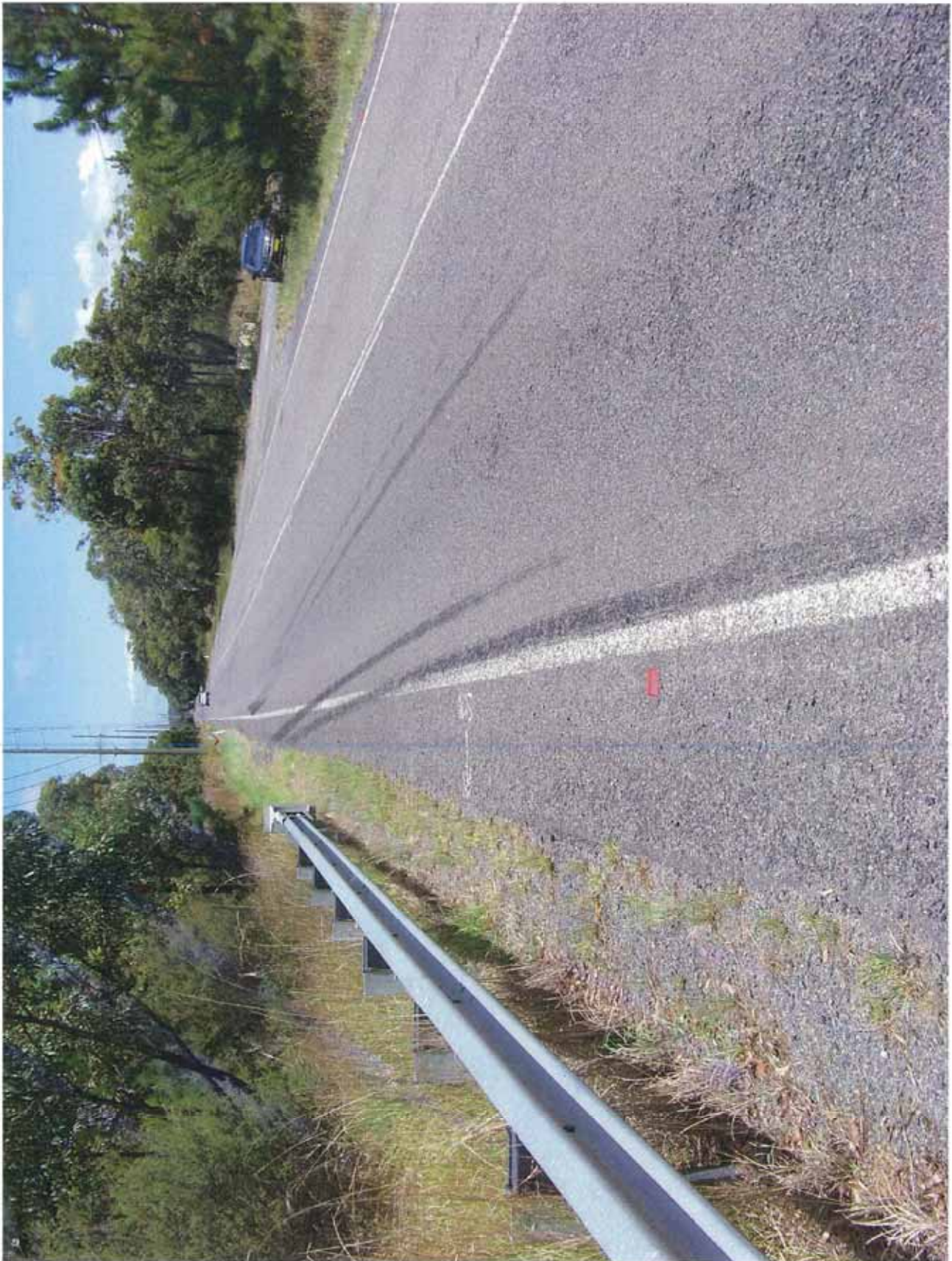
**FOR INTERNAL USE ONLY**  
**1% AEP FLOOD POLYGON (2011) Scale 1:14502**



