



**Land and Environment
Court**
of New South Wales

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

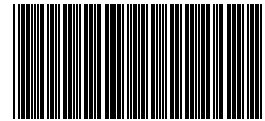
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <http://www.lec.justice.nsw.gov.au>

ABN: 52 659 114 436

Alice Menyhart
alice.menyhart@ballawyers.com.au

Your Ref:



D0001IGZ3V

10 January 2022

NOTICE OF ORDERS MADE

Case number	2020/00178157
Case title	MUSCAT DEVELOPMENTS PTY LTD trading as Muscat Developments v WOLLONDILLY SHIRE COUNCIL trading as Wollondilly Shire Council

On 10 January 2022 the following orders (and/or directions) were made:

The Court Orders that:

- (1) The appeal is upheld.
- (2) Development consent is granted to development application 2019.688.1 for the change of use from poultry farm to two depots including construction of two sheds, an office building, associated hard stand areas and driveway with ancillary stormwater, landscaping, wastewater management and earthworks including remediation and some off-site disposal of contaminated soil at Lot 1 in Deposited Plan 718840 known as 285 Finns Road, Menangle subject to the conditions in Annexure A.
- (3) The exhibits other than exhibits A, D, E and 1 are returned.

For the Registrar

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA 2019.688.1

Development: Change of land use from a poultry farm to two depots land use, including the conversion of five (5) existing poultry sheds, erection of two (2) sheds and an office building, construction of hardstand areas and internal driveways, earthworks (including the filling of two dams), use and reworking of recently placed contaminated fill, remediation of contaminated land and associated earthworks, tree removal, landscaping and stormwater drainage works.

Site: Lot 1 DP 718840 at 285 Finns Road, Menangle.

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 10 January 2022.

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 1 DP 718840 at 285 Finns Road, Menangle.
- (d) A reference to the “September RAP” is a reference to the document forming part of DA 2019.6.88.1 titled ‘Remedial Action Plan: 285 Finns Road, Menangle NSW’ (P1806774J14V04) prepared by Martens & Associates Pty Ltd and dated September 2021.

The conditions of consent are as follows:

1. DEVELOPMENT SPECIFIC CONDITIONS

These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.

The development shall take place in accordance with the plans and reports listed below and submitted in respect of Development Application No. DA/2019/688/1 except where varied or amended by the conditions of this consent:

Drawing No.	Name	Revision	Date
PS03-A000	Coversheet	N	16/03/2021
PS03-A050	Development Overview and Notification Plan	N	14/04/2021
PS03-A300	Existing Sheds - 1, 2 & 3 Floor Plans	E	14/04/2021
PS03-A301	Existing Shed 4 and Proposed Shed A & B	E	14/04/2021
PS03-A302	Shed 1 Elevations & Sections	A	14/04/2021
PS03-A303	Shed 2 Elevations & Sections	A	14/04/2021
PS03-A304	Shed 3 Elevations & Sections	A	14/04/2021
PS03-A305	Shed 4 Elevations & Sections	A	14/04/2021
PS03-B300	Sediment & Erosion Control Plan	K	16/03/2021
PS03-B301	Sediment & Erosion Control Plan	F	16/03/2021
PS03-C100	Earthworks Grading Plan	J	16/03/2021
PS03-C500	Earthworks Cut & Fill Plan	J	16/03/2021
PS03-C600	Swale & Retaining Wall Section	H	16/03/2021
PS03-D100	Roadworks Plan	K	16/03/2021
PS03-D200	Road 1 Longitudinal Sections	G	16/03/2021
PS03-D201	Road 1 Typical Section	H	16/03/2021
PS03-D202	Road 2 Longitudinal and Typical Sections	G	16/03/2021
PS03-DZ00	Site Operation and Traffic Management Plan	E	16/03/2021
PS03-DZ10	Sight Distance Assessment Plan	B	16/03/2021
PS03-DZ11	Sight Distance Assessment Long section	B	16/03/2021
PS03-DZ20	Swept Path Analysis Plan Sheet 1	C	16/03/2021
PS03-DZ21	Swept Path Analysis Plan Sheet 2	C	16/03/2021
PS03-DZ22	Swept Path Analysis Plan Sheet 3	B	16/03/2021
PS03-DZ23	Swept Path Analysis Plan Sheet 4	B	16/03/2021
PS03-E100	Drainage Plan	I	16/03/2021
PS03-E200	Bioretention & Drainage details	F	16/03/2021
PS03-E600	On Site Detention Catchment Plan	I	16/03/2021
PS03-E700	Water Quality Catchment Plan	I	16/03/2021
40091/D1-MGA94-3d	Survey Plan Chadwick Cheng		17/05/2021

