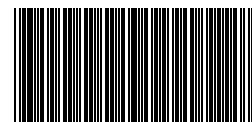




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Statement of Facts and Contentions

COURT DETAILS

| | |
|-------------|-----------------------------------|
| Court | Land and Environment Court of NSW |
| Division | Class 1 |
| Registry | Land and Environment Court Sydney |
| Case number | 2026/00124282 |

TITLE OF PROCEEDINGS

| | |
|-------------------|---|
| First Applicant | Oura Riverine Protection Inc |
| First Respondent | Wagga Wagga City Council ABN 56044159537 |
| Second Respondent | Eringoarrah Pty Ltd |

FILING DETAILS

| | |
|--------------------------------|---|
| Filed for | Oura Riverine Protection Inc, Applicant 1 |
| Legal representative | Peter Holt |
| Legal representative reference | |
| Telephone | 9334 8970 |

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Statement of Facts and Contentions (Statement of Facts and Contentions - 15 May 2026.pdf)

[attach.]

STATEMENT OF FACTS AND CONTENTIONS

COURT DETAILS

| | |
|-------------|---|
| Court | Land and Environment Court of New South Wales |
| Class | 1 |
| Case number | 2025/000124282 |

TITLE OF PROCEEDINGS

| | |
|-------------------|--------------------------------------|
| Applicant | Oura Riverine Protection Inc. |
| First Respondent | Wagga Wagga City Council |
| Second Respondent | Eringoarrah Pty Ltd |

FILING DETAILS

| | |
|--------------------------------|---|
| Filed for | Oura Riverine Protection Inc. , Applicant |
| Legal representative | Peter Holt, HWL Ebsworth Lawyers |
| Legal representative reference | PH:1278441 |
| Contact name and telephone | Peter Holt, (02) 9334 8970 John Zorzetto, (02) 9334 8442 Claudia Bilinski, (02) 9334 8776 |
| Contact email | pholt@hwle.com.au ; jzorzetto@hwle.com.au ; cbilinski@hwle.com.au |

PART A - STATEMENT OF FACTS

The Appeal

- 1 These proceedings are an appeal against the First Respondent's grant of consent for development application DA23/0598 under section 8.8 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) (the **Proceedings**).
- 2 The development application comprises development of a Livestock Processing Industry (Abattoir) for a throughput of 1,903 tonnes of live weight annually, including an ancillary Solar Energy System, ancillary outbuildings, a wastewater treatment plant and associated storage tanks, landscaping works, and hardstand servicing and parking areas (**the Proposed Development**).
- 3 The Proposed Development is designated development because it involves the slaughter of more than 750 tonnes of livestock per year under clause 31 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**).

- 4 The Proposed Development is also integrated development under Division 4.8 of the EP&A Act because it requires an environment protection licence to carry out scheduled development work under sections 43(a), 47 and 55 of the *Protection of the Environment Operations Act 1997 (POEO Act)* and an environment protection licence to carry out a scheduled activity under sections 43(b), 48 and 55 of the POEO Act.

About the Applicant

- 5 The Oura Riverine Protection Inc. (Ref: INC2300420) (the **Association**) is a non-profit incorporated association under the *Associations Incorporation Act 2009*.
- 6 The Association was registered on 18 April 2023.
- 7 The object of the Association is to protect the natural and rural environment for the community of Oura, NSW, for the benefit of the region and future generations.
- 8 The Applicant objected to the development application during each of the five notification periods.

Detailed description of the Proposed Development

- 9 The development application (as amended) seeks consent for the following:
- a. the main abattoir building (621.72m²);
 - b. office and amenities building (180.79m²);
 - c. workshop and storage room (200m²);
 - d. electrical building (200m²);
 - e. lairage area (330.30m²);
 - f. four 250kL water tanks;
 - g. a wastewater treatment plant (**WWTP**) (see **Figure 1**) which comprises:
 - i. rotary drum screen to separate solids;
 - ii. a 22.5kL raw wastewater flow balance tank;
 - iii. two 25kL Sequencing Batch Reactor (**SBR**) tanks operating in parallel;
 - iv. a decant tank receiving treated effluent from the SBRs;
 - v. a media filtration unit;
 - vi. a UV disinfection unit;
 - vii. 950m³ of wet weather-treated effluent storage; and

- viii. 4.1ha of effluent management area,
 - h. a car park with 14 parking spaces;
 - i. installation of a photovoltaic (**PV**) system with a 1,300-kW solar collector, 1,500 kWh battery and 500 kVA backup generator. The PV panels would have a width of 4.8 m and an overall height once mounted of 5.134 m. The panels would be mounted in nine rows, and the entire panel array would utilise 1.5 ha of the development site;
 - j. an upgrade to the existing driveway off Oura Road; and
 - k. landscaping, including:
 - i. retention of landscaping along Oura Road and new screen planting around the solar panel area and to the west of the proposed buildings; and
 - ii. new screening trees and shrubs (utilising native species endemic to the area) to the north of the proposed buildings.
- 10 The Proposed Development is unsewered.
- 11 The Proposed Development does not require fill to be imported to the Development Site.
- 12 An aerial view of the Proposed Development is at **Figure 2**.

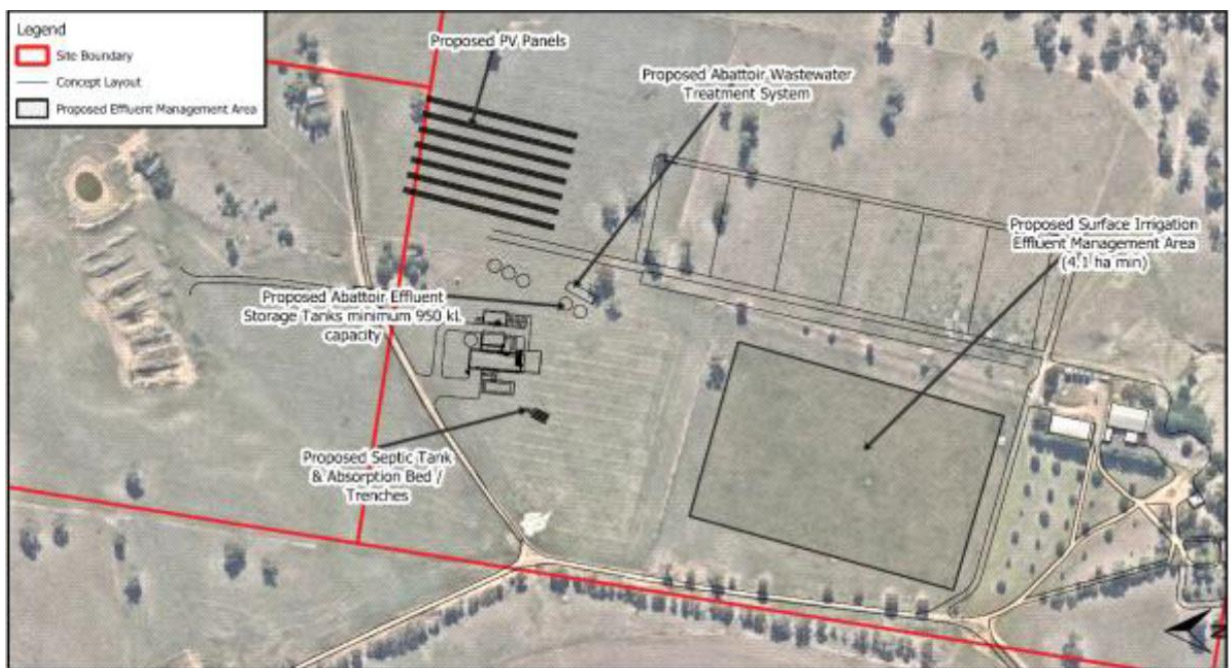


Figure 1 - Proposed Onsite Wastewater Management System (Source: Martens, 2024)

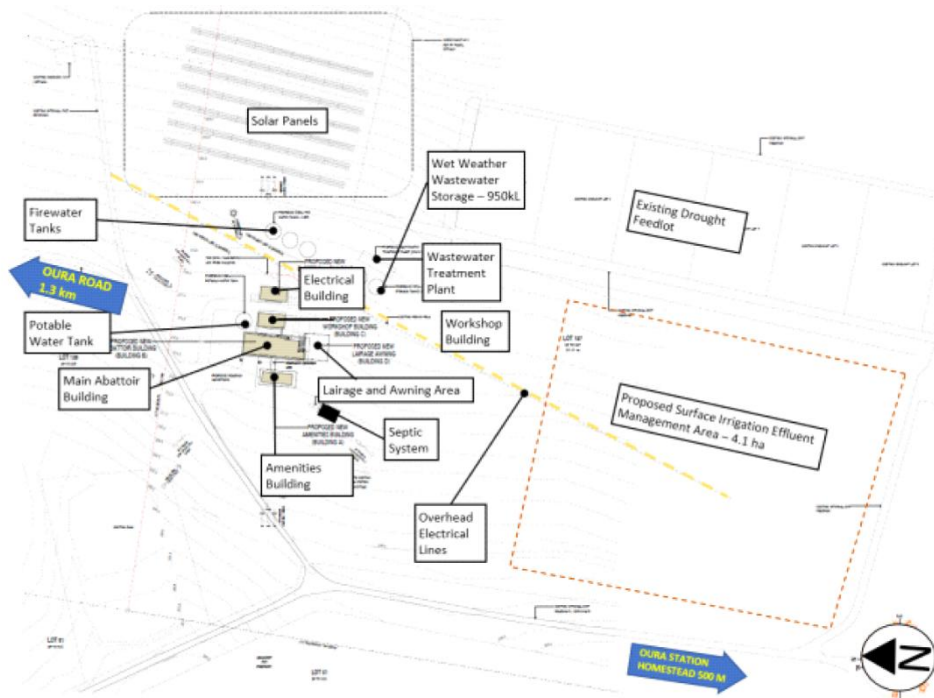


Figure 2 - Bird's Eye View of the Development Application (Source: Report of Development Application, 25 February 2026)

