



**EXTRAORDINARY MEETING
10 AUGUST 2016**

Your attendance is requested at the Extraordinary Meeting to be held Hilltops Council, Young Chambers, 189 Boorowa Street, Young on Wednesday, 10 August 2016 at 5.00pm

5.00pm Extraordinary Meeting of Hilltops Council

WENDY TUCKERMAN
ADMINISTRATOR

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BUSINESS

1. OPENING OF THE MEETING

- May I firstly acknowledge the traditional owners of land we meet on today – I humbly make my respects to the Wiradjuri people, their past, future and present elders.
- I note there are a number of people in attendance. If you are asked to evacuate, the emergency procedure is to:
 - * Exit via the door leading out of the southern side of the building directly outside the Council Chambers;
 - * Proceed to the footpath opposite the Council building.
- The General Manager will be tape recording the Council Meeting for the purpose of ensuring the accuracy of the minutes.

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- GENERAL MANAGER

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GENERAL MANAGERS REPORT

EOM16/02 51- 2016/DA-00061 – INDUSTRIAL SHED – 41 ROCKDALE ROAD, YOUNG

Reference: F29.02 (Y)
Responsible Officer: Director Building & Environmental Health

PURPOSE

The report is presented to Council for determination as a submission has been received, expressing concern with the issue of glare, and advising that an objection will stand, if not addressed. There are also some minor policy variations. This falls outside of delegations to current Director of Building and Environmental Health (former Director of Planning and Environment), due to the objection. This report recommends approval, subject to conditions.

REPORT

Application Details

DA No. 2016/DA-00061

APPLICANT Mr J White

OWNER Mrs C S White

PROPERTY Lot 1 DP 1205380, 41 Rockdale Road YOUNG NSW 2594

PROPOSAL Industrial – erection of a steel framed, corrugated aluminium clad shed to be utilised as a workshop.

Figure 1 – Site plan (shed circled)

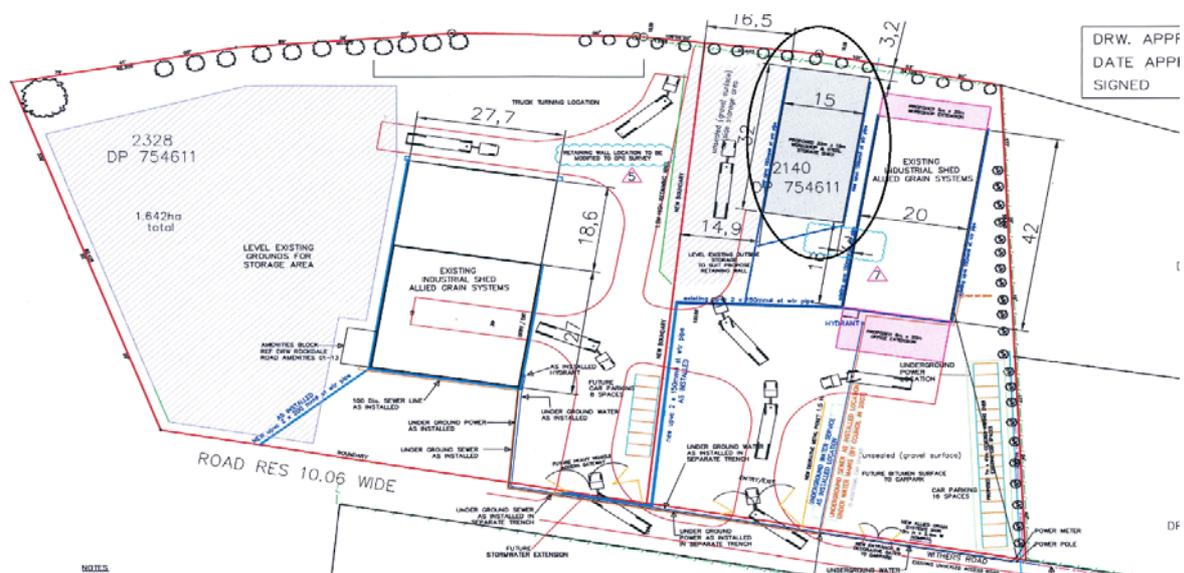


Figure 2 – photograph of shed (formerly in place on another site)



HISTORY OF DEVELOPMENT APPLICATION

27th April 2016 – DA lodged;

28th April 2016 – neighbour notification commenced, including notification in local newspaper;

3rd May 2016 – section 54 “stop the clock” request for additional information (a statement of environmental effects);

13th May 2016 – SEE submitted, along with amended site plan for repositioning of the shed (Version 2);

13th May 2016 – Council advises Applicant that:

- DA needs to be re-notified,
- the SEE supplied is deficient in number of areas (natural resources water, flooding, setbacks, noise, vehicle movements, parking),
- the revised shed position may create issues for both the existing and proposed building, in terms of fire-rating, protection of openings, fire-resistance, hydrant system, etc;

17th May 2016 – amended site plan for repositioning of the shed submitted (Version 3);

18th May 2016 – amended SEE submitted;

18th May 2016 – re-notification of development application to neighbours occurs, including re-notification in local newspaper;

24th May 2016 – Council advises Applicant that the issue of glare has been raised in relation to this application,

26th May 2016 – Council advises Applicant that flood assessment has not been submitted as yet;

3rd June 2016 – Applicant supplies additional information pertaining to glare, including a report prepared by a student from the University of Wollongong, which references and attaches BlueScope Steel Technical Bulletin TB-28 and BlueScope Steel paper on reflectivity;

10th June 2016 – Applicant submits report from Highlands Design Pty Ltd relating to glare;

17th June 2016 – Applicant submits report from Well-structured (civil engineer) relating to glare;

23rd June 2016 – assessment on flooding submitted;

24th June 2016 – the additional information submitted by the Applicant pertaining to glare, is provided to neighbour for comment (14 days allowed for further submissions).

ASSESSMENT

SITE

The proposed site is located approximately 1.7 km west of the CBD, on the northern side of Milvale Road, 400 metres along Rockdale Road on the western side. Access to the site is from a gravel Crown road (known as Withers Road) – see Figure 3.

The site is 6394 m² in area, and there is an existing industrial shed on the property, and ancillary infrastructure (access, parking areas, vehicle movement areas). It currently operates in conjunction with the adjacent property to the west (2 Withers Road), which also contains an industrial shed, but both lots are capable of operating independently of each other, through a recent subdivision formalising same.

The site is bounded to the north by the Demondrille – Blayney Railway line and to the east by cleared land which supports a house in the adjacent corner. There is cleared land to the west and south, with more houses approximately 200 metres to the south-east. Burrangong Creek flows to the west of the site, fairly close to the south-western corner of the greater site.

Previous development applications (across both sites) include:

41 Rockdale Road

- 2003/DA-000274 – to erect a steel framed colourbond shed, and use the shed and the land for the parking of trucks - approved 18 December 2003 (Not proceeded with, lapsed);
- 2006/DA-00081 - To erect a steel frame, zincalume and colorbond industrial shed and to carry out the design, storage and manufacturing of grain storage handling equipment on Lot 2140 DP 754611, and to obtain access across Lot 2328 DP 754611 - approved 21 June 2006;
- 2006/DA-00081 REV01 - To remove Condition 45 relating to the lodgement of a landscaping bond - approved 17 November 2009;
- 2006/DA-00081 REV02 - To amend hours of operation and eastern boundary landscaping - approved 15 May 2013;
- 2012/DA-00114 - To demolish the existing cottage, remove nominated trees and to undertake earthworks for car parking and storage - approved 14 September 2012;
- 2014/DA-00103 - Industrial - Awning to Carpark, Extension to Workshop, Extension to Office, Machinery Awning, New AGS sign, 15m Internal Fence, Retaining Wall, widen and realign existing entry gates– approved 19th November 2014 (not completed);
- 2014/DA-00103 REV01 – Modification to delete machinery awning – undetermined pending consideration of current application 2016/DA-00061).

2 Withers Road

- 2012/DA-00145 - To relocate and construct a steel framed colourbond clad shed and skillion to the site and use it for storage of agricultural plant and equipment - approved 21 December 2012;
- 2012/DA-00145 REV01 - To amend conditions relating to car parking, fencing, bank guarantee, hours of operation, roof maintenance and skillion material - approved 15 May 2013;
- 2012/DA-00145 REV02 - Modification - construction of amenities on western side of shed - approved 10 January 2014 - approved 10th January 2014.

Application applicable to both properties

- 2013/DA-0070 - Subdivision - 2 lots of 1.002 ha and 6394 m² - approved 21 August 2013 and registered 22nd April 2015.