Document	Date
Landscape Plan L01 (Issue B) prepared by RFA Landscape Architects L01	16 September 2021
Traffic Impact Assessment Report P1806774JR06V02 prepared by Martens & Associates Pty Ltd	November 2020
Traffic Management Plan P1806774JR09V01 prepared by Martens & Associates Pty Ltd	November 2020
Construction Traffic Management Plan P1806774JR10V01 prepared by Martens & Associates Pty Ltd	November 2020
Traffic Statement prepared by TTPP Transport Planning	17 March 2021
Operational Noise Emission Assessment prepared by Acoustic Dynamics	23 March 2021
Preliminary Site Investigation P1806774JR07V01 prepared by Martens & Associates Pty Ltd	August 2020
Further Detailed Site Investigation P1806774JR18V01 prepared by Martens & Associates Pty Ltd	September 2021
Remedial Action Plan P1806774JR14V04 prepared by Martens & Associates Pty Ltd	September 2021
Asbestos Management Plan P1806774JR08V01 prepared by Martens & Associates Pty Ltd	November 2020
Unexpected Finds Protocol prepared by Martens and Associates Pty Ltd	November 2020
Aboriginal Heritage Management Advice prepared by Coast History and Heritage	22 December 2020
Operational Plan of Management P1806774JR11V01 prepared by Martens & Associates Pty Ltd	November 2020
Amended Statement of Environmental Effects P1806774JR04V04 prepared by Martens & Associates Pty Ltd	November 2020

Site Audit Statement No:384 prepared by Harwood Environmental Consultants	6 September 2021
Site Audit Report for SAS No:384 prepared by Harwood Environmental Consultants	6 September 2021
Concept Stormwater Management Plan P1806774JR01V04 prepared by Martens & Associates Pty Ltd	November 2019
Office plans: <ul style="list-style-type: none"> Cover sheet, PS07 – A000 (Rev A) Proposed plans, Drawing No. PS07 – A300 (Rev A) Proposed Elevations & Finish Schedule, Drawing No. PS07-A301 (Rev A) Proposed Elevations & Internal Section, Drawing No PS07- A302 (Rev A) 	4/12/2019 4/12/2019 4/12/2019 4/12/2019
On-Site Wastewater Management Report P1806774JR05V01 prepared by Martens & Associates Pty Ltd	November 2019
Wastewater Management Detail Plan <ul style="list-style-type: none"> Cover sheet, PS05 – A000 (Rev C) Wastewater Layout, Drawing No. PS05 – F200 (Rev A) Waste Water Detail Plan, Drawing No. PS05 – F201 (Rev B) 	25/10/2019 27/09/2019 24/04/2020
Homes Fire, Category 1 fire safety provisions report (Project 139901.00, Rev A)	7/2/2020
Arborist Assessment Report prepared by Horticultural Management Services	10/1/2020

Procedural Conditions

- Where an inconsistency of detail between the relevant plans and elevations arises, the details shown in the elevations shall take precedence.
- Where an inconsistency arises between any documents comprising or lodged in support of the development application then the later dated document will prevail to the extent of the inconsistency.
- Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works

(with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.

- 4A. Prior to the commencement of works pursuant to this consent, the applicant must surrender all existing development consents or rights conferred by Division 4.11 of the *Environmental Planning and Assessment Act 1979* which permits or otherwise confers a right to the use of the site as a poultry farm, including:
- (a) Development Consent No. 352/87 for the erection of a poultry shed dated 2 December 1987;
 - (b) Building Permit 875/87 for a poultry shed dated 22 December 1987;
 - (c) Building Permit 221/87 for a cool room, shower and water closet dated 5 May 1987.
5. All building work must be carried out in accordance with the provisions of the Building Code of Australia (NCC). This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).
6. Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works two (2) business days before the work is due to commence.
7. Prior to the carrying out of any earthworks, other than the work referred to in condition number 22, the applicant shall obtain from the Environment Protection Authority (NSW) any necessary environment protection licence.
- 7A. Not less than 14 days prior to the commencement of any earthworks, other than referred to in condition number 22, the applicant must provide written notice to the Council of the intention to commence the earthworks. The written notice is to advise what, if any, environmental protection licence has been obtained.
8. Chemical storage on Site shall comply with all relevant Australian Standards, be contained within a covered, bunded area with impervious flooring and walls, and have a minimum capacity of 110% of the largest container stored within the bund.

9. A ready supply of spill control and clean-up materials must be maintained and easily accessible on the site at all times.

Acoustic impacts

10. The Development must not cause the emission of an “offensive noise” as defined in the *Protection of the Environment Operations Act, 1997*.

Offensive Noise means noise:

- (a) That by reason of its level, nature, character or quality or the time at which it is made, or any other circumstances:
- (i) Is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted; or
 - (ii) Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or
- (b) That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.
11. Noise levels associated with the use and operation of the site must be controlled to achieve compliance with the following internal noise objectives within the on-site residential dwelling:
- Night-time in bedrooms: $L_{Aeq} \leq 30$ dB;
 - Night-time in bedrooms: $L_{Amax} \leq 55$ dB; and
 - At all times in other habitable areas: $L_{Aeq} \leq 35$ dB;
- Note: the above are all noise objective for the scenario that windows are closed.