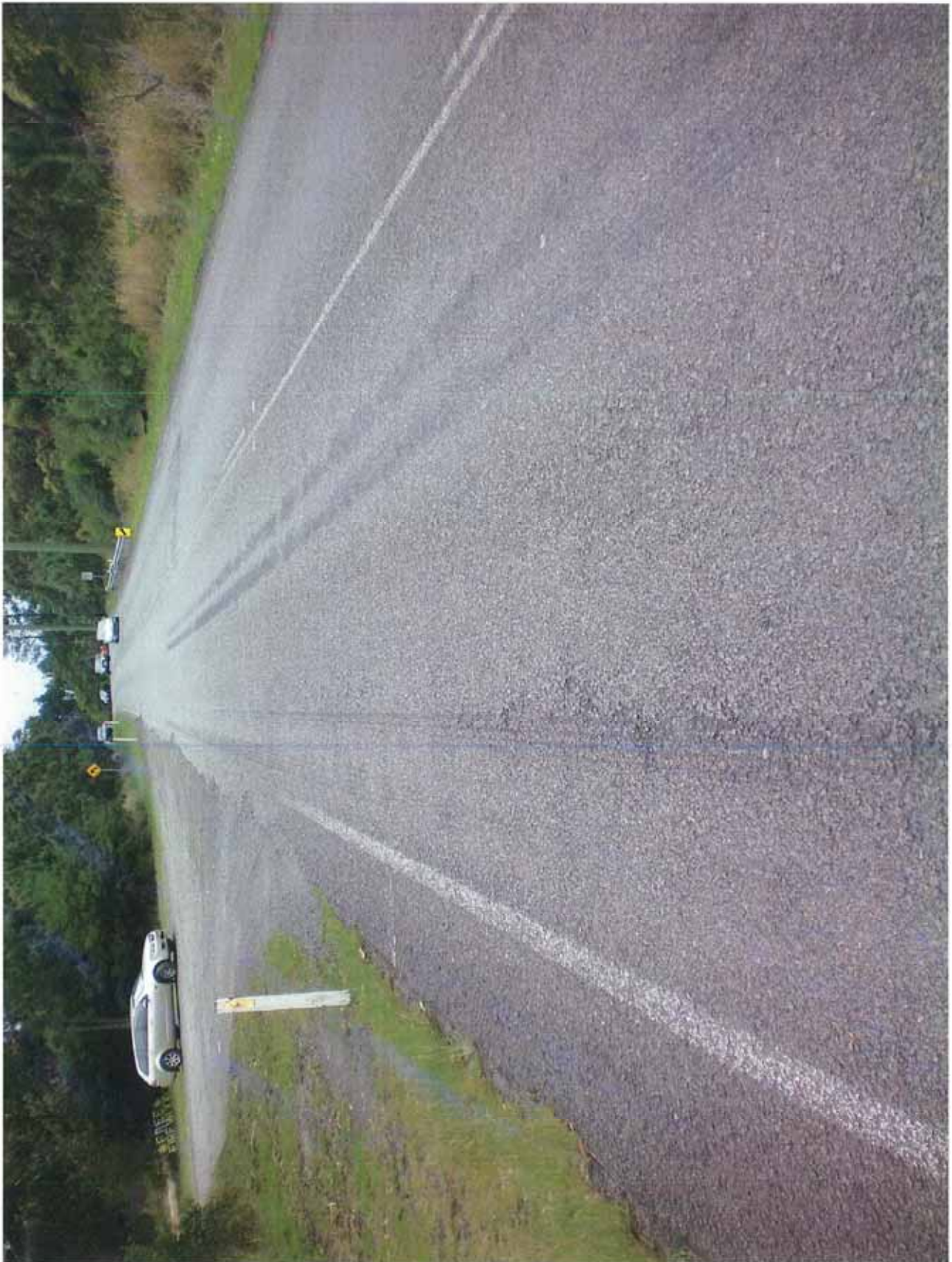
**Disclaimer**  
This 1% AEP Flood Polygon does not cover the whole of the Wyong Shire. Reference should also be made to the 'Storage Features' under the 'Geographic' tab for potentially flood prone areas. It is not a site specific. The information presented here was derived from LDM survey data (2007) and flood level data extracted from Council's available flood studies and local flood investigations. It should be used with caution and should not be used for the absolute sale of any land. Decision making processes should be based on inspection.