Figure 3 – Location plan

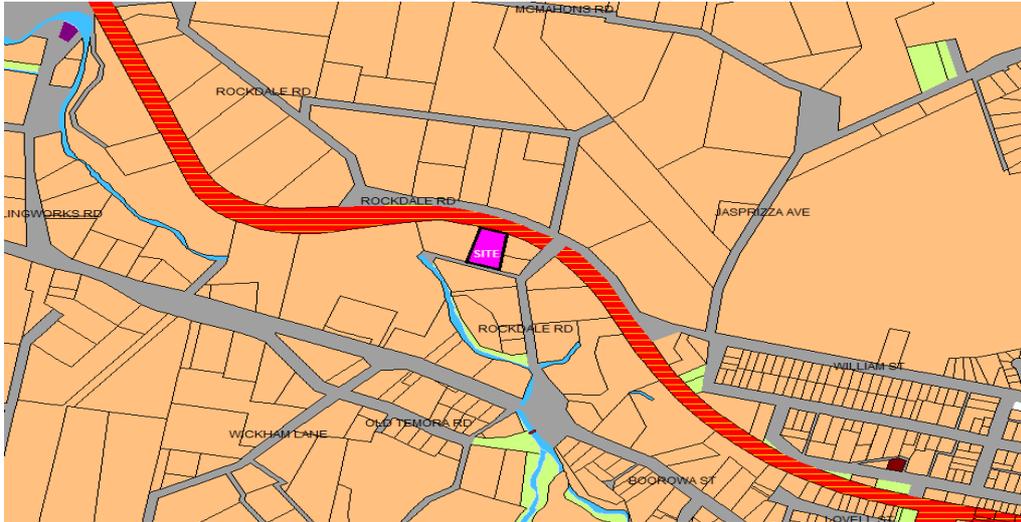


Figure 4 – Aerial view



Discussion

These matters need to be considered under section 79(C) of the Environmental Planning and Assessment Act, 1979, as part of the assessment of the proposal.

79C(1)(a)(i) & (ii) - The provision of any EPI or draft EPI

SEPPs

There are no draft SEPP's specifically relating to a development of this nature, or to the site in particular. There are a number of SEPP's which relate to the type of development proposed and Hilltops Local Government Area as a whole, and include the following.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Council is satisfied that the land is not a site of possible contamination (former orchard or other potentially contaminating use) and therefore no further assessment of contamination is required.

State Environmental Planning Policy (Infrastructure) 2007

There are provisions within this SEPP, for development in or adjacent rails corridors, and the relevance of the applicable clauses to this particular development, are as follows:

- *Clause 85 (Development immediately adjacent to rail corridors)* applies to development that is in or is immediately adjacent to rail corridors. However, this clause is not applicable as the development is unlikely to have an adverse impact on rail safety, the rail line is not used by electric trains and the development does not involve the use of cranes in the air space over the railway line;
- *Clause 86 (Excavation in, above or adjacent to rail corridors)* applies to development that involves the penetration of ground to a depth of at least 2 metres below existing ground level within or above a rail corridor, or within 25 metres of a rail corridor (either vertically or horizontally). As the development does not involve any penetrations greater than 2 metres, this clause does not apply;
- *Clause 87 (Impact of rail noise or vibration on non-rail development)* applies to development for a residential use, a place of public worship, a hospital or an educational establishment or childcare centre, where there is likely to be an adverse impact by rail noise or vibration. As the development is industrial, this clause does not apply.

LEP

The applicable LEP is the Young LEP 2010, and the relevant provisions of the LEP are discussed as follows. Broadly, the site has not been identified as having heritage significance, nor is it within a heritage conservation zone. Furthermore, the land is not affected by the natural resources mapping (land or biodiversity).

2.3 Zone objectives

The site is zoned IN1 General Industrial and the objectives of this zone are:

- to provide a wide range of industrial and warehouse land uses,
- to encourage employment opportunities,
- to minimise any adverse effect of industry on other land uses,
- to support and protect industrial land for industrial uses.

In this zone, a general industry is permissible, with development consent. The development can meet the objectives of the zone (subject to conditions), which shall be demonstrated in this report.

6.4 Water

This clause and the accompanying map set, identifies areas of groundwater vulnerability and riparian corridors, and in this instance all of the site is impacted upon by the groundwater vulnerability affectation.

The objective of this clause is to maintain the hydrological functions of riparian land, waterways and aquifers, including protecting water quality, natural water flows, the stability of the bed and banks of waterways, groundwater systems. Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on the water quality of receiving waters, the natural flow regime, the natural flow paths of waterways, the stability of the bed, shore and banks of waterways, and the flows, capacity and quality of groundwater systems.

Council is satisfied that the development (erection of the shed for steel fabrication and storage) will not adversely impact on groundwater, as none of the construction works involve significant excavation, and the use will not result in any groundwater contamination, nor significant effect on "natural" flow regimes.

6.6 Flood

Planning

This clause applies to land that is at or below the flood planning level (FPL), which means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

The objectives of this clause are:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

Development consent must not be granted for development on land to which this clause applies unless Council is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The process for determining if a site is affected by flood related planning controls, and subsequently assessing the appropriate management of this site, is as follows:

1. Check Figure A1.1 – site located in **flood planning area**
2. Check Figure A1.2 – site affected by **main stream flooding**
3. Check Figure A1.3 – site located in **intermediate floodplain and low hazard floodway**
4. Check Figure 2.3 – for level of inundation - 0.20 – 0.30 metres (20 – 30 cm or 200 – 300 mm) down to 0.05 metres (5 cm or 50 mm).

Once the affectations have been categorised, reference is required to the draft Flood Policy¹, to determine what development controls apply to the sites. This is done using the appropriate development control matrix, in this instance Annexure 2.1.

¹ Note – the draft Flood Policy has not been formally adopted by Council, and is likely to be some time off. However, it is a reference document that Council should have regard to, but is not legally bound by,

Based on the above categorisations, the following development controls should apply:

Low hazard floodway

The shed could not be erected in the proposed location.

Intermediate floodplain

- the floor level of the building needs to equal to or greater than the FPL (although if impractical lower levels can be considered),
- building to have flood compatible components below the FPL,
- building to be designed to withstand floodwater,

The Applicant's consultant, CPC Land Development Consultants Pty Ltd, whilst acknowledging the findings of the flood study, do not consider that the flood study takes into account specific local conditions on-site. Therefore, the categorisation of the land, as being either affected by inundation, or being in a low hazard floodway or intermediate floodplain, is disputed. In this regard, the following justification has been supplied:

- the natural landform of the site has been altered considerably since the site has been developed,
- in his opinion, the flood mapping represents a direction of flow, that does not take into consideration the existing development on the site (including earthworks),
- the flood map appears to indicate that the flood route follows a direct line from the railway culvert, to the creek through the site (in the location of the proposed shed),
- the landform of the site has been reshaped by
 - (i) cut and fill to provide a level building area across the site, so that there is no defined flood route through the site, as shown on the mapping,
 - (ii) construction of a floodway/diversion bank to redirect flood waters from the railway line crossing to the west to Burrangong Creek. This bank and channel varies in depth from between 0.5 and 1.2 metres and varies in width from 2 to 4 metres, and is shown on the following plan,

Figure 4 – Showing location of diversion bank (along northern boundary)



The Consultants who prepared the Study conceded that the flood modelling is done at a broad catchment wide scale, and that there could be local site conditions that would change the outcome of the modelling, if specifically entered into the modelling software. To take into account local site conditions, a 3D surface model (or triangulation survey) would need to be carried out by a surveyor. This data then needs to be inputted into the model. The cost of the triangulation survey is unknown, but should be able to be carried out by a registered surveyor with the appropriate software. However, the cost of the modelling, has been estimated to be between \$ 5000 and \$ 7000.

An inspection of the site has revealed that a diversion bank is in place, and there is no defined perceived physical floodway in the location indicated in the flood mapping. The draft Flood Policy describes low hazard floodways as being generally confined to the inbank area of the minor watercourses. The topographic data and drainage information, does not show any form of watercourse on the site. Even if water breached the diversion bank, and there was a defined channel (which there isn't), the flood mapping is indicating a maximum depth of water of 30 cm, spreading out to about 5 cm. Instead, flow is shaped from an under-rail culvert. This flow is the reason site diversion banks have been installed prior.

Based on the on-site observations, Staff are reasonably confident that there is no defined floodway on the site, in the location of the proposed shed. Furthermore, it is believed that building in that location would be possible, subject to demonstrating that suitable mitigation measures are in place to ensure water does not run through the building. These may include the existing diversion bank, and/or supplementary drainage works, in the event that water breaches the diversion bank. Whilst this is considered achievable, Council staff must not question the validity of the Flood study, without the appropriate justification, and it remains for the Applicant to demonstrate this, prior to consent being granted.

Accordingly, and provided that all other assessment is reasonable, a deferred commencement form of approval is proposed. This gives the Applicant assuredty that the development can proceed in its current form, and subject to identifying what works (if any) are required to minimise any potential impact from the perceived flooding.

The information that Council will require in order to demonstrate that the shed will not be impacted is:

- a current survey, showing existing site levels, the diversion bank, and the landform in and around the railway drain,
- an assessment of the catchment draining into the railway drain, and the capacity of the diversion bank, to handle this catchment in a 1:100 year rainfall event, without breaching the bank,
- if the assessment demonstrates that the diversion bank cannot handle a 1:100 year rainfall event, and water will flow over the bank, details of additional mitigation measures proposed to collect and discharge the water around the shed, or to increase the capacity of the diversion bank.

Alternatively, the Applicant may choose to move the shed forward (to the south) 18 metres to align with the front of the existing shed. This would place the shed out of the nominated floodway, and in an area where most of the shed is subject to less than 5 cm of water, and when erected, would substantially satisfy the floor level requirement (equal to or greater than the FPL).