The above noise objectives are to be satisfied by incorporating the following noise control measures:

- Installation of minimum 6.38mm laminated glazing, with an acoustic performance rating of R_w 30 or greater to:
 - All bedroom windows;
 - Lounge room window;
 - Kitchen window; and
 - Dining room sliding door glazing.
- Acoustic sealing of all windows/glazed doors must ensure an airtight construction;
- It is advised that the acoustic performance of the selected glazing frames be confirmed with the suppliers, to ensure that the glazing and frame systems will achieve the minimum acoustic performance levels (R_w) recommended above; and
- The hinged entry door, into the lounge room must provide an adequate sound transmission performance, approximately R_w 40, with:
 - A minimum 40mm solid-core door;
 - Acoustic seals are to be installed around the door frame and door threshold. Recommended seals include:

- Door frame seals: 3798A “Zero” seal and B119W Seal (or equivalent); and
 - Door bottom seals: 267A “Zero” seal and Pyrosill™ (or equivalent).
 - Provision of appropriate mechanical ventilation is to be installed to service the internal spaces (i.e. air conditioning), to provide the option for the resident to leave external doors and windows closed.
12. The following prohibitions apply in the carrying out of the development:
- (a) Compression braking is not permitted while slowing down to enter the site or on the site between the hours of 6:00 am to 7:00 am;
 - (b) The ‘blue’ shaded area of the site in depicted in Annexure A.3 of the Operation Noise Emission Assessment prepared by Acoustic Dynamics dated 23 March 2021 shall not be accessed by any vehicle associated with the development between 10:00 pm and 7:00 am.
 - (c) Vehicle reversing alarms are not permitted to be used in the ‘red’ shaded area depicted in Annexure A.3 of the Operation Noise Emission Assessment prepared by Acoustic Dynamics dated 23 March 2021 between the hours of 6pm and 7am.
 - (d) Site operations are prohibited outside the following hours:
 - i. Administration hours – between 7:00 am and 6:00 pm, Monday to Friday;
 - ii. All other operations - between 6 am to 10 pm for, Monday to Sunday.
 - (e) No work or development is to take place on Public Holidays.
 - (f) Idling of vehicles and head light operation shall not be permitted during loading operations.
 - (g) Idling of vehicles when they are not in use shall not be permitted.

Onsite Sewage Management

13. As 68 Approval to Install an On-site Sewage Management System, must be granted prior to the installation of the on-site sewage management system and an Approval to Operate an On-Site Sewage Management System be issued, prior to the release of any Occupation Certificate for the development.
14. The wastewater management system is to be designed, installed and maintained to ensure that there is:
- (a) adequate provision for all wastewater generated within the site for the existing and intended lands uses; and
 - (b) no adverse interactions between the landfill gas remediation measures (to be implemented at the southern boundary of the site) and the wastewater management system.
15. Any subsurface LPED effluent irrigation area forming part of the wastewater management system is to be designed and installed with a suitable buffer distance to any gas remediation measures (including cut off trenches). Adopted

setbacks to gas cut of trench(s) equal to those required to a boundary is recommend.

16. The applicant is to provide to Council a detailed wastewater report demonstrating the requirement of conditions 14 and 15 prior to the commencement of the development. The wastewater report is to include site plans which clearly show all required buffer distances to landfill gas remediation trenches, hardstand areas, swale drains, driveways, buildings, water courses, boundaries and the like.

Subsidence Advisory NSW

17. The development must be carried out in accordance with the determination issued by Subsidence Advisory issued pursuant to s.22 of the *Coal Mine Subsidence Compensation Act 2017* and dated 16 July 2021. .

Geotechnical

18. Prior to the commencement of any earthworks on the site, an appropriately qualified geotechnical / civil engineer is to prepare and provide to the principal certifying authority a preliminary geotechnical report. The report must:
 - (a) contain an assessment of the soil conditions of the site, but in particular, the soil conditions within material in the area marked "Approximate Fill Extent" on Map 2 of Appendix A of the Remedial Action Plan: 285 Finns Road, Menangle NSW (P1806774J14V04) prepared by Martens & Associates Pty Ltd and dated September 2021.
 - (b) at a minimum, be formulated on the basis of the documents contained within Annexure B of the Joint Expert Report: Civil/ Geotechnical Engineering filed in Land and Environment Court Proceedings No. 2020/0078157 on 27 August 2021, together with site observations of the current conditions.
19. An appropriately qualified geotechnical / structural engineer is to prepare foundation designs for Sheds A and B and provide certification of the adequacy of the solution to the certifying authority prior to the issue of a Construction Certificate.
20. An appropriately qualified geotechnical / civil engineer is to prepare and provide to the Certifying Authority an analysis of the soil subgrade character (such as CBR or further DCP assessment) for hardstand and accessways areas prior to the issue of a Construction Certificate. The analysis of the subgrade character is to be used to inform the detailed pavement design for hardstand and accessway areas. The hardstand is to be unsealed and constructed with all weather materials which minimises dust generation from the site. The hardstand is to be an earthy colour. A colour sample for the hardstand colour is to be submitted to Council for approval.