Operation

- 13 The abattoir will operate five days a week from 6:00 AM to 6:00 PM, employing 10 full-time and two part-time staff.
- 14 The abattoir can process a maximum of 60 cattle, 50 lambs and 20 pigs per week up to a maximum of 1,903 tonnes of live weight per year.
- 15 The abattoir will not operate as a standalone or commercial receival facility for the slaughtering or processing of livestock that are brought to the Development Site solely for that purpose.
- 16 The processing of sheep and pigs to be grazed on the farm in the future also forms part of the Proposed Development, but no timeline for the introduction of these animals has been proposed.
- 17 Following the slaughter and processing of animals, the facility will be washed down at the end of each day, including the internal processing areas and the lairage area.

Wastewater treatment and discharge

- 18 The abattoir will generate 30.41kL/day (or 10.2ML/year) of raw wastewater.

- 19 This raw wastewater is assumed to have the following qualities: total dissolved solids being 1,150 – 5,700mg/L, biochemical oxygen demand being 1,550 – 5,750mg/L and nitrogen being 180 – 440mg/L and phosphorus being 26 – 60mg/L.
- 20 The raw wastewater will be treated to a high-strength standard (consistent with the *Environmental Guidelines: Use of Effluent by Irrigation* DEC, 2004), with a biochemical oxygen demand of less than 40mg/L, nitrogen of less than 50mg/L and phosphorus of less than 10mg/L.
- 21 TDS are assumed to be greater than 1000 mg/L based on advice from the NSW Environmental Protection Authority.
- 22 High strength effluents require larger wet weather storages and other management measures compared to lower strength effluents.
- 23 Treatment with the Hydroflux system with coagulants has been proposed to remove total dissolved solids, as an alternative to a reverse osmosis system, but it is uncertain whether metal or non-metal coagulants will be used.
- 24 In suitable weather wastewater will be discharged using the surface spray irrigated 4.1ha effluent management area (**EMA**).
- 25 There is 950kL of wet weather storage. This is to accommodate one month (31 days) of storage when irrigation cannot occur because of wet weather.
- 26 The key assumptions that drive the wet weather analysis are:
- a. the volume of wastewater generated by the abattoir; climate data from the Wagga Wagga AMO for the period January 1942 until December 2023;
 - b. the area of the EMA; the rainfall runoff coefficient (35%); the soil percolation rate (2.00mm per day); and
 - c. seasonal crop factors.
- 27 No field measurements of rainfall runoff were carried out.

The Site and the locality

Oura Station

- 28 The site is legally described as Lot 8 DP 114170, Lot 10 DP 114170, Lot 137 DP 751397, Lot 139 DP 751397, Lot 142 DP 751397, Lot 51 DP 751423 and Lot 81 DP 751423 and is identified on the Site identification plan in **Figure 3 (Development Site)**.

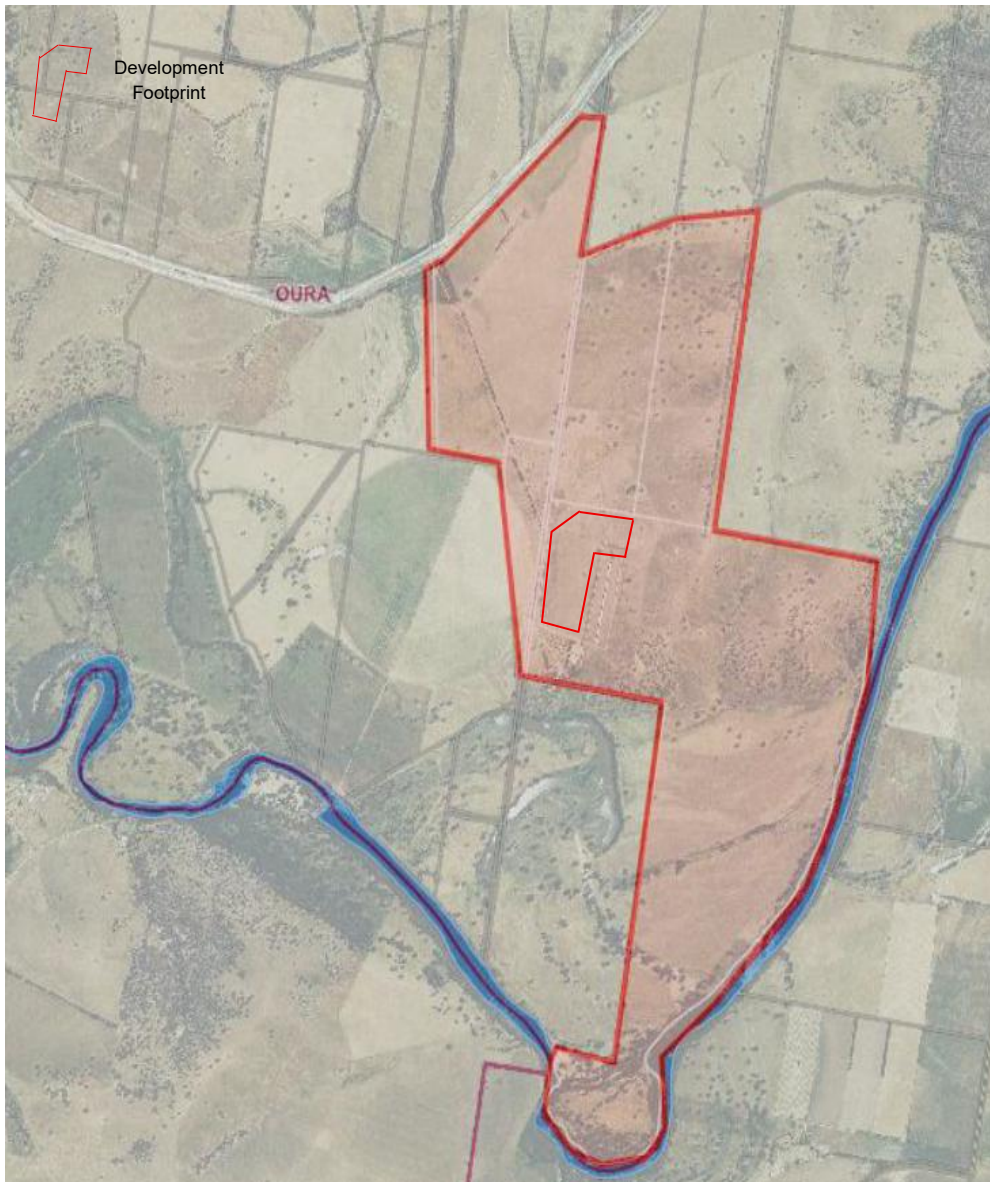


Figure 3 - Site and Locality (Source: Report of Development Application, 25 February 2026)

29 The Site referred to as 'Oura Station' comprises approximately 466 hectares of land that is zoned Zone RU1 Primary Production under the *Wagga Wagga Local Environmental Plan 2010*.

Zone Objectives

30 The objectives of Zone RU1 are:

To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

To encourage diversity in primary industry enterprises and systems appropriate for the area.

To minimise the fragmentation and alienation of resource lands.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

To foster strong, sustainable rural community lifestyles.

To maintain the rural landscape character of the land.

To allow tourist and visitor accommodation only where it is in association with agricultural activities.

Rural industry and intensive livestock agriculture with development consent

- 31 Development for the purposes of a "rural industry" is permitted with consent as an innominate permitted use within the RU1 Zone. Rural industry would include an abattoir as a kind of livestock processing industry.
- 32 Development for the purpose of "intensive livestock agriculture" is permitted with consent as a nominated permitted use within the RU1 Zone. A cattle feedlot is a kind of intensive livestock agriculture.
- 33 Certain development to temporarily contain livestock is permissible without consent but that development cannot be carried out within 100 metres of a natural watercourse.
- 34 The Site is located on Oura Road, approximately 5km from the village of Oura and 20km from the Wagga Wagga Central Business District.
- 35 The Site is within the Wagga Wagga City Local Government Area.
- 36 The Site is owned by the Second Respondent.
- 37 The Site is currently occupied by:
- a. livestock and cropping farming land;
 - b. a cattle feedlot;
 - c. silage pits;
 - d. a dam;
 - e. two wastewater treatment lagoons;
 - f. associated rural buildings;
 - g. a rural workers' cottage; and

- h. a local heritage listed federation homestead, the Oura Station Homestead.