Whilst the Policy is only a draft policy and is some time off being adopted by Council, this is considered a reasonable approach, allows more flexibility than the current draft Policy proposes (which would require costly remodelling), but still minimises Council's risk, by taking an informed approach to the issue.

Draft EPIs Nil affecting this development.

79C(1)(a)(iii) - Development control plan

1.3. DA Notification

This section identifies the requirements for DA notification. This development was initially notified in accordance with the DCP, involving neighbour notification (7 adjoining and adjacent land owners) and an advertisement in the local newspaper. Following the receipt of amended plans, the development was re-notified in accordance with the policy. One (1) submission was received, expressing concern with glare, from the neighbour to the north of the site (the dwelling is visible in Figure 4),

Following the receipt of additional details pertaining to glare, this information was forwarded to the person who made the submission, and a further submission was received.

A copy of the submissions has been attached to this report (Attachments 1 and 2), and the content of these submissions are discussed within the report, with respect to the issue of glare.

A submission was also received from John Holland Rail Pty Ltd (who manages the Country Rail Network), and requested that:

- no additional stormwater flows be directed towards the rail corridor,
- that waste water is treated and disposed of appropriately, and
- that fencing be erected adjacent the rail corridor.

These issues are dealt with, throughout the report as relevant.

2.9 Industrial Development

The objectives of this section are to ensure that industrial lots function effectively for industrial purposes and to improve the appearance of industrial areas when viewed from a public place.

PID 1: To ensure that new development is adequately serviced and does not place undue loads on public infrastructure

AID1.1 *All industrial allotments are serviced by underground electricity, water, sewer and telecommunications in accordance with the relevant authorities' requirements and relevant Australian Standards;*

- *a compliant potable water supply is connected to all new developments;*
- *development complies with part J of the BCA and provides a rainwater tank to amenities;*
- *separate occupancy has separate sanitary and stormwater drainage lines with independent connection to external lines.*
- *developments comply with Council's trade waste policy;*

Power, water, sewer and telecommunication infrastructure is existing and no changes are required. The issues of separate occupancies, rainwater tanks and liquid trade waste and part J of the Building Code of Australia, are not relevant to this development

AID1.2 Development contributions, if required, headworks and/or development servicing plan charges.

Section 64 contributions for water and sewer are not relevant, as the development would not result in an increase of staff or amenities. No section 94 contributions are applicable as sufficient parking is provided and the site does not contribute to the north Young stormwater management program (both repealed since the application was lodged, but relevant at the time of lodgement). Furthermore, the DA was lodged prior to the commencement of the recent s94 and s94A Plans (1st July 2016), which apply to the former Young Shire Council area, and therefore are not applicable.

PID 2: To ensure that roads, allotment access and parking areas are constructed to a standard that is durable and suitable for the proposed use

AID2.1 Site access, on-site vehicle circulation areas and manoeuvring areas are provided in accordance with the Access and Parking requirements in Section 4 of the DCP OR in accordance with AS 2890 Part 2.

Site Access

The existing access is approved, and no changes are proposed or required as a result of this application.

On-site Vehicle Circulation and Manoeuvring Areas

The application has demonstrated that heavy vehicles will still be able to manoeuvre on-site when the shed is erected, but a condition will be re-imposed requiring all vehicles to enter and leave the site in a forward direction. The issue of sealing the site has been determined previously by full Council on several occasions, and the gravel surface was considered satisfactory.

AID2.2 Access aisles, manoeuvring areas and car parking areas are constructed in accordance with Council's Engineering Guidelines for Subdivision and Development

Whilst Council's *Engineering Guidelines for Subdivision and Development* does not provide any guidance in terms of access aisles, manoeuvring areas and car parking areas, there are sufficient clauses in the DCP that control such requirements.

AID2.3 *Access driveways within the road reserve are constructed of concrete*

The existing gravel access has been consented to by Council, and no changes or upgrades are proposed or required, as a result of this development.

AID2.4 *If not already provided, kerb and guttering and footpath is provided to all road frontages of the development, including road widening and shoulder seal as necessary to ensure that the adjoining roadway complies with Council's industrial subdivision requirements;*

Again, this issue has been considered previously by full Council and it was determined that kerb and gutter was not required in relation to this site, given the nature of the road. The erection of another shed, does not alter this position.

PID3 To ensure that industrial development provides adequate on-site parking

AID3.1 *On-site parking is provided in accordance with section 4 of this DCP.*

The existing workshop is 720 m² (36 metres x 20 metres) and the existing office is 120 m² (6 metres x 20 metres). The new shed is 480 m² (32 metres x 15 metres). With a total floor area of 1,320 m², fourteen (14) spaces are required (1 space per 100 m² GFA). These spaces are available on-site at the front of the existing shed/office. Past consents have required parking spaces to be sealed (which has not occurred), but as the remainder of the site is not proposed to be sealed, this is not considered warranted anymore.

AID3.2 *Customer and visitor parking is clearly signed and is located at the front of the development, towards the primary street frontage.*

Satisfied, as all parking is located at the front of the property.

PID4 To ensure that new industrial developments have a site layout that will allow the safe and efficient manoeuvring of heavy vehicles both on the site and on the surrounding road network

AID4.1 *Vehicle access and egress is to be in a forward direction.*

Given the size and nature of the site, this is achievable. Recommended conditions would reinforce this.

AID4.2 *A clearly identified point of customer/visitor entry is provided;* Satisfied

AID4.3 *Appropriate separation is provided between customers / visitors and the operational areas of the site*

This was proposed and approved as part of the last development application (2014/DA-00103), but is yet to be put in place. In the interim, it is not considered that the new shed will create a need to elevate this requirement as this stage, from a safety perspective.

PID5 To ensure that new industrial developments do not result in unacceptable noise, vibration or overshadowing impacts on adjoining or nearby properties

AID5.1 *A setback (front building line) of at least 15m is provided from a classified road frontage; and a setback of at least 6m is provided from any other road frontage;* Satisfied

AID5.2 *A building setback of at least 5 metres is provided from all side or rear boundaries, unless the building is constructed to the boundary.*

The shed will be located greater than 14 metres from the western boundary, but is only three (3) metres from the rear boundary, and does not comply with this acceptable solution. However, Staff are satisfied that the variation is acceptable, as the rear boundary adjoins the railway land, and will not result in any unacceptable noise, vibration or overshadowing on the properties to the north.

AID5.3 *Buildings adjoining non-industrial development are set back a minimum of 10m from the property boundary;*

Not applicable, as the building adjoins the railway land, and no impact on the railway land is anticipated

AID5.4 *Buildings adjoining non-industrial development do not have a wall height exceeding 8m;*

The shed proposed is ten (10) metres in height, however, as the shed only adjoins industrial land to the west, and the railway corridor to the north, this is not considered to be an issue. It is consistent in height with other structures on the property, with the existing sheds being 7.5 and 8.2 metres in height.

AID5.5 *Buildings adjoining non-industrial development do not produce any additional overshadowing of the adjoining property between the hours of 9 AM-3 PM on 21st June.* Satisfied.

AID5.6 *Building design and machinery installation effectively minimises any noise emissions.*

The activities carried out on-site (steel fabrication) have the ability to generate noise. The proposed shed will allow activities that are currently carried out, outside of the existing shed to be conducted within the new shed, which should reduce any potential noise impacts.

AID5.7 *Building design and machinery installation prevents significant vibration transmission to adjoining properties or public areas.*

No vibrations from any of the activities on-site are expected to occur.

AID5.8 *The operating noise level of plant and equipment does not exceed 5dBA above the background noise level when measured from the property boundary.*

Standard conditions will be imposed in this regard, and more specifically in line with the NSW Industrial Noise Policy.

AID5.9 *The majority of offices and/or customer areas and/or staff facilities are located so as to address the primary road frontage of the development. These are generally located in a part of the building that does not exceed one storey in height.* Satisfied.

PID6 To ensure that industrial buildings present acceptably to the public realm in terms of;

- Facade treatment
- Landscaping and fencing signage

AID6.1 *The front façade of the building is constructed from face brick or decorative masonry block; or timber panelling, pre-coloured metal cladding, and glazing in conjunction with a reasonable proportion of brick or masonry block (greater than 30%). NOTE – Other types of materials may be considered depending on the character and streetscape of the immediate area.*

This is not considered necessary for the new shed, given the office on the existing shed satisfies this requirement. Furthermore, the shed is setback 130 metres from the front boundary, and is setback further than the existing shed.

AID6.2 *Where the building is on a corner allotment, the front façade treatment is extended at least 5 metres down the side of the building facing a side road.*

Not applicable

AID6.3 – AID6.6 *Various landscaping matters*

No additional landscaping is proposed or required.

AID6.7 *Fencing is provided of a uniform colour and material along all common boundaries, and*

- a. Solid fencing is not more than 1.8m above the finished ground level;*
- b. The total height of the fence is not more than 2.4m.*
- c. Additional fencing, screen walls or screen vegetation is provided to conceal unsightly areas from neighbour or public view (e.g. storage areas for particular materials/goods/rubbish)*

Existing fencing on the site is considered satisfactory. It comprises a combination of security fencing (along the front and side boundaries) and rural style fencing along the rear boundary. It is considered that this satisfies the requirements of John Holland Rail, preventing casual access to the rail corridor.