21. All site earthworks are to be undertaken in accordance with AS3798 with certification by the project geotechnical engineer to be provided to the principal certifying authority prior to the issue of occupation certificate.

Contamination Data Gap Investigations and Remediation

22. Data Gap Investigations and updated Remediation Action Plan

- (a) Prior to the commencement of any works on the site (other than data gap investigation works completed in accordance with this condition 22), the data gap investigation works identified in paragraph 2 of page 11 (Section B) of Site Audit Statement No. 384, issued by Rod Harwood, Harwood Environmental Consultants dated 6 September 2021 (**the SAS**), are to be undertaken and documented in a data gap closure report.
- (b) A detailed plan for the classification and disposal of excess fill material proposed to be removed from the site (the volume of which is said to be approximately 9,500 cubic metres in the September RAP) is to be prepared. The detailed plan is to include, without limitation, the waste classification procedures to be implemented and documentation of waste classification certificates for the fill material to be removed.
- (c) The September RAP is to be amended to include, without limitation, the following:
 - i. detailed design drawings for the remediation work, including (without limitation) ground gas mitigation works including the exact number and location of gas risers and associated trenches, protective treatment (e.g safety barriers(s), such as Thrie Beam or other suitable treatment) approved by a structural engineer to protect the risers and trenches from passing or manoeuvring heavy vehicles or earth moving plant.
 - ii. full details of the ground gas validation measures to be implemented in light of the data gap closure investigation conducted in accordance with 22(a) above; and
 - iii. the plan prepared in accordance with condition 22(b) above;

(the Updated RAP).
- (d) The data gap closure report and the Updated RAP is to be assessed by a site auditor accredited under the *Contaminated Lands Management Act 1997*. The site auditor is to certify that:

- i. the data gap closure investigation completed in accordance with condition 22(a) above satisfies the requirements of the SAS; and
 - ii. the implementation of the Updated RAP will render the site suitable for the use of the land contemplated by this development consent.
 - (e) The site auditor's certification, in accordance with condition 22(d), is to be submitted with the data gap closure report and the Updated RAP to the Council for approval not less than 14 days prior to the commencement of any earthworks on site (other than any earthworks required for the data gap investigation works).
 - (f) The site is to be remediated and validated in accordance with the Updated RAP which must be provided to and approved by the Council pursuant condition 22(e). All remediation work carried out shall be conducted in accordance with the guidelines in force from time to time under the *Contaminated Land Management Act 1997*. Any new information which comes to light during remediation or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council's Planning Manager, the Site Auditor and the Principal Certifier. Any variations to the approved Updated RAP are to be the subject of a Modification Application.
23. All fill imported onto the site shall be validated to the site auditor's satisfaction prior to importation to ensure the imported fill is suitable for the proposed land use from a contamination perspective. It shall then be confirmed as being the same material by the validation consultant once imported to the site.

Classification Of Waste

24. Prior to the exportation of any waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *NSW EPA Waste Classification Guidelines, Part1: Classifying Waste (November 2014)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. Advice should be sought from the EPA where relevant.

Site Audit Statement

25. On completion of the approved remediation works and prior to occupation, a Section A Site Audit Statement must be obtained from an NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Planning Manager. The Site Audit Statement must confirm that the site has

been remediated in accordance with the approved Updated RAP and that the site is suitable for its approved use.

26. In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with this consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of the Council (such as via a S4.55 or s.4.56 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*). No Occupation Certificate for the approved development can be issued unless a Section A Site Audit Statement has been submitted to the Council in accordance with this condition. Should the site require a long-term environmental management plan (EMP) the site auditor approved plan is to be submitted to the Council.

Endeavour Energy

27. Written approval from the relevant energy supplier is required confirming the site has sufficient energy supply to carry out the development prior to the issue of the Construction Certificate. A copy must be provided to the Council.

Building Design

These conditions have been imposed to ensure that the appearance /construction of building works complies with the aims and objectives of Council's relevant Development Control Plans, Policies and relevant Statutory Regulations.