Access to the Site

- 38 Access to the Development Site is gained from a driveway through Lot 51 and Lot 81 DP751423 and Lot 8 and 10 DP114170, which connects to Oura Road. The driveway, including its connection to Oura Road, comprises an unsealed all-weather surface.

Development footprint

- 39 The development footprint comprises approximately 8.2ha of the Site and includes the area containing the abattoir buildings, the wastewater treatment facilities, the solar array and the EMA (see **Figure 3** and **Figure 4**) (**Development Footprint**).

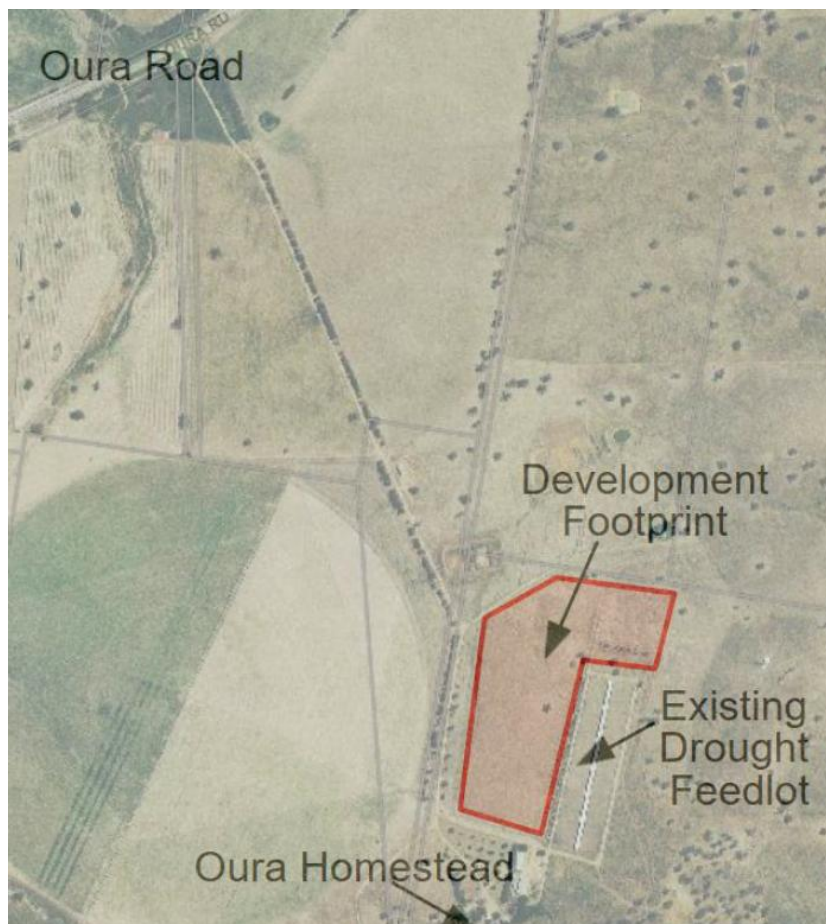


Figure 4 - the Development Site (Source: Report of Development Application, 25 February 2026)

Existing cattle feedlot

- 40 The Development Site also contains an existing 3.7ha cattle feedlot (also referred to as the drought feedlot and the containment feeding area) with six fenced

paddocks, a covered central shade area with a zincalume roof and an unsealed road surrounding it shown on the development footprint plan in **Figure 4**.

41 The cattle feedlot was constructed in 2019. The cattle feedlot is designed to accommodate more than 1,000 and up to 4,000 head of cattle (depending on class of cattle on feed) based on its size and configuration. The cattle feedlot has an 8% fall. A contour bank and piped drainage system conveys surface water from the feedlots to the treatment lagoons. The treatment lagoons for the feedlot are located online (built on a mapped watercourse). One of the treatment lagoons extends beyond the Site.

42 The cattle feedlot is located upgradient from the EMA. The feedlot produces untreated effluent which is discharged into the treatment lagoons. The cattle feedlot was not assessed as part of the Development Application.

Irrigated pivot and lagoon system

43 Immediately to the west of the Development Site on Lot 1 DP 751423 is an area of land irrigated using pivot irrigation. Immediately to the south of the Site on Lot 138 DP 751397 is an unnamed lagoon system (**Lagoon System**), beyond which the Murrumbidgee River is located.

Climate of Wagga Wagga

44 Wagga Wagga has a temperate climate, with hot dry summers and cool winters. Wagga Wagga has an annual mean rainfall of 572mm and median rainfall of 575mm.

45 Maximum temperatures in summer average between 29°C and 32°C. Relative humidity, however, remains low in the summer months with a 3pm average of about 30%.

46 The winters are cool to cold with overnight minimums averaging 3°C and daily maximums climbing to only 12°C to 14°C on average. Relative humidity is much higher in winter with a 3pm average of over 60% and a 9pm average just below 90%.

47 Frost and fog are a feature of Wagga Wagga in winter. Snow has been recorded in the area but is a very rare occurrence.

48 Rainfall averages are generally higher in late autumn, winter and early spring (May to October). Wagga Wagga AMO is located at the Wagga Wagga Airport approximately 13.65 km from the Site.

Topography/Landform of the Site

- 49 The Development Site can be described as part of the Lloyd soil landscape. These landscapes are characterised by gently undulating rises and low hills with transitional areas between the hills and the foot slopes above the Murrumbidgee River floodplain.
- 50 This landscape is defined by rolling low hills on Ordovician metasedimentary rocks mapped as being overlain by Kurosols soils.
- 51 Weathered rock is at a relatively shallow depth, less than 5 metres below the natural surface level.
- 52 A defining characteristic of Lloyd soil landscapes is their hydrological behaviour, which has significant implications for the suitability of the Site for the Proposed Development.
- 53 Surface runoff rates tend to be moderate to high. Clay layers in the soil profile and the underlying rock mean that interflow is relatively common. Rainfall can initially permeate the topsoil, but deeper infiltration is limited and consequently water will run off as overland flow or move within the soil profile as interflow. Water within the soil profile will move downslope and a change in the slope geometry may force the water to the surface as flow or seepage.
- 54 The Development Site lies within an elevation range of around 200m to 220m above AHD. The Development Site has a westerly aspect with a moderate (8%) slope. There is also fall from the north to the south, from around 238m above AHD to around 200m above AHD. This means that water, including any wastewater or stormwater, will tend to flow westward and then southward towards the Wagga Wagga alluvium, the Lagoon System and the Murrumbidgee River.
- 55 The Development Site is underlain by the contact margin between the deeper, much older Ordovician metasedimentary ('Oada' in Figure 5) and a later Silurian granite intrusion ('Stgw' in Figure 5).
- 56 Geological contact margins are predisposed to groundwater.
- 57 The contact margin is shown on the seamless geology map of the Development Site and highlighted via the red line in **Figure 5**.