Belo, 12:30pm







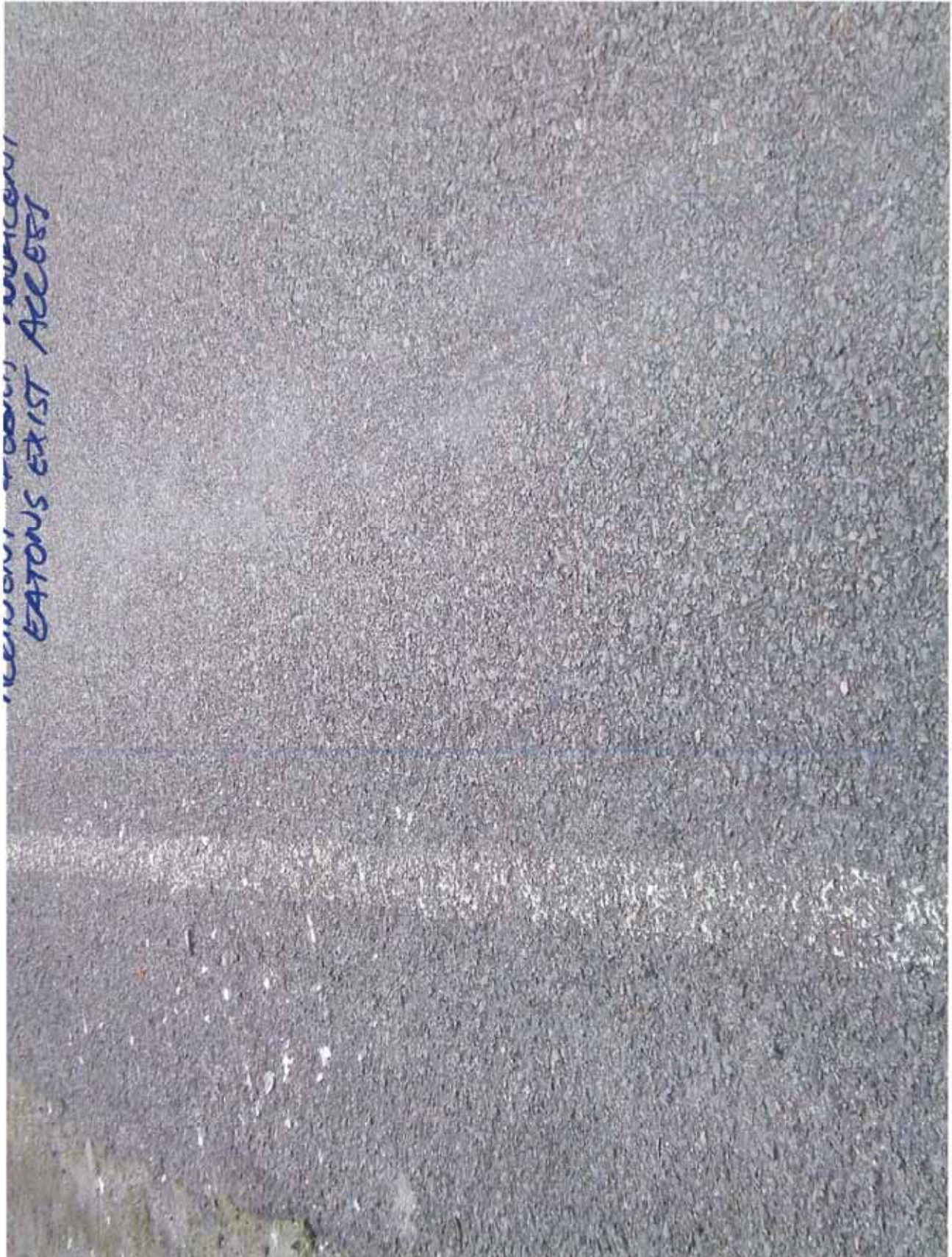






















**Better Transport Futures**

Mark Waugh Pty Limited  
ABN 67 106 169 180  
Transport Planning & Engineering

17 October, 2011

P0876 Wyong Council Due Diligence Report 464 Ruttleys Road

Wyong City Council  
P.O. Box 20,  
WYONG NSW 2259

Attn: Adam Mularczyk

Dear Adam,

**Review of Council report and S96 Application  
Proposed Access for 464 Ruttleys Road, Mannering Park, NSW**

Further to your recent email and our discussions, we have now completed our review of the above development application and provide the following summary of our findings and recommendations.