28. All materials and colours to be used in the external construction of the proposed building shall be consistent throughout the total development and/or match those of the existing development. A schedule of materials and finishes shall be submitted to Wollondilly Council to demonstrate how the materials and colours to be used in the external construction are to match the existing. If the new sheds are clad in Colorbond they are to match the existing if they are clad in corrugated iron or zincalume the schedule should demonstrate how they are to be treated to avoid high levels of reflectivity until the finishes dull to match the existing.
29. Any above ground water storage tanks shall be coloured or painted in earthy colours to blend with the natural environment or building immediately adjoining the water tank to reduce their visual impact.
30. Buildings shall comply with AS1428 – Design for access and mobility in respect of accessibility for people with a disability. Provide a certificate certifying compliance with this condition prepared by a suitably qualified person to Council or the nominated Accredited Certifier prior to the issue of any Construction Certificate

Construction General

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

31. Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
32. Sufficient information must be forwarded to Council or the nominated Accredited Certifier illustrating compliance with the relevant provisions of the Building Code of Australia (NCC) prior to the issue of any construction certificate. Where Council is to be the nominated Accredited Certifier Council's Building Services Section may be contacted on 02 4677 1100 if further clarification is required.
33. All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8:00am and 1:00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
34. Excavated area/s adjacent to all buildings shall be retained and drained to prevent the failure or sliding of the excavation and/or entry of surface water to the building. Where any retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted to Council or a nominated Accredited Certifier and approved before the issue of the Construction Certificate. Where the retaining wall exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.
35. Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Occupation Certificate for the development.
36. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
 - (a) Must be a standard flushing toilet; and
 - (b) Must be connected:
 - (i) to a public sewer, or

- (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

37. Dust shall be controlled so that it will not leave the construction site.

38. A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. This receptacle must have a tight-fitting lid and be suitable for the reception of food scraps, papers, etc.

Engineering & Construction Specifications

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public.

39. All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specifications.

40. Engineering design plans for the access, manoeuvring area, staff and truck parking, and stormwater drainage, must be approved by Council or the nominated Accredited Certifier **prior to the issue of a Building Construction Certificate** for any works associated with this development. All levels are to be reduced to Australian Height Datum. Design parameters shall comply with the requirements of Council's Design Specifications.

41. A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council with the Engineering Plans and must be approved **prior to the issue of any Construction Certificate**. The measures shall be in accordance with Council's Construction Specification Landcom's "Blue Book".

42. Prior to any occupation of the development or the issue of any Occupation Certificate, an Engineer's Certification shall be provided to the nominated Accredited Certifier for all civil works (access driveway, carparking, drainage etc.) carried out within the site.
43. Upon completion of all construction works, certification shall be provided to Council or the nominated Accredited Certifier by a suitably qualified Civil or Geotechnical Engineer and Structural Engineer for the retaining walls prior to the issue of any Occupation Certificate for the development.

Drainage/Stormwater

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

44. Manage stormwater runoff from and through the property to avoid nuisance, environment and property damage and hazards.
45. The applicant is to collect and convey stormwater runoff from all impervious surfaces on Site to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 5% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP. A detailed drainage design shall be provided on the Engineering design plans.
46. Implement a drainage and stormwater treatment system in accordance with the plans listed below. Details shall be included on the engineering plans for approval prior to the issue of a Construction Certificate.

Dwg Number	Revision	Title	Date
PS03 -E100	I	Drainage Plan	16/03/2021
PS03 -E200	F	Bioretention & Drainage details	16/03/2021
PS03 -E600	I	On site detention catchment plan, model & results	16/03/2021
PS03 -E700	I	Water quality catchment plans, model & results	16/03/2021

Traffic Management

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.

47. The Applicant must prepare a detailed Traffic Management & Traffic Control Plan (TM&TCP) for the export of asbestos containing material (**ACM**) or any other waste (including fill or soil). The TM&TCP shall be prepared in accordance with the requirements of all relevant regulatory approval bodies and specifically Transport for NSW "Traffic Control at Work Sites, Issue No. 6 (2020).
48. Prior to the issue of the relevant Construction Certificate, evidence shall be provided that the detailed Traffic Management & Traffic Control Plan (TM&TCP) for the export of ACM or any other waste (including fill or soil) has been prepared by a suitably qualified person, which has been submitted to and approved by the Certifying Authority. The TM&TCP shall address, but not be limited to, the following matters:
- a) ingress and egress of vehicles to the site;
 - b) loading and unloading, including work zones (Note that no work zone shall be approved on Finns Road);
 - c) predicted traffic volumes, types and routes; and
 - d) pedestrian and traffic management methods.
49. Prior to the commencement of any works the Certifying Authority shall be satisfied that all relevant regulatory approvals have been obtained and that the TM&TCP is in accordance with them. The TM&TCP shall be implemented during the export of ACM or any other waste (including fill or soil) from the site.
- Note: The swept path of the longest vehicle entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.
50. Copies of the approved TM&TCP shall be submitted to Council.
51. Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.
52. All road works / regulatory signposting associated with the proposed development shall be at no cost to the Council.
53. The Maximum sized vehicle permitted to enter and exit the site is a 20m long Truck and Dog trailers (**T&D**).