AID6.8 *Fencing to a street or other public place is of open and durable construction. Note: suitable materials include coated chain wire, fence designed mesh, open treated metal or open timber fencing.*

No changes proposed to existing fencing along Withers Lane, which satisfies this acceptable solution.

AID6.9 *Signage is appropriately located and designed so as clearly convey business names and services etc, but without detracting from the appearance of the area or causing issues for adjoining properties, road users, or others in the surrounding area.*

Not applicable, as no additional signage is proposed as part of this application.
4.1 Car Parking and Vehicular Access

The development satisfies the objectives of this section, pertaining to traffic safety and management and parking.

PPA1 New car parks are sufficient in number and design to provide appropriately for the needs of new developments

APA1.1 *Car parking is provided at the rate set out in Table 4.1; Satisfied (see above AID3.1).*

APA1.2 *Car parking is provided on the site of the development; Satisfied (see above AID3.1).*

PPA2 Parking areas are designed to operate in a safe manner for drivers and pedestrians.

APA2.1 *Vehicles enter and leave the site in a forward direction; Satisfied*

APA2.2 *All parking spaces are suitably marked by lines or spaces indicated by other approved means;*

Recommended conditions would ensure this occurs.

PPA3 All parking bays must be readily accessible and

APA3.1 *The layout and dimensions of car parking areas are in accordance with the design standards and principles as set out in Figures 4.1 and 4.2;*

There is ample room on-site for compliance in this regard.

APA3.2 *Unless specified to a different standard elsewhere in this DCP, all car parking areas, driveways, turning areas and loading areas are paved in either a bitumen seal coat, asphaltic or bituminous concrete, cement concrete, concrete paving blocks, or brick paving blocks.*

This has been discussed earlier in this report at AID2.1.

APA3.3 *Free and uninterrupted access to car parking areas is maintained at all times.*

Existing and satisfactory.

79C(1)(b) - The likely impacts of that development

Context & Setting

As previously identified, there is a house immediately to the east, several further to the south as well as to the north across the railway line. There are also a number of various industrial and commercial uses to the south along both Rockdale Road and Milvale Road.

It is envisaged that this area, with substantial undeveloped and cleared industrial land, will continue to be developed for industrial purposes. Consequently, it is considered, subject to appropriate conditions, that the proposed development is suitable.

Considering the level of existing industrial development in the locality, the scale, bulk, height, form, density and design of the development is considered appropriate. There are minimal scenic qualities in the immediate industrial area, and as such it is not considered that the proposal would have any negative impact in a local or regional context in terms of character.

Generally, the development would be suitable for the context and setting of the locality as it is a low impact industrial use located existing nearby to other low impact industrial uses and residential uses.

However, in terms of visual amenity, glare has been an on-going issue since 2006, for the neighbour to the rear, which looks over the development (from above). A summary of this is detailed as follows:

2006/DA-00081 – existing shed on-site

- neighbour expresses concern about the reflective nature of the shed in terms of glare, and expressing a preference for a roofing material other than zincalume,
- at the time Council assessed the potential for glare, and determined that whilst the shed would be highly visible to the neighbour, that based on the orientation of the roof and angle of the sun, that glare would not be significant.

2012/DA-00114 – demolition of house, earthworks and storage

- neighbour expresses concern with materials being stored on-site contributing to additional glare,
- neighbour states that despite assurances that glare would not be an issue and the materials would fade, it is 5 years on and the material has not faded, and glare is experienced all year round, but particularly in summer (not being able to use front patio or open living room blinds),
- at the time, Council did not consider that additional storage of materials would significantly increase glare.

2014/DA-00145 – existing shed on western part of property

- neighbour reiterates that they experience significant glare from the existing shed, which has not faded after 5 years, is experienced all year round, particularly in summer, and that the additional shed with a zincalume roof, will exacerbate the situation and further impact on the enjoyment of their property – it was suggested that a low gloss and low reflective material would be a viable option,
- as part of the assessment of this application, Council determined that the existing shed did cause some objectionable glare. An extract from the previous report presented to Council on this issue, has been replicated as follows:

Extract from the report prepared on the western most shed (2012/DA-00145):

Council's Town Planner and Manager of Planning attended the site between 11.15am and 11.30am on Monday 22 October 2012. During this time, it was evident that the existing shed onsite did cause some objectionable glare to the property.

Staff viewed the glare from the front of the dwelling on the eastern and western side of the dwelling as well as from the front porch of the dwelling (which is raised almost 3m from the ground level). The glare was the most dominant when viewed from the eastern side of the dwelling, at that time of the day. Whilst the existing shed was glary, there were also other nearby sheds that were also causing reflective glare issues towards the property. From the western side of the dwelling, there are six to seven oleanders planted in the objectors' property that reduce the glare to their habitable rooms. From the balcony, the existing shed was visible, but the location of the proposed shed would be hidden behind the objectors' oleanders. It is noted that these trees could be removed at any time and result in an increased glare nuisance to the objector as a result of the proposed shed.

It should be noted that the zone boundary between RU4 Primary Production Small Lots and IN1 General Industrial is the southern side of the Demondrille – Blayney Rail Corridor. The property overlooks the industrial area of Young. The RU4 land is raised almost 20m higher than the IN1 land. As such, Council staff acknowledges there will continue to be land use conflict in this area, particularly considering the types of uses permissible in each zone and the topography of the land. Council needs to appropriately manage and mitigate such conflict. It should finally be noted that this zone edge potential conflict has existed since the 1993 LEP.

In terms of the proposed shed, the roof and skillion would lean towards the north and south; that is, the north facing roof and the skillion would result in direct glare towards the objector's property. Whilst the existing oleanders on the objectors' property would reduce most of the glare, there would still be opportunity for the objector to be impacted by the proposed shed through the gaps of the oleanders and on windy days.

To mitigate any glare impacts, the following condition was proposed to be imposed:

- 37. The roof of the shed and the top of the skillion shall be painted in a low reflective matt finish paint prior to the issue of an occupation certificate. Details of the low reflective matt finish paint shall be provided to, and approved by Council, prior to painting commencing.*

This application was determined at the November 2012 Council Meeting, without this condition being imposed, as it was deleted during the debate. However, a rescission motion was subsequently lodged, rescinding the determination motion, and seeking to reinstate similar conditions pertaining to glare as a nuisance factor. This was following representation by the neighbour to Councillors, citing various matters such as:

- the objectives of the Environment Planning and Assessment Act, including the proper management of development, and the need to consider the impacts of a development,
- the objectives of the zone, in particular to minimise any adverse effects of industry on other land uses,
- Council's charter under the Local Government Act, in terms of its decision making,
- Land and Environment Court cases, pertaining to glare and its impact,
- the impact of the existing glare, and the additional impact the shed will have, in terms of glare,
- the use of the shed being for storage as opposed to manufacturing, and therefore occupant comfort was less an issue,
- the fact that Councillors had witnessed the glare first-hand,
- that the condition had been deleted based on economic considerations (which the Applicant had indicated was less than 5% of the cost of the development), as opposed to planning grounds.

Prior to the rescission motion being considered, and the matter being re-determined, an agreement was reached between the Applicant and the neighbour regarding roof colour. The application was ultimately approved by Council, subject to the following conditions:

1. The northern pitched roof face being Regal Blue (Colourbond/Lysaght) with an SRI of 25, and the northern skillion roof being second hand weathered off-white cladding.
60. Should the quality of the painted roof deteriorate to a level that causes objectionable glare, the business owner shall ensure the entirety of the roof and skillion is painted with a low reflective matt finish paint.

The Applicant subsequently sought to modify Condition 60, as well as to change the skillion roof material (from second hand weathered off-white cladding to zincalume) and the pitch (face south instead of north) and an extract from the report considered by Council on this matter, is as follows:

Extract from the report prepared on the western most shed (2012/DA-00145 REV01):

In terms of reducing a glare impact to the surrounding neighbours, conditions were imposed requiring the applicant to provide pre-coloured cladding to the north facing side of the roof and to maintain the north facing skillion in a low reflective matt finish paint, should the existing weathered colourbond finish develop a glare or fall into disrepair. Further, a condition was imposed ensuring the maintenance of the roof paint so as to ensure the paint does not deteriorate to a level that causes objectionable glare.

The Applicant has sought a number of modifications to these requirements as follows:

- *to modify the skillion so that it faces south;*
- *to have the option of using zincalume on the entirety of the skillion should the second hand colourbond not be construction suitable; and*
- *a review of the roof maintenance requirement.*

A submission received from landowners to the north of the property has identified that the pitch of the skillion (at 5°) would not be enough to ameliorate the glare impact, should zincalume be used on the entirety of the skillion roof as proposed by this modification. The objector suggests a pitch facing south of at least 25°.