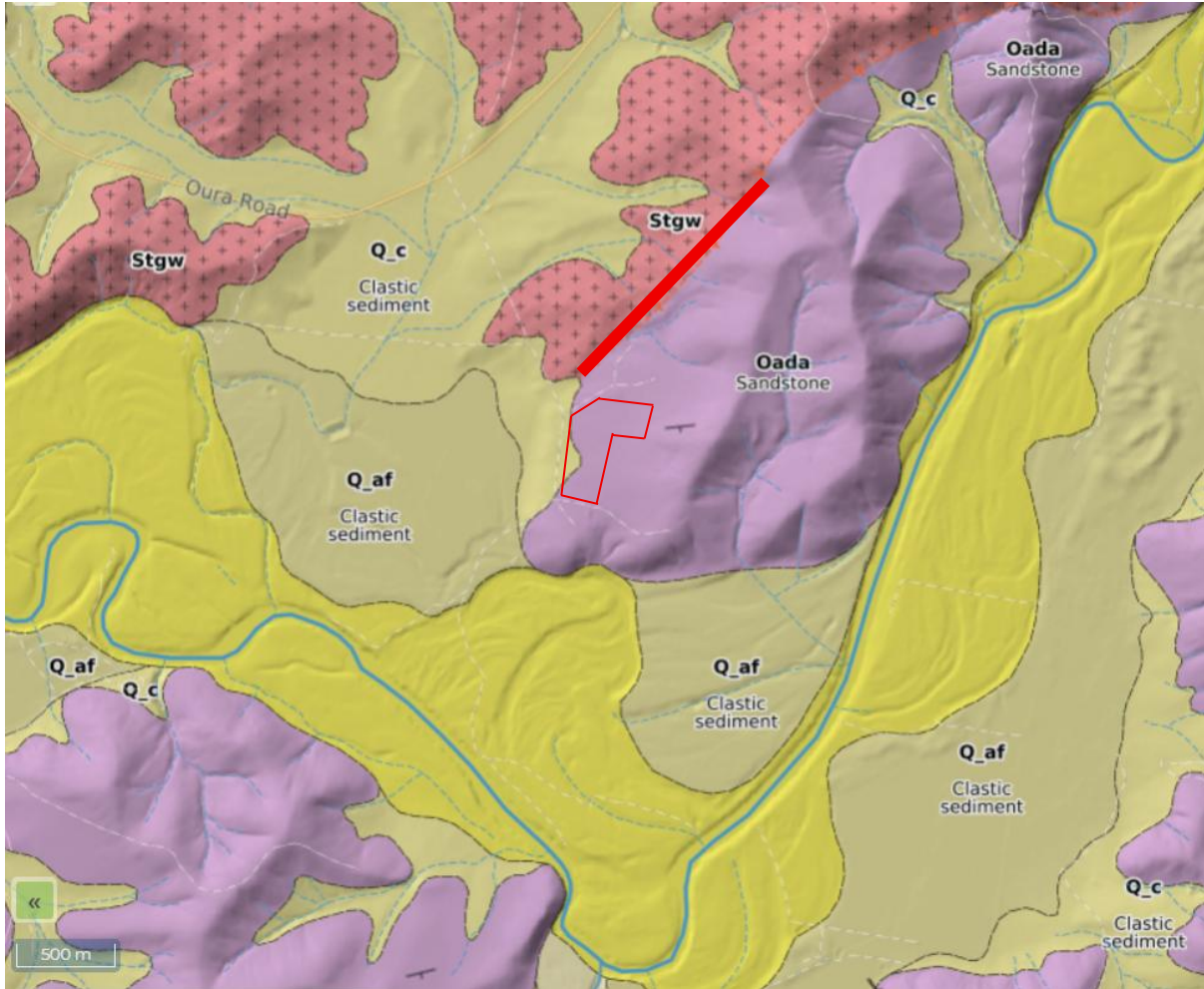


Figure 5 - Contact Margin (Source: MinView - NSW surface geology)

Soil type

- 58 The soils on the Development Site are Kurosols under the Australian Soil Classification as shown below in **Figure 6**.
- 59 Such soils are characterised as having sandy topsoils with heavier clays at depth. Such soils have a Land and Soil Capability of 5 under the Land and Soil Capability Mapping for NSW meaning that they are susceptible to erosion, waterlogging, mass

movement and soil, surface water, and groundwater contamination and are generally unsuitable for high impact land uses such as abattoirs and feedlots.

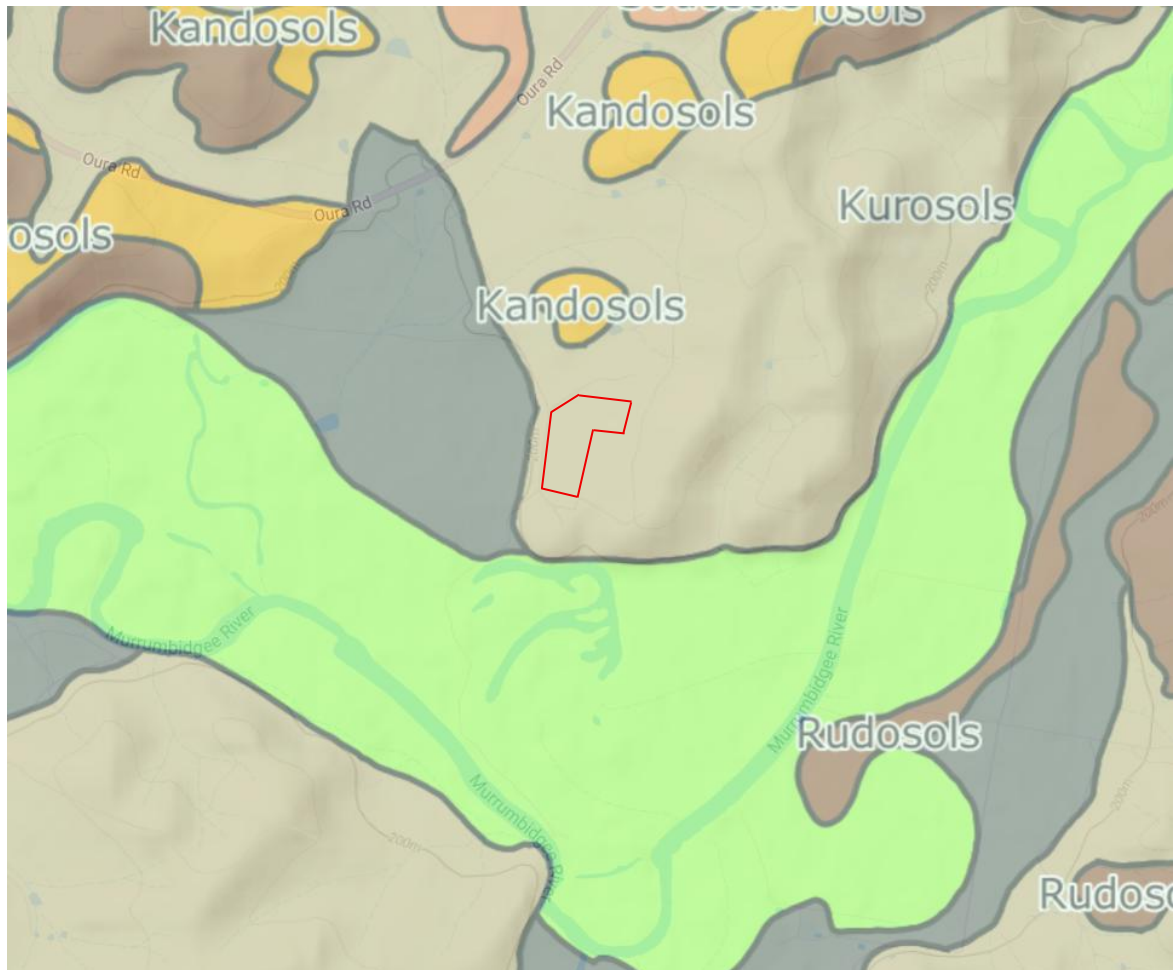


Figure 6 - Soil type (Source: eSpade v2.2 - Statewide land and soil mapping - Australian Soil Classification)

Salinity

60 Relatively high salt concentrations in the shallow soils is a feature of the Lloyd landscape.

61 There is evidence of salt staining (efflorescence) immediately to the north of the Development Site on the other side of Oura Road.

Flooding and overland flow

62 The Development Site is located within the Murrumbidgee River Catchment. The Development Site is subject to major overland flow events generated from the local upstream catchment that the Second Respondent says has an area approximately 82ha that extends from a ridgeline to the east.

63 In larger events (from the 1% AEP to the PMF) overland flow presents as a sheet flow of less than 100mm moving at between 1.2-1.7m/s from the east to the north-west across the Site.

Groundwater vulnerability

64 Vulnerability describes the level of risk of aquifers to contamination relating to physical characteristics of the location, such as the depth to the water table and soil type.

65 The Development Site is identified as "groundwater" on the Water Resources Map in the WWLEP shown in **Figure 7** below:

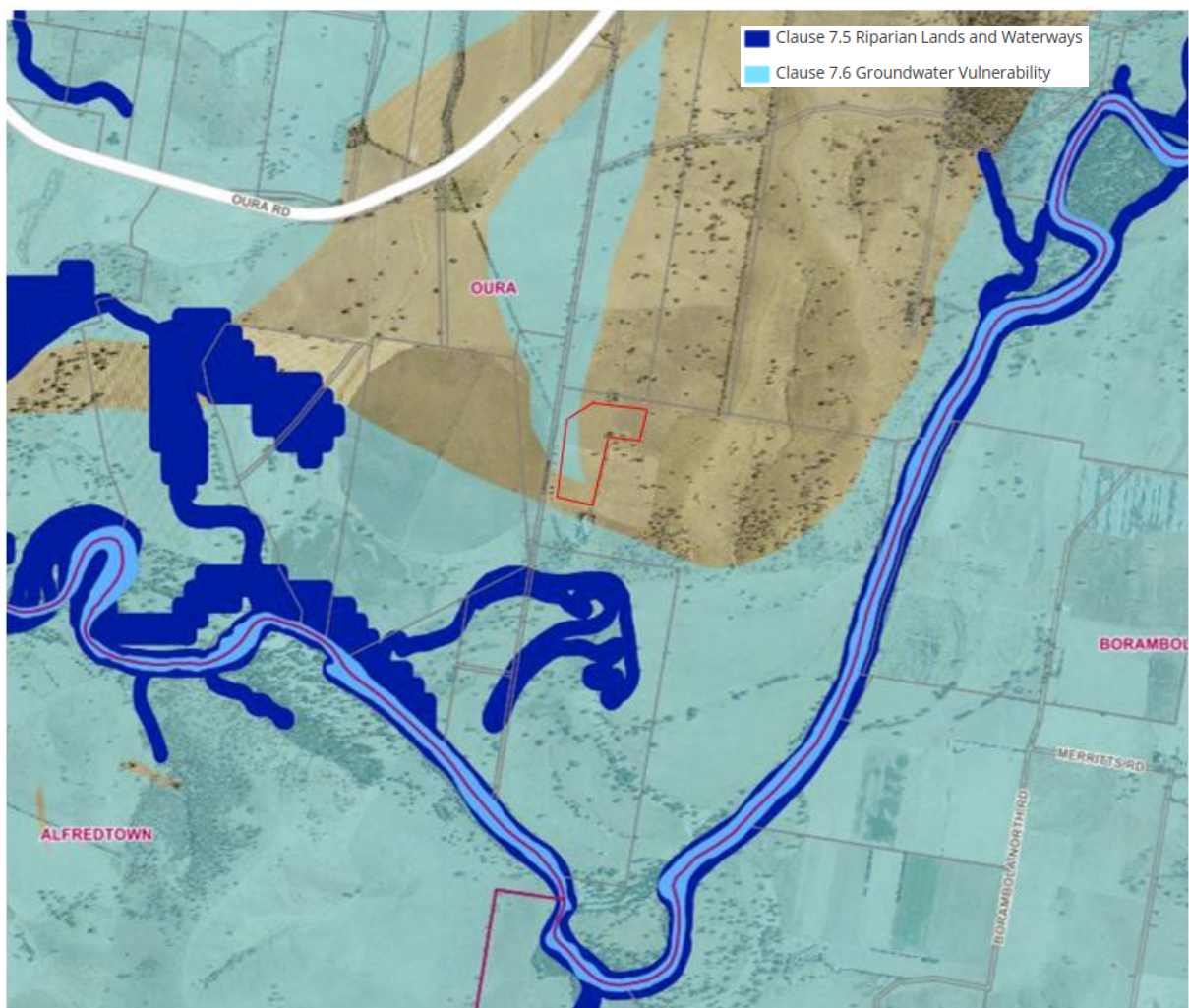


Figure 7 - Groundwater Map (Source: WaggaEx - Wagga Wagga City Council Planning Map - Natural Resource Sensitivity - Riparian Lands and Waterways / Groundwater Vulnerability)

Base Image: 2014 Tarcutta (50cm LPI)

66 The term 'groundwater' is defined in the WWLEP to mean "a body of water below the surface of the ground in an aquifer".

- 67 The relevant groundwater sources are the fractured rock groundwater source and the Wagga Wagga Alluvial Groundwater Source. There are two aquifers in the Wagga Wagga Alluvial Groundwater Source:
- a. the shallow Cowra Formation; and
 - b. the deeper underlying Lachlan Formation.
- 68 The Cowra Formation is an unconstrained aquifer that starts at the surface in the Wagga Wagga alluvium with the water bearing zone being 6-8m below the surface.
- 69 The Development Site's westerly aspect and topographic fall means water (including wastewater and stormwater runoff) will flow towards the alluvium.
- 70 The abattoir is a rural industry.
- 71 Clause 7.6 of the WWLEP provides that a consent authority may not grant consent to an abattoir unless the consent authority is satisfied that the development is:
- a. unlikely to adversely impact on existing groundwater sources; and
 - b. unlikely to adversely impact on future extraction from groundwater sources for domestic and stock water supplies; and
 - c. designed to prevent adverse environmental impacts, including the risk of contamination of groundwater sources from on-site storage or disposal facilities.

Proximity to the unnamed intermittent watercourse, the Lagoon System and the Murrumbidgee River

- 72 To the north of the Development Site is an unnamed second order watercourse, located at the base of the main valley on Lot 137 DP 751397. The watercourse becomes a third order watercourse approximately 400 metres upstream of its confluence with the Murrumbidgee River.
- 73 The watercourse has one existing dam and two treatment lagoons. The dam holds approximately 3-6ML based on surface area and has an assumed average depth of 2.0-2.5m.
- 74 There are also several other unnamed first and second order watercourses located to the north of the Development Site, generally draining westwards from the main ridgeline and to the south of the Development Site, located on the Murrumbidgee River floodplain.
- 75 In total, there are five existing dams or treatment lagoons, three dams are to the north of the Development Site and two treatment lagoons are to the west of the

Development Site. Two of the existing treatment lagoons are built on-line (built on a watercourse), one dam is built on-line and two dams are offline (not built in a watercourse).

- 76 To the south of the Development Site is a semi-perennial Lagoon System, which is a mapped high potential groundwater dependent ecosystem. The Lagoon System is located around 420m from the southern extent of the EMA. The Lagoon System is connected to the Murrumbidgee River, which is located around 1,200m from the southern extent of the EMA.
- 77 The unnamed intermittent watercourse runs from north to south along the western edge of the Development Site and discharges into the Lagoon System shown in **Figure 8** below:

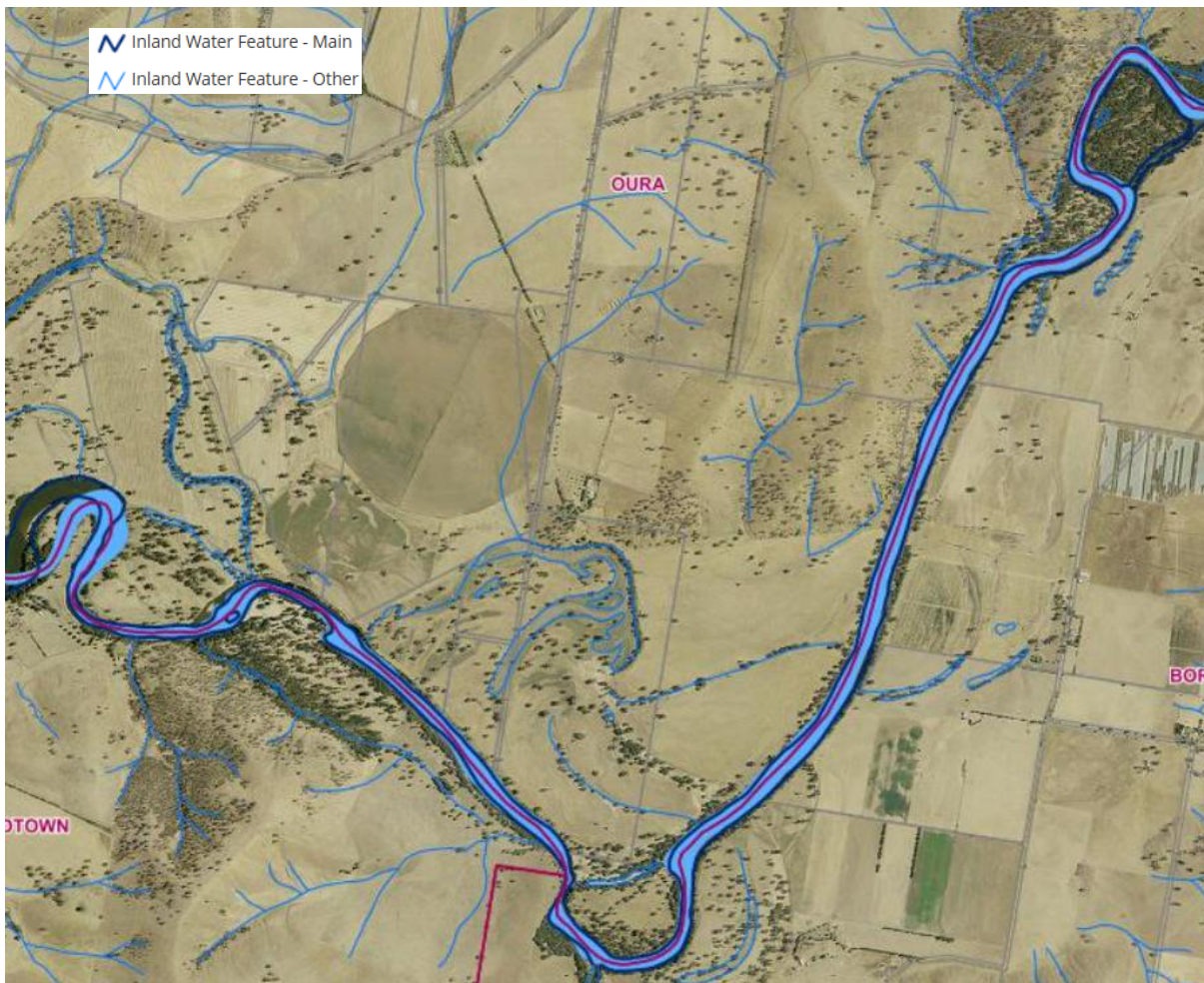


Figure 8 - WaggaEx - Wagga Wagga City Council - Base Map - Topographic - Hydrology -
Inland Water Feature - Main / Inland Water Feature - Other

Base Image: 2014 Tarcutta (50cm LPI)

- 78 The intermittent nature of the watercourse and geological contact margin that lies underneath it suggests it is connected to and fed by groundwater.

Bores for town water supply and stock and domestic

- 79 The Oura Village, Oura Beach reserve and Riverina Water Oura town water bores are situated around 5km to the southwest of the Site and downstream along the Murrumbidgee River.

- 80 There is also a domestic and stock bore, GW418381 (Water Access Licence 40WA416489), approximately 1,200m to the west-north-west of the Site. This bore has a recorded standing water level (SWL) of 7m.

Lowland Murray River Aquatic Endangered Ecological Community

- 81 The aquatic ecological community in the natural drainage system of the lower Murray River catchment is listed as an endangered ecological community under the *Fisheries Management Act 1994 (Murray River EEC)*.