**Findings:**

1. Site access is located on a straight section of road to allow for good visibility in both directions. Allowing for vegetation to be trimmed as appropriate, visibility of over 250 metres should be available in both directions.
2. Posted speed limit is 80 km/h, but the traffic speed surveys indicate that the 85<sup>th</sup> percentile speed is nearer 90 km/h. For safety purposes, it is considered that this higher limit of 90 km/h should be applied for the design review.
3. The accident data provided by the RTA for recorded accidents indicates some 42 accidents over a 6 year timeframe for this stretch of road, which is reasonably high.
4. Existing daily traffic flows are in the order of 8,693 vehicles per day (2010 survey data). Allowing for the peak hour flows to typically be between 8 and 12 percent of the daily flows, this would indicate peak hour flows of between 696 and 1,043 two-way.
5. The traffic flows associated with the development on the site are very low, in the order of 6 heavy vehicles per day. Neormap photography indicates that truck and dog combinations access the site and these vehicles generally accelerate and deceleration at low rates. The volume of vehicles entering and exiting the site does not take into account staff movements in and out of the site. A review of Neormap satellite photography indicates a substantial number of cars also located on the site. Photo dated 26<sup>th</sup> October 2010 indicates some 20-25 vehicles parked on site and it is reasonable to assume a large number of these would arrive and depart during the morning and afternoon peak periods associated with start and finish of work on site.

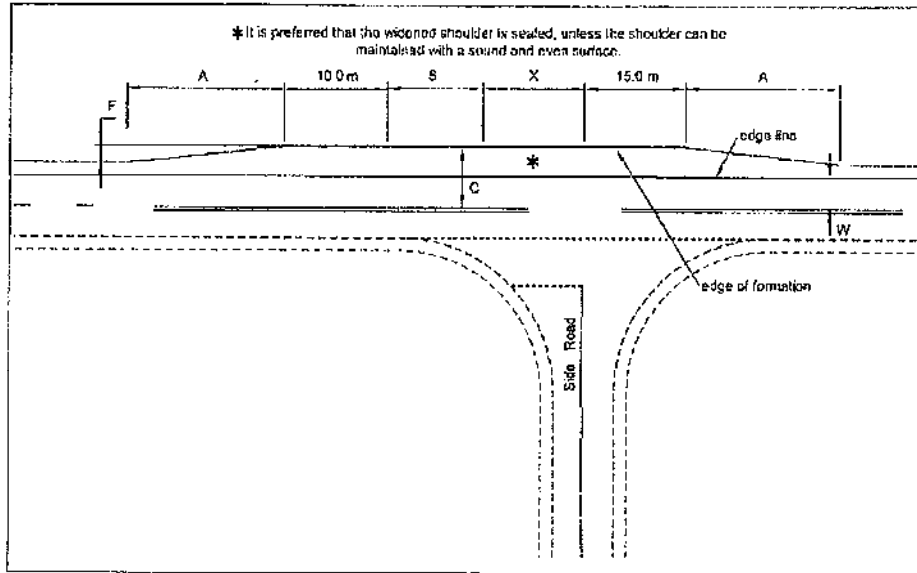
From our findings, the following recommendations with regard to the access are made:

- a) The access to the site should be designed in accordance with the requirements for a speed limit of 90 km/h, to ensure road safety is maintained along this section of the road. The accident data shows that there have been a number of accidents along this length of Ruttleys Road which is possibly reflective of both the road alignment as well as the actual speed that drivers are comfortable with on this road.
- b) The use of AS2890.2 is not considered appropriate in this location, due to the volume of traffic, measured 85<sup>th</sup> percentile speed and the requirement for heavy vehicles to enter and exit the site.
- c) The appropriate design standard to use in this instance is Austroads Part 4A: Unsignalised and Signalised Intersections. With regard to Figure 4.9 of this publication, taking into account the two-way peak hour flow along Ruttleys Road (between 696 and 1,043) the minimum intersection layout to be provided is a type BAR. This allows for shoulder widening to allow for the southbound traffic movement to pass any vehicle waiting to turn right into the site access road. This type of intersection layout will avoid rear end type accidents that can occur on this type of road, given the traffic volumes and the vehicle speeds.

P0 Box 114 New Lambton, NSW 2395

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Fax: (61) 2 4952 5573 Email: mwaugh@markwaugh.com.au





Notes.

1. This treatment applies to the right turn from a major road to a minor road.

2. The dimensions of the treatment are defined as:

W = Homed through lane width (m) (including widening for curves). Width to be continuous through the intersection.