Staff undertook their own assessment regarding the proposed skillion roof pitch and the objectors envisaged glare impact. With a skillion roof pitch of 5°, a height of 20m and a distance of 157m between the objectors dwelling and the proposed skillion, the objector is 7¼° in height above the site. This would be just over 2° above the roof pitch. The outcome would result in a thin line of the skillion roof being visible from the objector's property. This would be somewhat distorted by vegetation on the subject property and the objector's property. Generally, staff still see the pitch direction change as a positive outcome with a minimal resultant impact. The suggested 25° south facing roof pitch is considered unwarranted in view of the site being located on a zone interface, as discussed above. In terms of modifying the skillion so as to have it facing south as opposed to north (see the below diagram), Council staff see this as a significant positive particularly in terms of a reduction in glare impacts. Consequently, Staff also do not see an issue with the option of using zincalume on the skillion only, should the second hand skillion roof cladding as sourced be not be suitable for construction use. Further, the requirement for painting the skillion in a low reflective matt finish paint, is considered redundant and shall no longer be required.

*In summary, the north facing roof would be maintained as a navy colourbond colour, with the skillion either being weathered colorbond **OR** it would be replaced with zincalume, should the weathered colourbond not be construction fit. This is considered a good compromise in terms of 'giving and taking' within the zone interface area.*

In terms of the maintenance of the north facing part of the roof, this condition was imposed so as to ensure the integrity of the chosen cladding and to maintain glare reduction, generally. Removing it would result in losing that safeguard, should any deterioration occur in the roof cladding. This would potentially result in complaints and would not benefit Council in terms of maintaining amenity in the locality. As such, staff recommend Condition 60 of 2012/DA-00145 is kept.

Consequently, the following conditions were resolved by Council.

1. The northern pitched roof face being Regal Blue (Colourbond/Lysaght) with an SRI of 25, and the northern skillion roof being second hand weathered off-white cladding, or cladding in zincalume if the existing cladding sheets are unfit for construction.
60. Should the quality of the north facing roof of Building 2 deteriorate to a level that causes objectionable glare, the business owner shall ensure the roof is replaced with a colorbond cladding, having a solar reflective index of 25 or less. Zincalume cladding is not permitted on the north facing roof of Building 2.

NOTE: This condition assumes the north facing roof of Building 2 would be initially constructed with colorbond cladding with a solar reflective index of 25 or less.

2014/DA- 00103 – extension to the eastern most shed and ancillary matters

- the neighbour again raised the issue of glare in relation to this development application, stating that the proposed roof colour would have a SRI of 95, and they would have no objection if the roof had a SRI equal to or less than 25,
- the report to Council acknowledged that Council, at both a staff and elected member level, had clearly identified in past reports, and resolutions, that the glare is an unacceptable impact, and therefore had no option other than to address this, as part of the assessment of the application. It was therefore recommended that a condition be imposed, that prevents the use of white colourbond, on the roofs of the two (2) awnings and the workshop extension, and requires the roof to be of a colour with a proven solar reflective index of 25 or less, detailed as follows:
 4. The roof of the workshop extension, the car park awning and the machinery awning shall be constructed in a colourbond cladding that has a proven solar reflex index (SRI) of 25 or less. The use of white colourbond as proposed is not approved.

52. Should the quality of the workshop roof, the machinery awning and car park awning deteriorate to a level that causes objectionable glare, the business owner shall ensure the roof is replaced with a colorbond cladding, having a solar reflective index of 25 or less,

- ultimately Council resolved to impose the above conditions, with the deletion of the reference to the carpark awning in Condition 4.

Current application (2016/DA-00061)

The issue of glare has again been raised by the neighbour to the north. The initial submission (See Attachment 1), states that:

- the issue of glare has been raised since 2006,
- Councillors and Staff have witness the glare first-hand, as well as in a presentation to Council in 2014,
- the 2014 Council report stated that objectionable glare impact was experienced at our home from the existing shed,
- plans and photographs provided indicate that the roof and walls will be zincalume,
- we currently experience significant objectionable glare from the existing zincalume roof and this will be exacerbated by additional zincalume wall and roof sheeting,
- after consultation and Council involvement, the Applicant placed blue Colorbond sheeting (with a SRI equal to or less than 25) on the north facing roof of the western shed, to limit glare impact,
- the proposed shed will have a similar roof pitch and profile as the existing (eastern) shed, it is reasonable to expect that glare from this development will exacerbate the already significant glare impact to our home,
- as the shed is to replace the machinery awning proposed (as part of 2014/DA-00103), we would hope Council would impose similar conditions,
- we would raise no objection to the proposal providing that the north and west walls and west face of the roof of the building is constructed of a material with an SRI equal to or less than 25.

The content of this submission was conveyed to the Applicant, to see if the matter could be resolved without being presented to a Council meeting, by modifying the proposal to address the concerns of the Applicant.

The Applicant chose not to modify the proposal, but instead submitted three (3) documents in support of the proposed shed materials (see Attachments 3, 4 and 5).

The content of these documents is summarised as follows:

Luke White report

- reflective building materials benefit the occupants and the environment, and building owners should be encouraged rather than discouraged in the use of zincalume,
- materials with higher solar reflectivity offer better thermal performance than materials with lower reflectivity (do not absorb heat and therefore stay cooler)
- limiting reflectivity precludes energy efficient design to the detriment of occupants (thermal comfort),
- light roofing materials are being encouraged to minimise peak summer energy loads,
- result in improved lifespan due to less thermal stress,
- if a roof is viewed from the north, it is unlikely that it will ever cause glare,
- when viewed from the west, it is unlikely that glare will occur other than for a short period in the afternoon,
- due to the path of the sun, the proposed location of the shed and the large trees, it is extremely unlikely that the neighbouring property will experience any glare,
- the existing zincalume shed on the neighbouring property would produce much higher levels of glare than the proposed shed,
- due to the pitch and orientation of the proposed roof, it is extremely unlikely that glare will be experienced by the neighbouring property,
- the aging of materials reduces glare over time,
- it is apparent that the proposed shed will not produce any glare, and that the orientation and roof pitch do not produce conditions which allow for any sunlight reflection.

This report references and attaches the following documents:

BlueScope Steel Technical Bulletin TB-28

This document states (among other things), that:

- reflective materials benefit occupants and the environment,
- in limited circumstances, if not properly used highly reflective materials can cause some annoyance to immediate neighbours,
- factors to consider in appraising a building include orientation, roof pitch, vegetation, time of year, effects of weathering – discussed in Luke White report above.

BlueScope Steel – Reflectivity from Existing Building Surfaces

This document identifies similar issues to those above, identified in the Technical Bulletin and the Luke White report.

Highlands Design Pty Ltd report

This report states:

- the adjacent property is located approximately 200 metres to the north, at angle of 24⁰ west of north,
- the proposed workshop is positioned at an angle of 14⁰ east of north,
- the ridge line runs approximately north-south,
- BlueScope Steel Technical Bulletin TB-28, notes that any building viewed from the North is unlikely to cause glare,
- the only slight possibility of glare affecting the building to the north, would be from sun projecting on to a reflective surface in the late afternoon during summer,
- has prepared a diagram indicating sun angles for the times 4pm to 8pm during the summer solstice, and showing the resultant sun reflection,
- the subject property to the north would not be affected by any sun reflection,
- the proposed workshop would not cause any glare.

Wellstructured report

Makes the following observations:

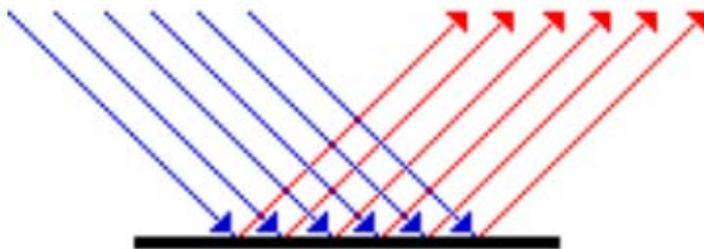
- documents referenced in the Luke White report are highly regarded in the building industry,
- reflectivity and glare are two (2) different but interrelated issues,
- perceived reflectivity is a matter of physics, with reflected light leaving a surface in the same plane as the sun's rays (angle of reflection equals the angle of incidence),
- on this basis, it is impossible for an observer to the north, to perceive reflected light,
- glare is a matter of how much light is reflected from a surface, and depends on the solar absorptance of the colour or finish,
- glare can be perceived to some extent at any angle from the surface, but will be more intense when associated with directly reflected sunlight,
- weathering processes reduce the potential for glare over time,
- the interpretation of "low-reflectivity" (as a condition of consent) is complicated by the qualitative nature of the requirement,
- classification of colours under the BCA as either light, medium or dark has provided a quantitative basis for assessing compliance with a condition of consent,
- a requirement for a dark colour is generally considered onerous and excessive due to its impact on the temperature and amenity inside the building, and on energy costs for cooling,
- zincalume is considered a medium colour,
- zinc coated roof sheeting and cladding for the building is considered reasonable and conforms to industry practice.

These documents were supplied to the neighbour, who made the following submission (see Attachment 2).