- 82 The Murray River EEC includes, "*all native fish and aquatic invertebrates within all natural creeks, rivers, and associated lagoons, billabongs and lakes of the regulated portions of ... the Murrumbidgee River downstream of Burrinjuck Dam, ... and all their tributaries anabranches and effluents...*" (NSW DPI, Threatened species list).

- 83 The Murray River EEC is threatened because of, amongst other things, "*agricultural practices, such as irrigation, grazing and the use of fertilisers and pesticides, which have affected water quality*" (Primefact 172 (September 2007), Lower Murray River Aquatic Endangered Ecological Community).

Groundwater Dependent Ecosystems

- 84 The Lagoon System to the south of the Development Site is flanked by relatively large areas of groundwater dependent River Red Gums. See the extract from the Bureau of Meteorology Groundwater Atlas **Figure 9**. The Atlas also identifies that this community is likely to be highly dependent on inflows in addition to rainfall.

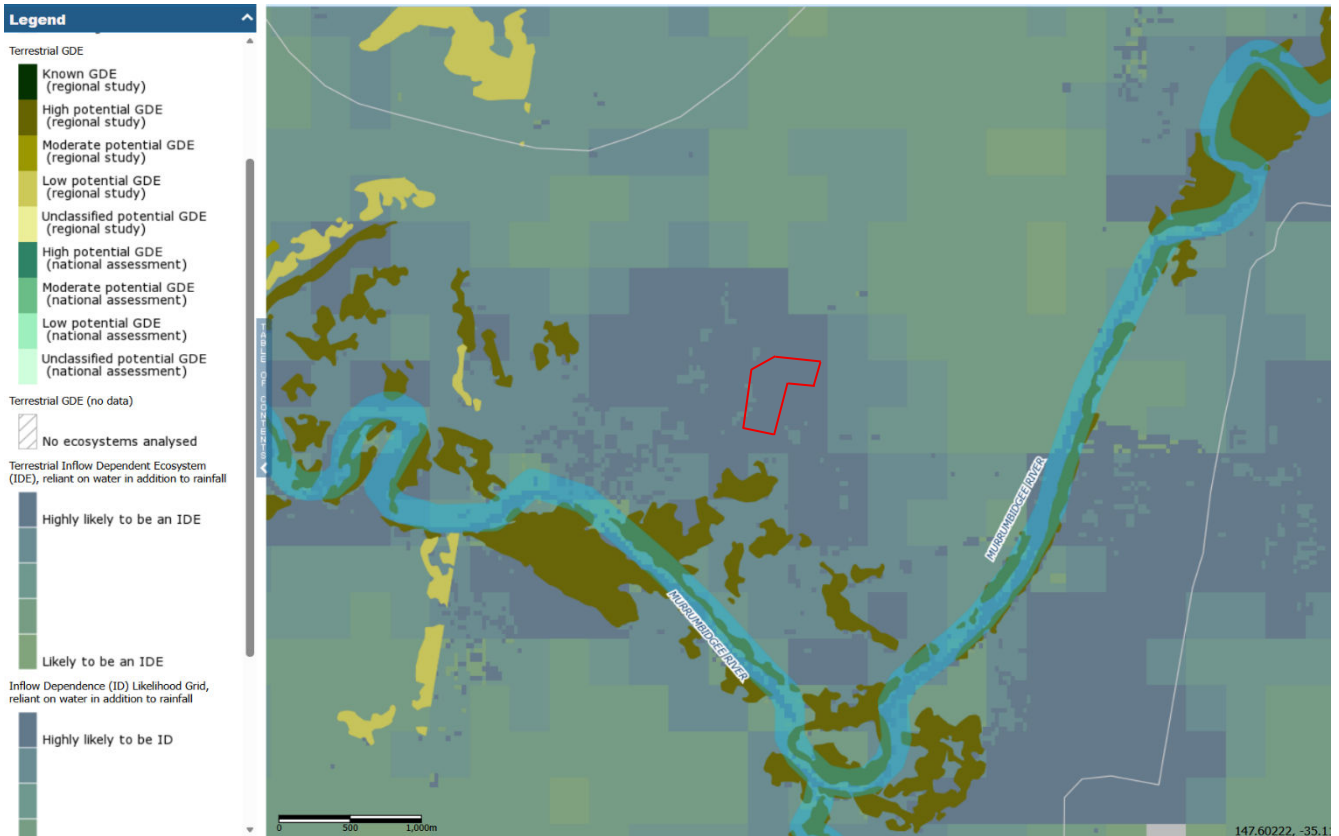


Figure 9 - Groundwater Dependent Ecosystems Map, Site identified by red star (Source: Bureau of Meteorology, Atlas Map)

85 The interface between the lagoons and porous soil in the Groundwater Dependent Ecosystem is an ecological vulnerable area for both aquatic flora and fauna; with sensitivity to changes in nutrient loads and contaminants to the biofilm algae composition, the important interstices that the invertebrates live in and, consequently, the food chain for fish, birds, mammals and other larger invertebrates.

The wider 'Eringoarrah' holdings

86 The Second Respondent owns an amalgamation of contiguous properties at the locality that form 7,747 hectares in an area of approximately 10 km by 12 km and which are collectively known as 'Eringoarrah'. The wider property is used for the grazing of livestock and the production of crops.

The Statutory Controls

87 The State legislation and controls which are applicable to the Proposed Development are:

- a. *Environmental Planning and Assessment Act 1979 (EP&A Act)*;

- b. *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)*;
- c. *Protection of the Environment Operations Act 1997 (POEO Act)*;
- d. *Protection of the Environment Administration Act 1991 (POEA Act)*;
- e. *Water Management Act 2000 (WM Act)*;
- f. *Biodiversity Conservation Act 2016 (BC Act)*;
- g. *Fisheries Management Act 1994 (FM Act)*;
- h. *State Environmental Planning Policy (Primary Production) 2021 (Primary Production SEPP)*;
- i. *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)*;
- j. *State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)*;
- k. *State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)*;
- l. *Wagga Wagga Local Environmental Plan 2010 (WWLEP)*;
- m. *Wagga Wagga Development Control Plan 2010 (Wagga Wagga DCP)*;
- n. *Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2020*; and
- o. *Water Sharing Plan for the Murrumbidgee Alluvial Groundwater Sources Order 2020*.

Actions of the Respondents

- 88 On 11 December 2023, the Second Respondent lodged the original development application with the First Respondent.
- 89 The Development Application was notified in the following periods:
- a. 30 January 2024 - 27 February 2024 (**First Notification Period**). Approximately 75 submissions were received during this period;
 - b. 29 August 2024 - 26 September 2024 (**Second Notification Period**). Approximately 50 submissions were received during this period;
 - c. 28 May 2025 - 27 June 2025 (**Third Notification Period**). Approximately 100 submissions were received during this period;

- d. 29 September 2025 - 30 October 2025 (**Fourth Notification Period**).
Approximately 135 submissions were received during this period; and
- e. 12 November 2025 - 12 December 2025 (**Fifth Notification Period**).
Approximately 140 submissions were received during this period.

90 On 26 July 2024, the Development Application was formally amended (**First Amendment**).

91 The First Amendment changed how wastewater was to be treated from the abattoir. The original proposal included aerobic and anaerobic treatment lagoons, which were replaced with a Hydroflux system to treat abattoir effluent, to then be irrigated via surface spray over an expanded EMA.

92 On 18 December 2024 the Environmental Protection Authority (**EPA**) issued General Terms of Approval (**GTA**).

93 On 14 May 2025, the Development Application was formally amended for a second time (**Second Amendment**).

94 The Second Amendment amended the application to make it clear that the application was for integrated development.

95 On 22 December 2025 the Second Respondent appealed to the Land and Environment Court against the deemed refusal of the Development Application by the First Respondent.

96 On 23 December 2025 the EPA issued amended GTA.

97 The GTAs required (among other things) that:

- a. All stormwater runoff from the effluent utilisation area and effluent drains must be within a controlled drainage area.
- b. Any stormwater that interacts with abattoir operations, including areas under the coverage of a roof such as stock holding pens and lairage, must also be within a controlled drainage area.
- c. The cattle feedlot must be within a separate controlled drainage area. All stormwater runoff must be contained or managed in a manner so that it does not infiltrate effluent or stormwater from the abattoir operations.
- d. The cattle feedlot must not be used as a permanent feedlot or for intensive livestock production.
- e. Solids, including wastewater treatment solids must be stored on an impermeable pad within each controlled drainage area.

- f. The volume of effluent applied to the EMA over the interval, at the frequency and using the method and units of measure are all to be determined in consultation with the EPA.
- g. The location of the surface and subsurface monitoring locations is to be determined.
- h. The Second Respondent must implement and operate an effluent management system to capture, manage and treat wastewater from abattoir operations, including wash-water or stormwater that may be used in, or enter, stock holding areas and lairage.
- i. The effluent management system must be designed and maintained to ensure no surface water discharges occur outside the EMA.
- j. The effluent management system must be designed and managed to provide sufficient storage to ensure the premises is a 'nil discharge site' with no managed overflow events from the premises.
- k. The Second Respondent must implement a stormwater capture tailwater return system below the EMA to capture the volume equivalent to 12 mm of rainfall runoff during wet weather.
- l. Wastewater drains and storage infrastructure to achieve a hydraulic conductivity of less than 1×10^{-9} m/s using either 500 mm of compacted clay/modified soil liner or HDPE liner.