54. The maximum number of T&D movements for the approved period of ACM export, or export of any other waste (including fill or soil), shall be limited to 8 T&D movements in an hour (4 in and 4 out), subject to any restrictions imposed under the approved TCP.
55. The T&D are restricted to a maximum cartage weight of 30 Tonnes (30T).
56. No ACM or any other waste (including fill or soil) export traffic activity at the site is to occur on public holidays or on Sundays.
57. The hours of operation are restricted to 7am to 5pm, subject to any restrictions imposed for acoustic or other environmental reasons.
58. The driveway shall be modified in accordance with the plan within Drawing No. PS03-D100 REV K Roadworks Plan 16/03/3021.
59. All vehicles are to enter and exit the site in a forward direction.
60. All loads or trailers shall be fully covered when entering or leaving the site.
61. The Maximum sized vehicle permitted to enter and exit the site is a 20m long Articulated Vehicle (AV) as per AS2890.2:2018.
62. The maximum number of AV movements shall be limited to the following:
 - a. 2 AV movements in an hour (1 in and 1 out).
 - b. 2 AV movements in a 24 hour period.
 - c. 12 AV movements in a week.
63. The maximum number of vehicle movements (light and heavy) shall be limited to the following:
 - a. 16 vehicle movements in an hour.
 - b. 56 vehicle movements in a day.
 - c. 336 vehicle movements in a week.
64. No traffic generation of the site is to occur on public holidays or on Sundays.
65. The following prohibitions apply to the subject site:
 - a. No access is to be provided for the general public.
 - b. No retail sales are to be undertaken on-site.
 - c. The storage of buses / coaches shall be prohibited on-site.
 - d. No vehicles other than those identified for use in the parking spaces shown in the plans Drawing No. PS03-A050 REV N Development Overview & Notification Plan 14/04/2021 and Drawing No. PS03-A301 REV E Existing Shed 4 and Proposed Sheds A& B Floor Plans 14/04/2021 shall be parked/stored on-site.

66. A permanent vehicle classified counter shall be installed at the driveway location with records kept of hourly and daily traffic volumes distinguishing between entering and exiting vehicles.

Miscellaneous operational restrictions

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.

67. No direct sales or hire of machinery, plant or goods shall be undertaken within or from the site.
68. No works or storage associated with either depot shall be carried out outside the buildings in adjacent forecourts, yards, access ways, car parking areas or on Council's nature strip, other than the storage of agricultural plant within the 20 spaces designated for agricultural plant storage as shown on Drawing No. PS03-A050 REV N Development Overview & Notification Plan 14/04/2021.
69. There shall be no servicing of the vehicles on site other than minor servicing such as cleaning and changing oil of agricultural plant and machinery stored under Depot 2.
70. The approved use as two depots is to be operated in accordance with the Site Operation and Traffic Management Plan, PS03-DZ00, Revision E. The area and buildings identified as 'Depot 1' on that plan are to be used by only one business. No part of the area and buildings identified as 'Depot 1' are to be subleased or sublicensed. The area and buildings identified as 'Depot 2' on that plan are to be used by only one business. No part of the area and buildings identified as 'Depot 2' are to be subleased or sublicensed.
71. Depot 1 is limited to a maximum of three staff of the business (whether an employee, contractor, or sub-contractor) on-site at any one time.
72. Depot 2 is limited to a maximum of three staff of the business (whether an employee, contractor, or sub-contractor) on-site at any one time.
73. No work or development is to take place on Public Holidays.

Public Roads

These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.

74. Construct and maintain an all-weather gravel or recycled asphalt access, truck turning area, hardstand areas and earthworks in accordance with the plans

listed below. Details shall be included on the engineering plans for approval prior to the issue of any Construction Certificate.

DWG No.	Rev	DWG Title	Date
Earthworks			
PS03-C100	J	Earthworks Grading Plan	16/03/2021
PS03-C500	J	Earthworks Cut & Fill Plan	16/03/2021
PS03-C600	H	Swale (21-MGD01) Long Section & Retaining Wall Typical Section	16/03/2021
Roadworks			
PS03-D100	K	Roadworks Plan	16/03/2021
PS03-D200	G	Road 1 (21-MRC01) Longitudinal Section	16/03/2021
PS03-D201	H	Road 1 (21-MRC01) Typical Sections	16/03/2021
PS03-D202	G	Road 2 (21-MRC02) Longitudinal and Typical Sections	16/03/2021
PS03-DZ00	E	Site Operation and Traffic Management Plan	16/03/2021
PS03-DZ10	B	Sight Distance Assessment Plan	16/03/2021
PS03-DZ11	B	Sight Distance Assessment Long Section	16/03/2021
PS03-DZ20	C	Swept Path Analysis – Sheet 1	16/03/2021
PS03-DZ21	C	Swept Path Analysis – Sheet 2	16/03/2021
PS03-DZ22	B	Swept Path Analysis – Sheet 3	16/03/2021
PS03-DZ23	B	Swept Path Analysis – Sheet 4	16/03/2021

Note: Any adjustment to services shall be at the expense of the applicant.