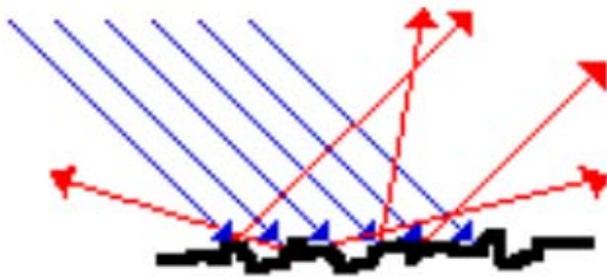
- the information contained in the above reports is based upon predictions for sun angles and glare at level ground,
- there is no acknowledgement that our home is elevated directly above the proposed shed site,
- not one (1) of the authors of the reports visited our property to see first-hand the existing situation,
- previous Council reports identified that is objectionable glare, and the proposed shed will cause the same problem,
- the Luke White report suggest that "a highly reflective roofing material" should be used, and we strongly object to this,
- the predictions in the reports are based on the use of BlueScope zincalume material, even though the application is for corrugated aluminium cladding, and it would therefore have little relevance,
- we have continued to complain about glare, and advice from Council that any impact would lessen with weathering is untrue,
- experts are telling us it is not possible to experience glare, but the proof is that the existing shed does cause glare,
- the existing glare has been experienced by Council staff and former Councillors,
- the reports predict no glare, but there is already glare impact from the existing shed,
- they do not take into account that our home is elevated some 40 metres above the site, and the predictions are made for ground level,
- the predictions are correct for ground level, but the real situation is that we are not at ground level, but are elevated, and do experience glare,
- the reports make reference to winter being the time of most impact, but this is not the case due to the difference in elevation,
- coming into summer our amenity is particularly impacted (photos supplied to demonstrate this),
- the trees referred to in the Luke White report, are deciduous and do nothing to block glare,
- the excuses given by the Applicant for use of the zincalume, such as cost, fading, consistency of materials, materials already purchased, employee comfort and energy costs, are disputed,
- the reports provide predictions only, and when we spoke to one of the authors, he had no explanation as to why glare was being experienced, and admitted he hadn't seen the current situation, but was making assumptions on what was likely to happen,
- we are not against the development on the site or the running of the business, but are disappointed that we have to yet again justify our rights to protect our home from unacceptable impact.

In assessing this issue, the following comments are offered:

- the neighbour states that there is an existing issue with glare, and the erection of another zinc-coated building will exacerbate the glare,
- the Applicant does not accept that glare is an issue, based on the location of the neighboring property with respect to the shed and the orientation of the shed, and believes that thermal comfort should be the determining factor,
- the Luke White report, whilst for the most part merely replicates information from the BlueScope Steel publications, does contain some fundamental errors, including identifying the proposed shed in the wrong location, and referencing trees which will block potential glare, but neglecting to mention that they are deciduous,
- the BlueScope Steel Technical Bulletin recognizes that in some instances, glare can cause a nuisance,
- the Highlands Design report assesses the impact of sun reflection during a single four (4) hour period out of a whole year, off a single wall, and bases the conclusion on this,
- in one (1) part of the Highland report, it states that there is a slight possibility of glare affecting a building to the north, but later claims that the subject property to the north would not be affected,
- the Wellstructured report states in one part that it is impossible for an observer to the north of a surface to perceive reflected light, but in another part states that, glare can be perceived to some extent at any angle from the surface,
- all of the reports submitted by the Applicant deal with reflection of sun, on the basis that light reflects at the same angle that it hits the surface (best articulated in the Wellstructured report), and accordingly as the sun is predominantly in the north, that any sun reflection is to the south,
- what each of the reports does not identify, is that there are 2 main types of light reflectivity that occurs when light reflects from the surface of any material, and these are called "specular reflectivity" and "diffuse reflectivity",
- specular reflectivity is when light does not diffuse, but reflects at the same angle as it hits an object (as alluded to in the above reports). Glass, mirror, still water and highly polished metals will all display mainly specular reflectivity qualities, and the reflection is depicted in the following diagram,



- diffuse reflectivity is when incoming light is reflected in a broad range of directions due to the microscopic unevenness or roughness of the surface. Whether a surface is microscopically rough or smooth has a tremendous impact upon the subsequent reflection of a beam of light. If the surface is microscopically rough, the light rays will reflect and diffuse in many different directions, which is depicted in the following diagram,



- the neighbour has not claimed that there is a concentrated reflection of sunlight from the shed, rather that there is glare,
- the glare experienced could be potentially attributed to this diffuse reflection, which is exacerbated by the bulk and scale of the shed (amount of roof and wall surface), the corrugated nature of the surface, and the rough finish of the material. So whilst there may be no concentrated light beam, it is the overall mass that causes glare at certain times, that is the issue,
- the Wellstructured report makes reference to colour classification under the BCA (light, medium or dark) as a measurable industry standard, and this in return relates to a solar absorptance (SA) level (expressed as a ratio of between 0 and 1),
- the ratios are as follows - light (< 0.40), medium (0.40 - 0.60) and dark (> 0.60),
- solar absorptance is a measure of the amount of heat transferred through the roof and has less to do with reflectivity – in essence it is a thermal comfort measure,
- in fact, the BlueScope Steel document quoted in the Wellstructured report (Classification of Colorbond steel colours for BCA and BASIX), specifically states (Note 3), that "solar absorptance is a thermal property and is not suitable for evaluation of visual impacts",
- the neighbour has sought to suggest a solar reflectance index (SRI), as a measure of acceptable material reflectivity, to address the issue of glare (requesting a SRI of 25 or less),
- SRI is calculated using values for reflectance (**solar reflectivity** or reflectance is the ability of a material to reflect solar energy from its surface back into the atmosphere) and emissivity (a material's ability to release absorbed energy),
- in order to demonstrate the difference between SA and SRI, the material recommended in the Wellstructured report (zincalume) is used as an example. Zincalume is classified as a medium colour by BlueScope Steel (SA of 0.40 to 0.60), but has a SRI of 57, which is quite high, and is marketed as being able to

reflect a greater proportion of the sunlight. So, whilst it achieves a reasonable thermal comfort outcome, it does not address visual impacts,

- the shed is quite high (10 metres in height) to allow for a crane to be installed, and is provided with roof vents (although the Applicant was unsure if they would be installed). This height and the vents will assist in the warmer air rising well about FFL, and in the hot air escaping, rather than building up,
- furthermore, insulation can be installed on the underside of the roof to mitigate the impacts of heat generation,
- elements of the wall and roof sheeting were inspected and, it was clear that the shed had lost some of its shine, but on an overcast day, lying on the ground in bundles, it is impossible to determine what glare would be experienced when it was erected and in a greater bulk and scale, and under different weather conditions
- the photograph of the second hand building (see Figure 2) shows that there is an element of glare from the shed (noting that the orientation of the shed, the time of day, etc is unknown),
- the photographs supplied by the neighbour, shows that there is an element of glare, experienced at various times throughout the year,
- the photos also indicate that the glare is predominantly from the roof and rear (northern) wall (at certain times of the year),
- the photos also show that the trees, when in leaf, provide an effective buffer to the walls, but not the roof,
- the NSW Land and Environment Court has considered the issue of glare on a number of occasions. Whilst each of these circumstances is different and had to be considered on merit and local conditions, what is clear is that the Court has sought to ameliorate the impacts of glare, when it has been recognised as an impact. The method of dealing with it is varied, but has included: refusal of an application, use of paint, use of shade cloth, use of alternate materials, and use of alternate colours,
- the Applicant has for a second time, purchased a second hand, zinc-coated shed, prior to obtaining development consent, with the knowledge that glare has been on going issue on this site since 2006,
- in all documents supplied by the Applicant, there is a significant amount of weight placed on building materials with respect to thermal comfort, and no acknowledgement of glare or visual impact,
- in essence there are two (2) competing arguments, being reflectivity and glare (from the neighbours perspective) and thermal comfort (from the Applicants perspective),
- it has been demonstrated to Council in the past, that glare is an issue in this instance.

In the assessment this issue, consideration of both the rights of the Applicant to develop in the Industrial zone, and consideration of the concerns of a neighbour in the adjacent zone that is not zoned Industrial, needs to be undertaken. This

approach is reflected in the NSW Land and Environment Court Planning Principle, on “development at zone interface”.

This principle states that at a zone interface (as exists here), any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone. In this case residents living in the RU4 zone (as the neighbour does), must accept industrial development can happen in the adjoining IN1 Industrial zone, and whilst impacts must be within reason they can nevertheless occur. Conversely any development on the Applicant’s site must take into account its relationship to the RU4 zoned lands to the north. In considering this, it may be that the development of this site, may not be able to achieve the full potential otherwise enjoyed by another site located elsewhere in the Industrial zone.

Therefore, based on the above discussion, and in light of the competing arguments, a precautionary approach should be adopted in Council’s assessment of this issue.

Accordingly, it is recommended that the western facing roof of the proposed shed, be constructed of a material with a SRI of 25 or less. Alternatively, the Applicant may choose to paint that surface in a dark colour, or apply (and maintain) shade cloth (of a suitable colour), to address this issue.

It is not considered in this instance that the western or northern walls of the shed need to be constructed to the above standard, because whilst the Applicant maintains that glare is experienced throughout the year, the main concern appears to be coming into the summer months, when the existing trees will provide adequate screening to the walls. Furthermore, whilst the western wall of the new shed will be visible at times, the new shed itself, will screen the western wall of the existing shed, thereby not exacerbating the existing problem with a significant increase in visible wall surface area.

Access, Transport and Traffic

These issues have been addressed previously in this report, throughout the DCP assessment. It is not envisaged the development would result in any further dependency on motor vehicles, and will not cause any negative impact on the existing road network.