- 98 On 9 January 2026 the EPA issued updated GTA with amended weather monitoring conditions.
- 99 On 23 February 2026 the First Respondent granted consent to the Development Application subject to conditions.
- 100 Sometime between 25 February 2026 and 2 March 2026 the Second Respondent discontinued the appeal against the deemed refusal of the Development Application.
- 101 On 3 March 2026 the First Respondent notified the Applicant the consent had been granted subject to conditions.
- 102 On 26 March 2026 the Applicant appealed to the Land and Environment Court against the First Respondent's grant of consent to the Development Application.

PART B - CONTENTIONS

B1 - CONTENTIONS

Contention 1 - the Proposed Development will have unacceptable impacts on groundwater

Particulars

- (a) Clause 7.6 of the WWLEP applies to the Proposed Development because:
 - (i) the Development Site is located on land identified as “Groundwater” on the Water Resources Map in the WWLEP; and
 - (ii) the Proposed Development is a rural industry: see cl 7.6(4)(f) of the WWLEP.
- (b) Development consent must be refused because the consent authority cannot be satisfied that the Proposed Development is “unlikely to adversely impact on existing groundwater sources”: cl 7.6(3)(a) of the WWLEP. This is because:
 - (i) the Proposed Development will create wastewater;
 - (ii) the wastewater will be treated (using coagulants to remove total dissolved solids) to a standard where wastewater remains of a high strength (**Partially Treated Wastewater**) (see also, *Environmental Guidelines: Use of Effluent by Irrigation* DEC, 2004);
 - (iii) high-strength effluents require larger wet weather storage and other management measures compared to lower strength effluents. The Proposed Development does not include contingencies for increased wet weather storage or land area for irrigation **if the Partially Treated Wastewater is high strength**;
 - (iv) the Partially Treated Wastewater will then be discharged onto the 4.1ha surface spray irrigated effluent management area (**EMA**): see Onsite Wastewater Management Strategy (December 2024), Map 12;
 - (v) the soil composition of the Development Site, and the EMA, is part of the Lloyd soil landscape, and surface runoff rates tend to be moderate to high; and
 - (vi) because of the soil composition and surface runoff rates (and hence the Development Site being identified as Groundwater), the Partially Treated Wastewater will, or is likely to:
 - (1) seep into the groundwater / aquifer from the EMA;
 - (2) runoff into the treatment lagoons, and thereafter seep into the groundwater / aquifer; and
 - (3) seep into bore GW418381.

- (c) The Partially Treated Wastewater will not meet the ANZECC guidelines, and the seepage into the groundwater / aquifer and bores, it is likely to cause contamination and / or pollution and is likely to breach s 120 of the POEO Act.
- (d) The Groundwater Assessment Report (November 2023) mischaracterises the groundwater processes on the Site, because the Groundwater Assessment Report:
- (i) does not identify that:
 - (1) the Site is subject to major overland flow;
 - (2) the unnamed intermittent watercourse to the west of the Site drains surface water to the Lagoon System and the Murrumbidgee River on the south of the Site; and
 - (3) the interflow within the soil profile conveys water downgradient to the west and then to the south of the Site to the Wagga Wagga alluvium;
 - (ii) does not consider the topography and the specific soil and landscape features of the Development Site and surrounds; and
 - (iii) incorrectly concludes that the unconstrained aquifer that resides within the shallow Cowra Formation starts at 25 metres depth, instead of starting at the surface in the Wagga Wagga alluvium with the water bearing zone being 6-8 metres below the surface.
- (e) Because of the matters identified in Particulars (b) to (d) above, the consent authority cannot be satisfied that the Proposed Development is “unlikely to adversely impact on future extraction from groundwater sources for domestic and stock water supplies”: cl 7.6(3)(b) of the WWLEP.
- (f) Because of the matters identified in Particulars (b) to (d) above, the consent authority cannot be satisfied that the Proposed Development is “is designed to prevent adverse environmental impacts, including the risk of contamination of groundwater sources from on-site storage or disposal facilities”: cl 7.6(3)(c) of the WWLEP.
- (g) In addition, or in the alternative, the impacts of the Proposed Development on groundwater are unacceptable and warrant refusal: ss 1.3(d), (e), (i) and 4.15(1)(b), (c), (e) of the EP&A Act; s 6(1)(b), (c) of the POEO; cls 1.2(a), (b), (c), 5.18(3)(a), (c), (f), 7.6(3)(a), (c) of the WWLEP.

Contention 2 - The impacts from overland flow and interflow will cause the Proposed Development to have unacceptable impacts

Particulars

- (a) The Flood Assessment (November 2023) underrepresents the impacts from and to overland flow and interflow because:
- (i) the Development Site and the EMA are subject to major overland flow events;
 - (ii) the unnamed watercourse to the west of the Development Site drains surface water to the Lagoon System and the Murrumbidgee River on the south of the Site;
 - (iii) the interflow within the soil profile conveys water downgradient to the west and then to the south of the Development Site to the Wagga Wagga alluvium;
 - (iv) the assessment does not identify the actual extent of the drainage catchment;
 - (v) the assessment does not identify the point of discharge; and
 - (vi) the projected changes to overland flow and interflow behaviour as a result of climate change have not been properly assessed.
- (b) The impacts of overland flow and interflow from the Proposed Development are unacceptable and warrant refusal: ss 1.3(d), (e), (i) and 4.15(1)(c), (e) of the EP&A Act; ss 6(1)(b), (c) of the POEA Act; cls 1.2(a)-(c), 5.18(3)(a), (c), (f) and 5.21(2)(e) of the WWLEP. This is because:
- (i) the Development Site and the EMA is subject to major overland flow events;
 - (ii) the Proposed Development **does not have sufficient flood work infrastructure to divert overland flow** when the matters identified in Particular (a) above are taken into consideration;
 - (iii) the mitigation measures proposed in Groundwater Assessment Report (November 2023) and the Flood Assessment (November 2023) are inadequate because:
 - (1) designs to prevent the risk of contamination from on-site storages are insufficient; and
 - (2) monitoring programs do not address key water quality risks.
 - (iv) in flood events, overland flow will travel across the Development Site (including the feedlot and the EMA) and there is potential for high nutrient loads or toxic contaminants from untreated feedlot effluent and the

Partially Treated Wastewater to be picked up in the floodwater and to leave the Development Site;

- (v) there is a risk that Partially Treated Wastewater and untreated effluent and manure from the feedlot will be picked up in floodwater and overland flow and will cause contamination and / or pollution and is likely to breach s 120 of the POEO Act;
 - (vi) the above demonstrates that the Proposed Development does not avoid adverse impacts on overland flow behaviour, interflow and the environment: s 4.15(1)(c), (e) of the EP&A Act; cf cl 5.21(1)(e) of the WWLEP; and
 - (vii) the consent authority cannot be satisfied that the impacts on overland flow and interflow from the Proposed Development will not adversely affect the environment: cf cl 5.21(2)(e) of the WWLEP.
- (c) Because of the matters identified in Particulars (a) and (b) above, the Development Site is not compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change: cf 4.15(1)(e) of the EP&A Act; ss 6(1)(a), 6(2)(a)-(b) of the POEA Act; 1.2(2)(b)-(c) of the WWLEP; cf cl 5.21(1)(b) of the WWLEP.

Contention 3 - The Proposed Development will have unacceptable impacts on a downstream ecosystem

Particulars:

- (a) South of the Development Site is:
 - (i) a groundwater dependent ecosystem, which is an aquatic ecological community in the natural drainage system of the lower Murray River catchment that is listed as an endangered ecological community (**Murray River EEC**): Schedule 4, Part 3 of the FM Act; and
 - (ii) the Murrumbidgee River.
- (b) Contention 1, Particulars (b)(i)-(vi) and (d) are repeated.
- (c) Contention 2, Particulars (b)(i)-(vii) are repeated.
- (d) The Proposed Development is likely to have a significant adverse impact on the Murray River EEC and the Murrumbidgee River because, for example:
 - (i) treated wastewater that enters the Lagoon System may contain:
 - (1) high organic loads, which are likely to generate chemical and / or biological oxygen demand within the waters they enter;