75. All reasonable efforts must be made to protect the public road pavement from damage during the course of construction work. Restoration of any damaged road or footway shall be at the owner's expense.

76. A complaints register must be maintained for the duration of the development and updated on a monthly basis. The register must record the date, time and identity and address of the complainant (if known) and record the substance of the complaint made and what steps (if any) were taken in response. The register must be made available for inspection by the Council on request.

Erosion And Sediment Control

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

77. All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.

78. Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.

79. Install erosion and sediment control devices prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.

80. Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

Earth Fill

These conditions have been imposed to ensure the safe disposal of fill.

81. Importation of fill material (VENM, & EPA Exempt Material) – Fill Assessment Reporting Requirements - All fill to be imported must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with Resource Recovery Exemption issued under Part 9 of the Protection of the Environment Operations (Waste) Regulation 2014.

Prior to placing any imported fill material on the Site, appropriate waste classification/ certification documentation verifying the material is VENM or complies with the requirements of the relevant Resource Recovery Exemption, including ENM, must be provided to the satisfaction of the site auditor or Council's Manager Health & Regulatory Services.

All classification documentation must be prepared or endorsed by an experienced contaminated land consultant or a practicing engineer.

82. Maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to Council or the PCA at the completion of the development.

Inspections

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

83. If the Principal Certifying Authority (PCA) notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.

Unsewered Land / Services / Section 68

These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development.

84. All plumbing and drainage work must be carried out by a Licensed Plumber and Drainer and comply with the *Plumbing and Drainage Act 2011* except where otherwise provided in the *Local Government Act 1993*, the *Local Government (General) Regulation, 2005*.

85. At least forty-eight (48) hours' notice must be given to Council to enable inspection of the following works:

Sanitary drainage installations

- Internal drainage before backfilling;
- External drainage before backfilling;
- Septic/wastewater treatment tank prior to backfilling; and
- Disposal and/or irrigation system.

NOTE: Plumbing and drainage work must not be covered until inspected by Council's Building Surveyor. The sewage management tank must not be used until written advice is received from the Building Surveyor that they are satisfied with the installation. All drainage lines to the tank are to be water tested.

86. Before the commencement of building work the owner of the property is to advise Council in writing of the following:

- (a) The name and licence number of the licenced contractor who has contracted to do or intends to do the work; OR
- (b) The name and permit number of the owner-builder who intends to do the work.

The applicant shall advise the Council of any changes to this information.

87. Install the sewage management tank and disposal area in strict accordance with the Council approved plans except where varied by Conditions of approval. Any variations are to be separately approved in writing by Council prior to proceeding with the installation work.

88. Maintain the sewage management systems and disposal areas to ensure effluent is only being disposed of within the property and in a manner which will not create any nuisance to adjoining premises or create any public health risk.

89. All effluent and sullage waters are to be disposed of on the property in the Council approved manner.

90. No fruit or salad vegetables growing on the property shall be irrigated with effluent from the sewage management system.

91. There shall be no irrigated wastewater run-off from the allotment to adjoining properties, public places, reserves, watercourses, street gutter or stormwater system.

92. Turf/landscape the approved irrigation/disposal area prior to operation or use of the system.
93. Contain spray plume totally within the disposal area.
94. Any system shall be operated in such a manner so that effluent shall not seep, runoff or otherwise be discharged outside the premises where the sewage management facility is installed.
95. No roof waters, pool backwash and the like shall be directed to the disposal area.
96. Maintain the irrigation/disposal area so as to maximise its evapo- transpiration and percolation capabilities.
97. Install all irrigation equipment in such a manner that it will not be readily subject to damage.
98. Use only approved lilac recycled water pipes and fittings which are not compatible with, or capable of being cross connected with a potable water supply to convey effluent from the distribution line to the disposal area sprinkler/spray device. Additionally:
 - (a) Standard household hose fittings shall not be used.
 - (b) The irrigation system must not be capable of being connected to the mains water supply.
 - (c) Any movable spray devices shall be installed so as to limit the discharge of effluent to within the designated irrigation area only.
99. Design and install the size and location of the irrigation area (and reserve area and wet weather storage area, if required) in accordance with any accompanying wastewater report where applicable.
100. The person who is to operate this sewerage management facility must obtain in writing an Approval to Operate from Council prior to the System being commissioned or used.
101. Connect all sanitary fixtures to an approved sewage or reticulated sewerage system prior to occupation or use of the building and prior to the issue of any Occupation Certificate.

Waste Management

These conditions have been imposed to enquire that wastes are correctly stored, disposed of and controlled at all times to prevent accidents and to maintain clean and tidy premises.