C = On straight - 6.5 m minimum

7.0 m minimum for Type 1 & Type 2 road trains

On curves - width as above + curve widening (based on widening for the design turning vehicle and widening for the design through vehicle)

$$A = \frac{0.5V^2}{3.6}$$

Increase length A on flatter curves (e.g. those with a side friction demand greater than the maximum desirable). Where the design through vehicle is larger than or equal to a 49 m car-trailer the minimum speed used to calculate A is 80 km/h

V = Design speed of major road approach (km/h).

F = Formation/shoulderway widening (m)

S = Storage length to cater for one design turning vehicle (no minimum length 12.5 m).

X = Distances based on design vehicle turning path, typically 10-15 m

Source: QDMR (2008)

Figure 7.5: Basic right (BAR) turn treatment on a two-lane rural road

Please feel free to contact me directly on 4952 5592 should you have any queries.

Yours sincerely

Sean Morgan  
Senior Engineer

**ATTACHMENT A –Photos from nearmap**

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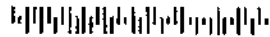
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COUNCIL**

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Web: [www.wyong.nsw.gov.au](http://www.wyong.nsw.gov.au)

Rod Mergan  
17 March 2010



Eaton & Sons Pty Ltd  
PO Box 47  
FORESTVILLE NSW 2087

## Development Application Notice of Determination

Issued under the Environmental Planning and Assessment Act 1979  
Sections 80, 80A & 81 (1)(a)

<b>Development Application No:</b>	DA/204/2007
<b>Property Address:</b>	Lot 11 DP 1091396464 Ruttleys Road MANNERING PARK NSW 2259
<b>Description of Development:</b>	Adaptive re-use of a heritage item for industrial purposes
<b>Determination:</b>	Approved
<b>Determination Date:</b>	10 March 2010
<b>Consent to Operate From:</b>	17 March 2010
<b>Consent to Lapse On:</b>	17 March 2012

### Conditions

- 1 The development taking place in accordance with the approved development plans Titled Engineer Storage Shed Vales Point, Plan No: A1-4948/A as amended by the applicant dated 18 March 1985 and the Bulk Store Building Conservation Management Plan prepared by Godden Mackay Logan, Heritage Consultants, dated February 2008, except as modified by any conditions of this consent, and any amendments in red.

### Certificates

- 2 A Construction Certificate is to be issued by the Certifying Authority prior to commencement of relevant works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

### **Prior to Release of Construction Certificate:**

*The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.*

#### **Certificates**

- 3 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and / or on the land and include a separate list of any fire safety measures that exist on the premises. The lists must describe the extent, capability and basis of design for each measure.
- 4 The Construction Certificate application shall address, but not be limited to, floor area limitations, egress provisions, maximum storage provisions and/or provision of a sprinkler system and the provision of a compliant hydrant system. The application shall include a report from an Accredited Certifier which addresses all provisions of the Building Code of Australia and where necessary recommended alternate solutions to meet the performance requirements of the Code.
- 5 The submission of a Section 149D Building Certificate for the office building constructed without the prior approval of Council. The application shall include a report from an Accredited Certifier which addresses all provisions of the Building Code of Australia and where necessary recommended alternate solutions to meet the performance requirements of the Code. The report shall include, but not be limited to , a structural engineers report for all structural aspects of the building, compliant egress provisions, access and sanitary facilities for disabled persons, and required protection for the under stair storage area. This report shall be submitted prior to the issue of the Construction Certificate.

#### **Erosion and Sediment Control – Building Sites**

- 6 Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Wyong Shire Council's Development Control Plan 2005 – Chapter 67 – Engineering Requirements for Development or Soils and Construction – Managing Urban Stormwater (Blue Book). Details are to include all major stages of construction and sequences of work together with treatments necessary at these stages. The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.

#### **Roads**

- 7 Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate which includes any works within a Council road reserve. For any such works, design plans must be submitted to and approved by Council prior to issue of the Construction Certificate.