- (2) high nutrient levels, including nitrogen (nitrates and ammonia), phosphorous (phosphates), dissolved solids (salts) and suspended solids; and
 - (3) chemicals that have surfactant qualities, as well as oils, which may affect surface tension of water surfaces that also influence Oxygen uptake and absorption;
- (ii) high nutrient loads and contaminants in the water have potential to alter biofilm make-up / composition, and other water quality factors such as pH, which have potential to harm larval invertebrates, larval amphibians and fishes. Phosphates and nitrates can also fuel or trigger algal blooms in nearby lagoon or wetland systems;
 - (iii) algal blooms create heightened levels of toxins, deplete dissolved oxygen and can harm native fish and the aquatic invertebrates of the Murray River EEC (including leading to fish-kills). Immature invertebrates in the interstices will also be impacted by contaminants or excessive nutrients.
 - (iv) high organic loads, high nutrient levels and chemicals that have surfactant qualities, and algal blooms also have the potential to change the dynamics of the food web and life cycles of various species in the Murrumbidgee River and its tributaries; and
 - (v) following overland flow or flood events, residual pools, ox bows or other swale areas on the floodplain may then hyper-concentrate the high organic loads and high nutrient levels with evaporation.
- (e) The Development Application did not include an assessment of the impact of the Proposed Development on the Murray River EEC as required by s 221ZV(c) of the FM Act, nor any species impact statement that may consequently be required: s 221ZW(1) of the FM Act.
 - (f) The Development Application did not include an assessment of the impact of the Proposed Development on Flathead Galaxias (critically endangered under the FM Act), Trout Cod (endangered under the FM Act), Southern Pygmy Perch (endangered under the FM Act), Silver Perch (vulnerable under the FM Act) and Murray Crayfish or their habitat (note, these species are also listed as vulnerable, endangered or critically endangered under the *Environment Protection and Biodiversity Act 1999*) or threatened frogs such as the Southern Bell Frog and Sloane's Froglet (which are listed as endangered species under Schedule 1, Part 2 of the BC Act and may occur).
 - (g) **If the Southern Bell Frog and Sloane's Froglet are present** in the Murray River EEC or the Murrumbidgee River:

- (i) the Development Application is required to assess whether the Proposed Development is likely to significantly affect those species - which is likely given the species sensitivity to organic loads and nutrient levels;
- (ii) if it will, the Development Application is required to:
 - (1) demonstrate how the Proposed Development avoids, minimises and offsets the impacts on those species: s6.3A of the BC Act.
The Proposed Development fails to demonstrate this and warrants refusal on this basis;
- (iii) the consent authority must assess the impacts of the Proposed Development:
 - (1) under s 7.13 of the BC Act; and
 - (2) under s 7.16 of the BC Act and refuse the Development Application if it considers the Proposed Development is likely to have serious and irreversible impacts on those species;
- (h) Any concurrence from the Fisheries Agency Head or Fisheries Minister has not been obtained and consequently the consent authority does not have power to grant development consent: s 221ZZ(2) of the FM Act.
- (i) The impacts of the Proposed Development on the Murray River EEC and the Murrumbidgee River (and its biota) are unassessed and are likely to cause unacceptable impacts and warrant refusal: s 221ZZ(2) of the FM Act; and / or ss 1.3(d), (e), (i) and 4.15(1)(b)-(c), (e) of the EP&A Act; s 6(1)(b)-(c) of the POEA Act; cls 1.2(a)-(c), 5.18(3)(a), (c), (f), 5.21(2)(e), 7.6(3)(a), (c) of the WWLEP.

Contention 4 - The Development Site is not suitable for the Proposed Development

Particulars

- (a) Site suitability is required to be considered:
 - (i) in respect of carrying development out for the purpose of intensive livestock agriculture: cl 5.18(3)(f) of the WWLEP;
 - (ii) in respect of flooding: cl 5.21(2)(a) of the WWLEP; and
 - (iii) generally: s 4.15(1)(c) of the EP&A Act.
- (b) The Development Site is not suitable for the Proposed Development because of the impacts identified in Contentions 1, 2 and 3.
- (c) Furthermore, the Development Site is unsuitable because:
 - (i) the topography and the specific soil and landscape features, the hydrological behaviour of the Lloyd soil landscape, which creates moderate to high surface runoff rates;

- (ii) the soils found at the Development Site are susceptible to erosion, waterlogging, mass movement and soil, surface water, and groundwater contamination and are generally unsuitable for high impact land uses such as abattoirs and feedlots;
- (iii) the Development Site is subject to major overland flow events.
- (iv) the topography means that water will flow to the west and then to the south to the Lagoon System and the Murrumbidgee River; and
- (v) the area immediately to the west of the Development Site is underlain by the Cowra Formation, which is an unconfined aquifer that starts at the surface in the Wagga Wagga alluvium with the water bearing zone being 6-8m below the surface.

Contention 5 - The environmental impacts of the feedlot and infrastructure associated with the feedlot were required to be assessed and were not

Particulars

- (a) The Proposed Development does not include the feedlot (which also comprises its subordinate infrastructure): see, for example, Environmental Impact Statement (October 2023), paragraph [2.4].
- (b) The Proposed Development relies on infrastructure associated with the feedlot such as:
 - (i) a contour bank and piped drainage system to convey surface water and untreated effluent from the feedlot to treatment lagoons; and
 - (ii) two treatment lagoons that are located on-line, in that they are built within a watercourse, with one treatment lagoon extending beyond the Site.
- (c) The Proposed Development does not assess the environmental impacts of the feedlot, which is located upgradient from the EMA, and the infrastructure associated with the feedlot for the purpose of the Proposed Development.
- (d) Assessment of the environmental impacts of the use of the feedlot for the purpose of the Proposed Development is a mandatory relevant consideration and the failure to assess this mandates refusal: s 4.15(1)(c) of the EP&A Act and *Hoxton Park Residents Action Group Inc v Liverpool City Council* [2011] NSWCA 349.

Contention 6 - The Proposed Development relies on infrastructure for which development consent is required but has not been obtained

Particulars

- (a) The Proposed Development does not include or assess the feedlot (which also comprises its subordinate infrastructure) but relies on infrastructure associated with the feedlot such as:
 - (i) a contour bank and piped drainage system to convey surface water and untreated effluent from the feedlot to treatment lagoons; and
 - (ii) two treatment lagoons that are located on-line, in that they are built within a watercourse, with one treatment lagoon extending beyond the Site.
- (b) There is no existing development consent for the cattle feedlot or the infrastructure associated with the feedlot.
- (c) The feedlot and the infrastructure associated with the feedlot is not development which may be carried out without development consent because:
 - (i) the feedlot is not identified as development which may be carried out without consent in the RU1 zone;
 - (ii) the exception in cl 5.18(4) of the WWLEP does not apply because the feedlot (which also comprises its subordinate infrastructure) has the capacity to accommodate greater than 50 head of cattle and / or is within 100m of a natural watercourse: cls 5.18(4)(b)(ii) and (5)(a) of the WWLEP; and
 - (iii) the exception in cl 2.16(2)(a)(i) of the Primary Production SEPP does not apply because the feedlot (which also comprises its subordinate infrastructure) is within 100m of a natural watercourse: cl 2.16(2)(c)(ii) of the Primary Production SEPP.
- (d) The Proposed Development should be refused because it relies on infrastructure associated with the feedlot identified in Particular (a) above which is not part of the Development Application, and / or which requires but does not have development consent.

Contention 7 - The Development Application does not adequately assess and impermissibly defers the assessment of the design, the environmental impacts and proposed operation of the WWTP and Effluent Management Area

Particulars

- (a) The Development Application does not include a geotechnical study that demonstrates all wastewater can be disposed of without causing nuisance, pollution or impact groundwater or floodwater.
- (b) The Proposed Development defers the detailed design of the WWTP, Wastewater (Effluent) Systems Management Plan and a Wastewater Management Plan, a geotechnical study to determine the suitability of the site with respect to the on-site disposal of wastewater, a solid waste management plan and the treatment of effluent utilisation areas.
- (c) Assessment of the detailed design, the environmental impacts and proposed operation of the WWTP and Effluent Management Area is a mandatory relevant consideration and the failure to assess this mandates refusal: s 4.15(1)(c) of the EP&A Act and *Hoxton Park Residents Action Group Inc v Liverpool City Council* [2011] NSWCA 349.
- (d) The detailed design, the environmental impacts and proposed operation of the WWTP and Effluent Management Area are essential aspects of the Proposed Development and cannot be deferred to a later time (as proposed in conditions C.7 and C.9 of the Development Consent): *Mison v Randwick Municipal Council* (1991) 23 NSWLR 734.

B2 – CONTENTIONS THAT MAY BE RESOLVED BY THE IMPOSITION OF CONDITIONS

Contention 8: Conditions O8.2 and O8.3 of the EPA'S GTA should not be imposed

Particulars

- (a) In respect of use, the Proposed Development only sought development consent for a "livestock processing industry".
- (b) Conditions O4, O8.2 and O8.3 of the General Terms of Approval issued by the EPA on 23 December 2025 (**GTA**) purport to approve and / or regulate a feedlot on the premises and are unlawful because they result in a significantly different development being approved to that for which development consent was sought, contrary to the principle in *Mison v Randwick Municipal Council* (1991) 23 NSWLR 734 because:
 - (i) they relate to land and uses for which no environmental assessment was carried out in respect of; and

- (ii) they augmented the approved use to include new uses for which development consent was not sought, being "intensive livestock agriculture" and / or a "feedlot".
- (c) Because the GTA conditions identified in Particular (b) above offend the principle in *Mison v Randwick Municipal Council* (1991) 23 NSWLR 734, they are not required to be imposed under s 4.47(3) of the EP&A Act and should not be imposed.

B3 - CONTENTIONS THAT MAY BE RESOLVED WITH FURTHER INFORMATION

The Applicant says that none of the contentions are capable of being solved with further information.

SIGNATURE

Signature of legal representative



Capacity

Solicitor

Date of signature

15 May 2026