102. Legally dispose of construction and building waste material in accordance with the Waste Management Plan submitted with the Development Application and approved by Council.
103. Waste Management shall be in accordance with the provisions of Wollondilly Development Control Plan 2016, Volume 7 – Industry and Infrastructure, Part 2.8.

Occupation & Use – additional conditions

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.

104. Sheds/buildings shall not be occupied as a residence or domicile, or an unrelated non-approved use.
105. The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.
106. Maintain the premises in a clean and tidy state at all times.
107. Offices shall only be used in conjunction with the use of the premises and shall not be separately let or occupied.
108. The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.
109. Prepare a Code of Conduct for staff, contactors, sub-contractors and the like under the direct control of the Site operator for approval by Council prior to issue of the Occupation Certificate. The Code of Conduct Agreement shall ensure that noise mitigation measures are adhered to when working onsite and travelling along surrounding roads.
110. All lighting subject of this consent shall not cause any impact to adjoining and nearby landowners and/or cause nuisance to passing motorists along public roads.

Landscaping

These conditions have been imposed to reduce the impact of any development activity on the landscape/scenic quality through vegetation works and maintenance.

111. All trees that are to be retained on site to be protected during site works and construction in accordance with *Australian Standard AS 4970—2009 Protection of trees on development sites*.
112. An updated and detailed landscape plan, drawn to scale by a person with horticultural qualifications or similar (such qualifications must be endorsed on the plans) reflecting advanced species planting, species consistent with the character of the surrounding area and other landscape works to improve the extent of screening and ensure that the landscaping is compatible with the locality shall be submitted for approval to the Council prior to the application for a Construction Certificate. This plan must include the following:
- (a) All existing and proposed site structures.
 - (b) All existing vegetation.
 - (c) All boundary planting for screening.
 - (d) Details of proposed earthworks including mounding, retaining walls and planter boxes.
 - (e) Location, number and type of proposed plant species.
 - (f) Details of planting procedure and maintenance.
 - (g) Details of drainage and watering systems.
 - (h) Use of only native species that are endemic to the region.
 - (i) Details of compliance with the landscaping requirements of other conditions of this consent.
 - (j) Provision for temporary 'nurse planting' to provide screening until the landscaping matures.

NOTE: Planting of conifers is not permitted.

(approved Updated Landscape Plan)

113. A Landscape Plan of Maintenance shall be submitted for approval by Council or a nominated Accredited Certifier prior to the release of the Construction Certificate. Without limitation, the plan is to make provision for:
- a. the maintenance of landscaped areas along the southern boundary of the site having regard to the effluent irrigation area, gas cut off trenches and gas risers in that area, and the potential for this infrastructure to be compromised by tree roots, leaf litter and other debris from trees;
 - b. replacement planting to maintain the landscape design over the life of the development.
114. Landscaping must be carried out in accordance with the approved Updated landscape Plan.
115. The landscaping must be maintained in accordance with the Landscape Plan of Maintenance.

Heritage Management

116. Prior to commencement of works impacting the ground surface, a copy of the Aboriginal Heritage Management Advice prepared by Coast History & Heritage dated 22 December 2020 shall be:
 - a. lodged with the Heritage NSW for registration on the Aboriginal Heritage Information Management System (AHIMS) database; and
 - b. provided to Tharawal Local Aboriginal Land Council and Cubbitch Barta Native Title Claimants Aboriginal Corporation.
117. Prior to commencement of works impacting the ground surface, a site inspection shall be undertaken by an archaeologist and representatives of Tharawal Local Aboriginal Land Council and Cubbitch Barta Native Title Claimants Aboriginal Corporation. The inspection shall be documented in a report prepared in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (following the requirements of the Wollondilly DCP) and the Due diligence code of practice for the protection of Aboriginal objects in New South Wales. **The report is to be provided to the Council prior to commencing any works impacting the ground surface.**
118. If any historical relic(s) are unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance in the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act 1977*.
119. If any Aboriginal relic(s) are unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance in the area is to stop immediately and the National Parks and Wildlife Service (NPWS) shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

Prescribed Conditions under the Environmental Planning & Assessment Act, 1979.

These conditions are imposed as they are mandatory under the Act.

120. Erection of signs

For the purposes of section 4.17 of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- showing the name, address and telephone number of the principal certifying authority for the work, and

- showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

NOTE: Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the Environmental Planning and Assessment Regulation 2000 which currently imposes a maximum penalty of \$1,100).

ADVICES

- (1) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (2) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (3) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Twenty Million Dollar Public Liability Insurance.

- (4) The following service providers shall be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092

NOTES

- (1) Except where a condition specifies a limit to the duration of the consent, this approval will expire if the development is not commenced within five (5) years of the determination date appearing above.
- (2) Development Consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the lapse date.
- (3) Where construction work is proposed, the granting of development consent is the first step in the process. Before construction work may commence, a Construction Certificate must be obtained from Council or an accredited certifier.