Page 3

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- 8 The design of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development at no cost to Council. Design plans are to be approved by the Roads Authority prior to the issue of a Construction Certificate.
- 9 The design of an access onto Ruttleys Road approximately 135 metres south of existing intersection. The access onto Ruttleys Road is to be designed in accordance with Austroads 'Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections. Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development to a type BAR treatment. The design plans must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.
- 10 A Detail Design (Stage 3) Road Safety Audit (RSA) 3 prepared by a qualified Road Safety Auditor, shall be undertaken on the intersection design. The RSA is to be submitted to Council and all matters identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Construction Certificate.
- 11 The design shall include a minimum 7.5m sealed vehicular access from the end of the intersection to the factory in accordance with the requirements of the current Australian Standard AS2890 and Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. The sealed access is to be widened to provide for the semi trailers to pass at any point on the driveway with adequate clearances. The design plans must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

#### **Stormwater**

- 12 Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate. All works are to be designed and constructed in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Design plans must be approved by Council prior to issue of a Construction Certificate.
- 13 The design of a stormwater system with water quality control facilities required to treat stormwater runoff from the development in accordance with Council's Urban Stormwater Quality Management Plan for the Tuggerah Lakes and Coastal Catchments and Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. Design plans must be submitted to and approved by the Principal Certifying Authority prior to issue of a Construction Certificate.

#### **Water and Sewer Services/Infrastructure**

- 14 All water and sewer works or works impacting on water and sewer assets are to be designed and constructed to the requirements of Wyong Shire Council as the Water Supply Authority under the Water Management Act 2000. The requirements of Section 306 of the Water Management Act, 2000 which apply to this development, are detailed in the Section 306 requirements letter attached to the consent. All works required in the Section 306 letter must be shown on the design plans. The design plans must be submitted to and approved by Council prior to the issue of a Construction Certificate.



**On site Sewage Management Facility**

- 15 Approval for the On-site sewer management system is required prior to Construction Certificate being issued. The application is to include NSW Health Accreditation for the storage tank and a Geotechnical Report indicating the suitability of the site for such a system.

**Prior to Commencement of Works:**

*The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.*

**Dilapidation**

- 16 A dilapidation report must be submitted to Council as the Roads Authority prior to commencement of works. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.

**Erosion and Sediment Control**

- 17 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**
- 18 The display of an appropriate sign to promote the awareness of the importance of the maintenance of sediment control techniques on the most prominent sediment fence or erosion control device, for the duration of the project. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**
- 19 The provision of soil erosion and silt controls on the site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and the approved development plans prior to any works commencing on the site. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**

**General**

- 20 The developer being responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

**Other Authorities**

- 21 Other public authorities may have separate requirements and should be consulted in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;

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- Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

#### **Site Requirements**

- 22 Construction work is only to be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:

Monday to Friday 7.00 am to 6.00 pm

Saturday 8.00 am to 1.00 pm.

Work is not to be carried out on Sundays or Public Holidays.

#### **Trees**

- 23 Tree protection measures must be installed in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development. Documentary evidence from a qualified Arborist / Horticulturist that suitable tree protection measures have been installed may be submitted to the Principal Certifying Authority and Council, or alternatively Council must be notified to undertake an inspection of the works.
- 24 Trees and native vegetation proposed for retention are to be clearly identified on all the final approved engineering plans. All construction contractors and personnel are to be advised of the importance of conserving these No Go Areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage of vehicles, fill or materials or access is to occur within retained areas.
- 25 Any approved excavation or filling within a retained tree's canopy perimeter shall be in accordance with Development Control Plan No 67 - Engineering Requirements for Development, as excavation or filling can lead to tree instability or death.
- 26 All services, including water and electricity, must be located, designed and installed to minimise or prevent root damage to retained trees. Methods for the installation of services within the tree's canopy perimeter are contained within Development Control Plan No 67 - *Engineering Requirements for Development* and include underboring and excavation by hand.

#### **Roads**

- 27 Prior to the commencement of work the submission of a plan of management to Council for approval under the Roads Act/Local Government Act for any works for the development that impact on any public roads or public land for the construction phase of the development, prior to that section of work commencing. The plan is to include a Traffic Control Plan and/or a Work Method Statement for any works or deliveries that impact the normal travel paths of vehicles, pedestrians or cyclists or where any materials are lifted over public areas. This plan must be certified by an appropriately accredited/qualified person.



**Prior to Release of Occupation Certificate:**

*The following conditions must be satisfied prior to the release of an Occupation Certificate.*

**Certificates / Engineering Details**

- 28 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building. The occupation certificate will not be issued until the new site access has been completed.
- 29 The obtaining of a Section 307 Certificate under the Water Management Act 2000 from Wyong Shire Council as the Water Supply Authority prior to issue of the Occupation Certificate.

**Dilapidation**

- 30 Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.

**Landscaping**

- 31 Prior to an occupation certificate being issued the existing access road is to be demolished and rehabilitated to be consistent with the surrounding area through the establishment of landscaping using endemic species.
- 32 Prior to an occupation certificate being issued disturbed area in the vicinity of the new access is to be rehabilitated and appropriately revegetated.
- 33 The provision and maintenance of landscaping in accordance with Council's Policy Number L1 - Landscape for Category 3 development, including the engagement of an approved landscape consultant and contractor to undertake the construction of the landscaping is required. Design Plans are to be approved by Council prior to an Occupation Certificate being issued. All landscaping works are to be completed prior to issue of the Occupation Certificate.

**Roads**

- 34 The provision of additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council prior to issue of the Occupation Certificate.
- 35 The provision of Works as Executed information as identified in Council's Development Control Plan 67 - Engineering Requirements for Development prior to issue of the Subdivision Certificate. The information is to be submitted in hard copy format. This information is to be approved by Council prior to issue of the Occupation Certificate.

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- 36 The completion of an access onto Ruttleys Road approximately 135 metres south of the existing intersection. The access onto Ruttleys Road is to be designed in accordance with Austroads "Guide to Road Design - Part 4A Unsignalised and Signalised Intersections, Councils Development Control Plan 2005, Chapter 67, Engineering Requirements for Development to a type BAR treatment. The works must be completed and approved by Council as the Roads Authority prior to the issue of an Occupation Certificate.
- 37 All works requiring Council's approval as the Roads Authority under Section 138 of the Roads Act 1993 all works within the road reserve must be approved by Council prior to issue of an Occupation Certificate. All details are to be in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development.

#### **Stormwater**

- 38 The stormwater system from the development discharging into Council's system or public land must be approved by Council under Section 68 of the Local Government Act prior to issue of the Occupation Certificate
- 39 The provision of a stormwater system with water quality control facilities required to treat stormwater runoff from the development in accordance with Council's urban Stormwater Quality Management Plan for the Tuggerah Lakes and Coastal Catchments and Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. Works must be completed and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

#### **Vehicular Access and Parking**

- 40 Upon completion of the construction of the new access and prior to the issue of an occupation certificate, the existing access is to be closed and the existing access demolished and revegetated.
- 41 The construction of the carpark, accesses, aisles and 7.5m wide into the site accesses in accordance with Australian Standard 2890.1 and 2. Certification of the construction by a suitably qualified consultant is to be provided prior to issue of the Occupation Certificate.

#### **Other Requirements**

- 42 The office buildings located on the site are to be removed or a Building Certificate is to be issued for the office buildings prior to an Occupation Certificate being issued.
- 43 Evidence of adherence to the requirements of the Bushfire Hazard Report dated 17 October 2006 by Conacher Travers prior to an occupation certificate being issued.

**Ongoing Operation:**

*The following conditions must be satisfied during use / occupation of the development.*

**Advertising Signs**

- 44 No advertisement is to be erected on or in conjunction with the development without prior development consent unless the advertisement is an 'approved sign' under Council's Advertising Signs Development Control Plan 2005 - Chapter No 50 - Advertising Signs.

**Restrictions on Use**

- 45 The separate consent of Council is required for any retail sales from the site.
- 46 No improvements to the Heritage Building are permitted without the consent of Council.

**General**

- 47 The use of the site shall be maintained in accordance with Bulk Store Building Conservation Management Plan prepared by Godden Mackay Logan, Heritage Consultants, dated February 2008.

**Roads**

- 48 An Existing Road (Stage 5) Road Safety Audit (RSA) prepared by a qualified Road Safety Auditor shall be undertaken on the intersection by an accredited auditor twelve months after the completion of the intersection. The Road Safety Audit shall be submitted to Council as the Roads Authority. Matters identified in the RSA are to be detailed on plans and the plans shall be submitted to Council as the Roads Authority and approved prior to the works commencing. Any works required shall be completed to the satisfaction of Council as the Roads Authority no later than 18 months after completion of the initial intersection works.

**Landscaping**

- 49 All landscaping is to be maintained to maturity through the use of mulch and watering and allowed to achieve their natural height to the satisfaction of the Consent Authority. Where any approved landscaping dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.

**Right of Appeal**

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

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Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to Review the determination, except where the application is Integrated or Designated development. The request must be made in writing (or on the review application form) within twelve (12) months from the date of this determination, together with payment of the appropriate fee.

**Signed on behalf of the Consent Authority**

  
Gina Vereker  
Director  
**SHIRE PLANNING**