Public Domain

It is not envisaged the development would impact adversely on public recreational activities in the locality. Neither would it impact in terms of the amount, location, design, use and management of public spaces in and around the development.

Utilities

The impact of demands on services to the site has been discussed previously in this report (at AID1.1 of the DCP assessment). All necessary utilities are available, and no or minimal impact on the services is anticipated.

Heritage

It is not envisaged there would be any impact by the development in terms of historic, scientific, social, aesthetic, anthropological, cultural, spiritual or archaeological significance, as there are no heritage items in the immediate are. Furthermore, the site of the shed is not known to be a site of Aboriginal significance, and given the highly disturbed nature of the site, this is not expected.

Other Land Resources

The development would not have any effect on conserving and using valuable land resources such as productive agricultural land, mineral extractive resources or water supply catchments.

Air and Microclimate

It is not envisaged the development would affect air quality and microclimatic conditions. The use of the land in itself, does not generate dust or significant amounts of particulates, and does not generate odour, fumes or gas.

Flora and Fauna

The development does not involve the removal of trees, and is unlikely to have any impact on flora and fauna, or critical habitats, threatened species or populations, ecological communities or any other protected species, or on native fauna or vegetation

Water

The issue of water supply has been addressed previously. Stormwater runoff from the extensions shall be directed to the existing on-site stormwater system, which will satisfy the requirements of John Holland Rail.

Waste

No additional or different waste is expected to be generated. Approximately one (1) skip bin of waste (steel and domestic style waste) is generated every 2 to 4 weeks, and this practice will continue.

Soils

Appropriate sedimentation and erosion control measures will be required to be in place before work is commenced. This will ensure that the development would have no impact on soil conservation in terms of soil qualities or instability, management of soils, soil erosion and degradation, sedimentation and pollution of water bodies contamination or acid sulphate soils as a direct result of the use of the site.

Noise and Vibration

This has been discussed previously, and it is reiterated that no additional or different types of noise is anticipated, and may in fact lessen. Noise and hour of operations conditions will be replicated, consistent with those imposed previously.

Natural Hazards

There are no known risks to people, property or the biophysical environment from geologic or soil instability, or bushfire. Flooding has been discussed previously.

Technological Hazards

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

Safety, Security and Crime Prevention

The proposed development would not alter the existing situation with respect to this issue, especially considering the number of dwellings in the immediate locality and the fact that Withers Lane is only used by this development. Both these indicators would reduce the likelihood of crime due to there being passive surveillance.

Social Impacts in the Locality

In terms of the social impact of the development, it is unlikely to have any negative impact on the locality, with neither a social benefit or cost.

Economic Impacts in the Locality

Economic benefits of the development are minimal in the long-term, with most benefit derived during the construction phase.

Site Design and Internal Design

A preliminary assessment of the proposal with respect to the provisions of the Building Code of Australia, and the effect of the development on the health and safety of the site, has been carried out, and relevant conditions are to be imposed. These include the provision of a list of essential fire safety measures required by the Building Code of Australia.

Construction

Conditions of consent will be imposed with respect to construction issues, such as sedimentation and erosion control, site safety and hours of construction.

Cumulative Impacts

Cumulative impacts associated with this type of development relate largely to visual amenity. With the imposition of conditions relating to the placement and maintenance of vegetative buffers, and ensuring the roof has a low level of reflectivity, this cumulative impact (nibbling effect) would be mitigated satisfactorily.

79C(1)(c) - The suitability of the site for the development

Does the proposal fit in the locality?

The proposed development does fit in the locality subject to minor amendment to roof cladding to ameliorate glare impacts, and subject to demonstrating "floodwater" is managed appropriately. There are no constraints posed by adjacent developments that would prohibit this proposal. There are adequate utilities and services available to the proposed development. The air quality and microclimate are appropriate for the development, there are no hazardous land uses or activities nearby, and ambient noise levels are suitable for the development.

Are the site attributes conducive to development?

The site is not subject to natural hazards including subsidence, slip, mass movement or bushfires. The issue of flooding has been discussed elsewhere. The soil characteristics are appropriate for the development, and there are no critical habitats, or threatened species, populations, ecological communities or habitats on the site. The development will not prejudice future agricultural production and there are no known mineral or extractive resources on the site.

79C(1)(d) - Any submissions made

Discussed in detail throughout the report.

79C(1)(e) - The public interest

Staff are not aware of any policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no management plan or planning guideline that is applicable to a development of this nature. There are no covenants, easement or agreements that affect the proposal.

CONCLUSION

As demonstrated in this report, the development is appropriate for the locality. From a staff point of view, all relevant matters have been addressed, and/or conditions imposed to ensure that any identified and potential impacts are mitigated. There are no reasons warranting the refusal of this application. The imposition of conditions relating to the solar reflectivity of the roofing material, would ensure the development can operate in the locality with minimal land use conflict. Furthermore, the deferred commencement allows the Applicant to demonstrate that the shed will not be unduly impacted by "floodwaters", as indicated in the Flood Study.

The development application has been assessed in accordance with the matters for consideration under section 79C of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies,

and is considered to comply with all relevant items. It is recommended that the development application be approved, subject to appropriate standard conditions and those otherwise identified in the assessment.

RELATIONSHIP TO INTEGRATED PLANS – FORMER YOUNG SHIRE COUNCIL

- Objective – 1.2 - Urban design, planning and building control that meets community needs
 - ↳ Strategy - 1.2.2 Provide efficient and effective control of the built environment, through application, monitoring and compliance.
- Objective 2.2 - Governance and Leadership
 - ↳ Strategy - 2.2.1 Ensure transparency of vision, policy and decision making.

STATUTORY PROVISIONS

The development application has been assessed in accordance with the matters for consideration under section 79C of the *Environmental Planning & Assessment Act 1979*, all relevant environmental planning instruments and policies.

CONSULTATION

Nil

POLICY IMPLICATIONS

There are no policy implications arising from the approval of this development application.

FINANCIAL IMPLICATIONS

There are no budget implications for Council from this report or this development. The development will be at the applicant's expense.

ATTACHMENTS

- Attachment 1 – Submission from neighbour dated 11th May 2016
- Attachment 2 – Submission from neighbour dated 8th July 2016
- Attachment 3 – Report prepared by Luke White
- Attachment 4 – Report prepared by Highlands Design Pty Ltd
- Attachment 5 – Report prepared by Wellstructured

RECOMMENDATION

It is recommended, that Council determine the following development application, by way of deferred commencement consent, subject to conditions identified below:

- Application No.: 2016/DA-00061,
- Property: Lot 1 DP 1205380, 41 Rockdale Road, Young
- Development: Industrial - erect a steel framed, corrugated aluminium clad shed to be utilised as a workshop.

PART 1 – DEFERRED COMMENCEMENT CONDITIONS

1. Pursuant to section 80(3) of the Environmental Planning and Assessment Act, 1979, this consent is not to operate until Council is satisfied that the following condition contained in Part 1 of this consent, has been satisfied, as signified by Council in writing.
2. As a minimum, the following information shall be supplied to Council, to demonstrate that the proposed shed will not be located in a floodway, will not be impacted by floodwaters:
 - a current survey, showing existing site levels, the diversion bank, and the landform in and around the railway drain,
 - an assessment of the catchment draining into the railway drain, and the capacity of the diversion bank, to handle this catchment in a 1:100 year rainfall event, without breaching the bank,
 - if the assessment demonstrates that the diversion bank cannot handle a 1:100-year rainfall event, and water will flow over the bank, details of additional mitigation measures proposed to collect and discharge the water around the shed, or to increase the capacity of the diversion bank.

PART 2 – CONDITIONS OF CONSENT

General

- 1 The development shall be generally in accordance with development application number 2016/DA-0061 submitted by the applicant on 27th April 2016, and be in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Drawing No.	Rev/ Issue	Name of Plan	Dated	Submitted
1420-110	7	Site layout detail	16 th May 2016	18 th May 2016
89C-34001	1	Steelwork Marking plans and elevations	29 th November 2007	27 th April 2016

89C-34002	1	Steelwork Sheet 1	29 th November 2007	27 th April 2016
Photographs of the shed (x 2), submitted 27 th April 2016,				
Statement of environmental effects ((3 pages), ref 5213, prepared by Allied Grain Systems, dated 16 th May 2016				

as modified by any conditions of this consent.

- 2 No departure from the approved plans and specifications shall be made unless the prior approval of Council has been obtained in writing.
- 3 In the event of any inconsistency between the documentation referred to in the above condition, the most recent document shall prevail to the extent of the inconsistency.
- 4 In the event of any inconsistency between conditions of this approval and documents referred to in the above condition, the conditions of this approval shall prevail to the extent of the inconsistency.
- 5 The builder must at all times maintain on the job, a legible copy of the plans and specifications bearing the stamp and building permit of Council.
- 6 A notice bearing the lot number and the builders name and license number shall be prominently displayed at the front of the land from the time the development application is submitted to Council until the building is complete, or until the occupation certificate is issued.
- 7 The building works shall be carried out in conformity with the provisions of the Environmental Planning and Assessment Act, 1979, and the Regulations made thereunder, in accordance with the plans and specifications approved by Council. No departure from the approved plans and specifications shall be made unless the prior approval of Council has been obtained in writing.
- 8 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.
- 9 The following details are to be displayed in a maximum of 2 signs to be erected on the site
 - the name of the Principal Certifying Authority, their address and telephone number
 - the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours

- that unauthorised entry to the work site is prohibited
- that designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage, but no more than 2 signs, stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in manner that can be easily read by pedestrian traffic.

All construction signage is to be removed on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

Parameters of Consent

- 10 The western facing roof of the shed shall be:
- constructed in a colorbond cladding, that has a proven solar reflective index of 25 or less, or
 - painted in a dark colour, or
 - be treated by another method that reduces potential glare impact.

Building

- 11 All building work must be carried out in accordance with the requirements of the *Building Code of Australia*. In particular, your attention is directed to the following conditions.

PRIOR TO CONSTRUCTION

Construction Certificate

- 12 A Construction Certificate must be obtained from Council or an Accredited Certifier prior to construction work commencing. A separate application, using the attached form shall be submitted prior to the issue of a construction certificate for the development.

Appoint Principal Certifying Authority

- 13 Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate shall:
- (a) appoint a Principal Certifying Authority and notify Council of the appointment (if Council is not appointed), and
 - (b) notify Council of their intention to commence the site works (at least 2 days' notice is required).

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Additional Information required prior to issue of Construction Certificate

- 14 The following information shall be submitted to Council prior to commencement of construction of the relevant stage of the building:
- (a) BCA compliance
A full set of structural drawings that demonstrate compliance with the BCA. It may be necessary to contact an experienced certifier to furnish a BCA compliance report.
 - (b) Stormwater
Details on stormwater collection and disposal.
 - (c) Fire Safety List
Prior to issuing a Construction Certificate the applicant shall be required to furnish a diagram detailing all essential and fire safety services to the whole of the building.
 - (d) Details from a suitably qualified and practising Structural Engineer in regard to:
 - (i) footings;
 - (ii) reinforced concrete slabs;
 - (iii) retaining walls;
 - (iii) structural steelwork;
 - (e) Roof material and colour
Details of the material and/or colour of the western facing roof of the shed.
 - (e) Sedimentation and erosion control
Details of sedimentation and erosion control methods proposed to be implemented.

DURING CONSTRUCTION WORKS

Inspection/Certification

- 15 The Principal Certifying Authority (PCA) must determine when inspections and compliance certificates are required. Where Young Shire Council is nominated as the PCA, the following stages must be inspected and passed prior to the subsequent stages of construction. Twenty-four (24) hours' notice shall be given to Council to allow scheduling of the inspection.

NOTE: Where inspections are requested and the work is either incomplete or not started, or unsatisfactory thus requiring an additional inspection, such re-inspections will be charged to the applicant at the rate as outlined in the *Fees and Charges* section of Council's current *Management Plan* per additional inspection. This will be deducted from the security deposit (where held) or paid prior to the inspection being carried out.

- (a) Site inspection when all sediment and erosion controls are in place ready to commence work. At this time the condition of Council's footpath, kerb and gutter, nature strip, road reserve will be assessed;
- (b) After excavation for, and prior to the placement of, any footings, and prior to pouring any in-situ reinforced concrete building element;
- (c) The framework for any floor, wall, roof, or other building element prior to covering with any external element (including sarking, brickwork or cladding);
- (d) Prior to backfilling or covering any stormwater drainage and connections to point of discharge;
- (e) After all building work has been completed and prior to any occupation certificate being issued in relation to the building.

Survey

- 16 A document from a registered and practising land surveyor shall be submitted to Council at the following stages of construction:
- peg out and prior to construction commencing.

Erosion Control

- 17 Erosion and sedimentation control measures shall be implemented in accordance with Council's *Engineering Guidelines for Subdivision and Development*, prior to work commencing.

Builders Toilet

- 18 The applicant shall ensure that a suitable builders' toilet is situated on the property prior at the time of the first inspection, prior to commencing construction.

Site Security

- 19 Access to the site shall be restricted by way of safety/security fencing and the access point clearly delineated.

Disabled Access and Facilities

- 20 Access for the disabled must be provided to the whole floor in accordance with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.
- 21 Toilet accommodation shall be provided for disabled persons in accordance with the design criteria in *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.
- 22 Ramps provided for disabled access shall comply with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

WorkCover Authority

- 23 The applicant shall be responsible for compliance with the requirements of the WorkCover Authority of NSW.

Hours of Construction

- 24 Work on the project shall be limited to the following hours:
- (i) Monday to Friday - 7:00 am to 6:00 pm
 - (ii) Saturday - 8:00 am to 5:00 pm
 - (iii) No work to be carried out on Sunday/Public Holidays, without the prior consent of Council.

Cut and fill

- 25 The applicant shall ensure that any cut or fill on site is appropriately graded, drained or retained and drained as necessary.

NOTE: Any graded land that slopes toward a neighbouring property shall incorporate dish or surface drains to divert water to a sump and then be piped to the existing stormwater drainage system.

Retaining walls greater than 1 metre in height shall be designed by a suitably qualified practising and insured Structural Engineer. The design shall be submitted to and permission to proceed granted by Council prior to work commencing.

PRIOR TO OCCUPATION

Occupation Certificate

- 26 A final Occupation (Completion) Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principle Certifying Authority must be satisfied that the requirements of section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Car Parking

- 27 A minimum of fourteen (14) parking spaces shall be provided on site. These parking spaces shall be constructed in accordance with *Australian Standard AS2890 - Parking and vehicular Access Part 1 and Part 2*. They shall be constructed to a gravel all-weather and effectively graded and drained. They shall be constructed so as to ensure vehicles enter and leave the site in a forward direction.

Visitor Signage

- 28 The applicant shall ensure that signage is provided on parking spaces that have been identified for Visitors/Customers.

Stormwater Drainage

- 29 After completion of the stormwater drainage works, prior to the issue of an Occupation Certificate, the applicant shall submit to Council a detailed Works As Executed plan of all completed stormwater works.

Fire Safety Certificates

- 30 A Final Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Final Fire Safety Certificate is issued, the owner of the building to which it relates must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

Arrange issue of Occupation Certificate

- 31 When all work as indicated on the approved plans/specifications is completed, the applicant shall notify the PCA to arrange for the issue of a final Occupation (Completion) Certificate.

DURING OCCUPATION

Amenity

- 32 The use shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke vapour, steam, soot, ash, waste water, waste products or grit, oil or otherwise.

Visual Amenity

- 33 The development shall not involve exposure to view from any adjacent premises or from any public place of any unsightly manner.

Noise

- 34 The use of the premises, and operation of any equipment, shall not give rise to offensive noise, that by reason of its level, nature, character, quality or the time at which it is made, is likely to be harmful to, or interfere unreasonably with, a person who is outside the premises from which it is emitted.

Hours of Operation

- 35 The operations or vehicles associated with the development, shall be limited to the following hours of operation:
- (i) Monday to Friday - 6:00 am to 8:00 pm
 - (ii) Saturday - 6:30 am to 5:00 pm, with no machine, tool or vehicle noise occurring before 7:00 am or after 5:00 pm
 - (iii) Sundays - 7:30 am to 4:00 pm, with no machine, tool or vehicle noise occurring before 8:00 am or after 4:00 pm
 - (iii) Public Holidays - 7:30 am to 4:00 pm, with no machine, tool or vehicle noise occurring before 8:00 am or after 4:00 pm (other than those with restricted trade limitations by the NSW Industrial Relations Commission).

Annual Essential Services Compliance Certification

- 36 The owner shall submit to Council an Annual Essential Service Compliance Certificate, each twelve months after the original certificate was issued.

Internal Access-ways

- 37 Trafficable areas onsite shall be maintained to ensure a suitably gravelled and drained internal access way exists, to ensure all-weather access by cars and trucks.
- 38 These areas shall be suitably shaped to ensure that run-off does not create a nuisance or cause erosion to adjacent properties.
- 39 All vehicles shall be able to, and will, enter and leave the site in a forward direction.
- 40 Internal roads/trafficable areas shall be watered as necessary to minimise dust generation from vehicles.
- 41 All loading and unloading of materials and goods shall be carried out on-site.

Roof Maintenance

- 42 Should the quality of the workshop roof, deteriorate to a level that causes objectionable glare, the business owner shall ensure the roof is replaced with a colorbond cladding, having a solar reflective index of 25 or less, or other method to reduce glare.

Works Inside

- 43 The business is to undertake any potentially fire hazardous works, such as grinding or welding or works that generate a spark, within the curtilage of the sheds onsite.

CLOSED COUNCIL

16/03 52 – EXCLUSION OF THE PRESS AND PUBLIC

STATUTORY PROVISIONS

In accordance with the *Local Government Act 1993* and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than Councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it,
 - or
 - (ii) confer a commercial advantage on a competitor of the Council,
 - or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the Council, Councillors, Council staff or Council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

RECOMMENDATION

1. That Council resolve into Closed Council to consider business identified, together with any late reports tabled at the meeting.
2. That pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.
3. That the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the Local Government Act 1993.

ITEM 1: LEGAL MATTER

This item is classified CONFIDENTIAL under section 10A(2)(c) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege