

## **Schedule of Conditions DA 11-2139**

**Construct Industrial Facility and Use for Service & Repair of Mining Machinery and associated Signage, Proposed Lot 801 in Lot 311, DP1157389, New England Highway, Rutherford.**

### **Reason for Conditions**

*The objective of the following conditions is to draw to the attention of the applicant and owner their responsibilities to comply with various provisions of the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulations, 2000, Local Government Act 1993; Regulations; Building Code of Australia and Local Policies relating to building construction and maintenance.*

### **DEFERRED COMMENCEMENT CONSENT**

1. This consent is a 'Deferred Commencement' consent as provided by Section 80(3) of the Environmental Planning and Assessment Act 1979. This consent does not become operational until such times as the matters contained under conditions numbered 2 and 3 (as follows) have been satisfied.

*(Note, Conditions relating to deferred commencement are required to be satisfied within twelve (12) months from the date of determination of the Development Consent).*

2. **Prior to the Development Consent becoming operational**, a revised colour scheme addressing the metal sheet cladding for the warehouse/workshop building elements shall be submitted to Council for final approval. External colour should be of predominately dark tones to reduce the visual impact of the building. All external colours and finishes should be non-reflective.
3. **Prior to the Development Consent becoming operational** a revised detailed landscape plan shall be submitted to Council for approval. The landscape plan shall include but not be limited to the following:
  - a) Boundary fencing shall be of chain wire finished in black colour and located on the building side of the landscaping.
  - b) Tree planting shall be provided in the car park to provide shading and to soften the impact of the large hard-surface area. Species shall be of sufficient branch spread to provide shade, and should not have an invasive root system that could compromise the structural integrity of the hardstand parking infrastructure. Trees shall be located between bays and/or at the intersection of parking bay corners at a rate of one (1) tree for every ten (10) parking spaces and distributed as evenly as possible throughout the parking area.
  - c) The perimeter landscaping to all property boundaries shall be inclusive of taller native species to a height of 20 metres (to better address the scale of the building) interspersed with lower trees and shrubs, including species endemic to the locality.

- d) The proposed hardstand storage area in the south-west corner of the site shall have improved arboreal screening to the New England Highway and shall include screen plantings along the western edge of the hardstand area.
- e) Advanced plantings shall be incorporated in all landscaped areas. The revised landscape plan shall provide notations on pot size and plant heights at installation.

## APPROVED PLANS AND DOCUMENTATION

4. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans:

Plan Ref. Nº	Sheet Nº	Rev <sup>n</sup> Nº	Revision Date	Prepared by: (consultant)
Site Plan	A01	8	25/11/11	GCA
Vehicle Movement Plan	A02	8	25/11/11	GCA
Pavement Plan	A03	8	25/11/11	GCA
Overall Floor Plan	A04	8	21/11/11	GCA
Office Ground Floor Plan	A06	8	21/11/11	GCA
Office First Floor Plan	A07	8	21/11/11	GCA
Elevations	A08	8	21/11/11	GCA

## CONTRIBUTIONS & FEES

5. Pursuant to Section 80A(1) of the Environmental Planning & Assessment Act 1979, and the Maitland S94A Levy Contributions Plan 2006, a contribution of **\$250,740.00** shall be paid to the Council.

The above amount may be adjusted at the time of the actual payment, in accordance with the provisions of the Maitland City Council S94A levy Contributions Plan 2006.

Payment of the above amount shall apply to Development Applications as follows:

- *Building work only – prior to the issue of the Construction Certificate*
- *Subdivision and building work – prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.*
- *Where no Construction Certificate is required – prior to the issue of the Occupation Certificate.*

*The above 'contribution' condition has been applied to ensure that:*

- i) *Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 94A of the Environmental Planning & Assessment Act, 1979.*
- ii) *Council's administration expenses are met with respect to the processing of the application.*

## **CERTIFICATES**

- 6. Prior to the commencement of works an application for a **Construction Certificate** shall be submitted to, and be approved by, the Accredited Certifier.
- 7. **Prior to the issue of an Occupation Certificate** all conditions of development consent shall be complied with.
- 8. Prior to occupation of the building an **Occupation Certificate** shall be issued by the Principal Certifying Authority.
- 9. **Prior to issue of the Occupation Certificate**, a certificate of compliance under Section 50 of the Hunter Water Act 1991 for this development, shall be submitted to the Accredited Certifier.

## **DESIGN**

- 10. The hardstand area located in the south-west corner of the site shall be constructed of a reinforced concrete pavement in lieu of a gravel surface as depicted on the development application site plan (Drawing No.A01, Rev 8)
- 11. **Prior to the issue of the Construction Certificate**, a lighting plan shall be prepared by a suitably qualified consultant for all proposed external lighting on the site demonstrating compliance with the *Manual of Standards for Aerodromes – Section 9.21:Lighting in the Vicinity of Aerodromes*.
- 12. **Prior to the issue of the Construction Certificate**, plans shall be prepared for all chemical storage areas demonstrating that such areas comply with the requirements of Workcover NSW, Australian Dangerous Goods Code, NSW Office of Environment and Heritage and the relevant Australian Standards and approved by the Principal Certifying Authority.

## **AMENITY**

- 13. The selection, installation and operation of the spray painting booth/s shall be in accordance with the NSW Office of Environment and Heritage guidelines entitled 'Spray Painting and Surface Coating'. In this regard, emissions from the spray booth exhaust flues should be controlled such that odours and fumes do not adversely impact upon the use of adjoining land or the environment.

14. Noise levels generated from the 24 hour operations on the site shall not exceed the project specific criteria detailed within the Environmental Acoustic Assessment, 'P&H Minepro, Proposed Manufacturing Facility, Lot 801 Mustang Drive, Rutherford, dated August 2011' prepared by Global Acoustics.

Where project specific criteria is exceeded then the proponent shall ensure that such operations are modified/limited and/or additional attenuation included within the building to achieve compliance.

- *Note: testing of Stage Loaders shall be restricted to the hours of 8.00am to 6.00pm.*

## **LANDSCAPING**

15. All landscaped areas of the development shall be maintained in accordance with the approved landscape plan. The landscaped areas shall be kept free of parked vehicles, stored goods, waste material, and the like.

## **CARPARKING**

16. Car parking for the development shall be provided in accordance with the approved plans, with a minimum allocation for the development of 181 spaces.
17. All on-site driveways, parking areas and vehicles turning areas shall be constructed with a bitumen sealed granular pavement, segmental pavers, or as reinforced concrete.
18. All parking bays shall be delineated with line-marking and/or signposting.

## **TRADE WASTE**

19. **Prior to the issue of the Occupation Certificate** evidence of a Trade Waste Agreement with Hunter Water Corporation shall be provided to the Principal Certifying Authority.
20. The wash bay/oil separator area shall be bunded to a minimum capacity of 110% of the volume of the separator.

## **EROSION CONTROLS**

21. The property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking".

## **BUILDING CONSTRUCTION**

22. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.

- 23.** Upon completion of the building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Such certificates shall be prepared in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
- 24.** At least once in each twelve month period, fire safety statements in respect of each required essential fire safety measure installed within the building shall be submitted to Council. Such certificates are to state that:
- a)** The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b)** That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building).
- Such statements shall be prepared in accordance with Division 5 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
- 25.** All excavations and backfilling shall be executed safely, in accordance with appropriate professional standards and shall be properly guarded and protected to prevent the works from being dangerous to life or property.
- 26.** The applicant shall submit to Council, "Notice of Commencement" at least two days prior to the commencement of construction works.
- 27.** Hours of Work:
- Unless otherwise approved by Council in writing; all building work associated with this approval shall be carried out between 7.00am and 6.00pm Monday to Fridays and 7.00am to 5.00pm on Saturdays with no work permitted on Sundays or Public Holidays that may cause offensive noise.

## **SERVICES & EQUIPMENT**

- 28.** The building must comply with category 1 fire safety provisions, and access maintained to the perimeter of the building for NSWFB fire appliances.
- 29.** A copy of the fire safety schedule and fire safety certificate shall be prominently displayed in the building in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation 2000.
- 30.** A copy of the fire safety schedule and fire safety certificate shall be forwarded to the Commissioner of New South Wales Fire Brigades, in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.

## **SITE CONSIDERATIONS**

- 31.** All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring

land.

Where a retaining wall is planned for this purpose and such wall exceeds 1.0m in height at any point from finished ground level, plans and specifications of the construction SHALL BE APPROVED BY COUNCIL BEFORE WORKS COMMENCE. Plans and specifications of retaining walls greater than 1.0m in height MUST BE CERTIFIED BY A PRACTICING PROFESSIONAL ENGINEER. Note: The submission of a separate Development Application is not required for a retaining wall associated with this approval and indicated on the approved plans.

- 32.** All building refuse on this building site shall be stored in such a manner so as not to cause a nuisance to adjoining properties.
- 33.** If an excavation extends below the level of the base of the footings of a building/structure on an adjoining allotment of land, the person causing the excavation to be made.
- i)** Must preserve and protect the building/structure from damage, and
  - ii)** If necessary, must underpin and support the building/structure in an approved manner, and
  - iii)** Must, at least 7 days before excavating below the level of the base of the footings of a building/structure on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building/structure being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (Includes a public road and any other public place).

- 34.** If the work:
- i)** is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii)** involves the enclosure of a public place

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

35. A sign must be erected in a prominent position on the work:
- (i) stating that unauthorised entry to work site is prohibited, and
  - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted during work hours.

Any such sign is to be removed when the work has been completed.

This condition does not apply to:

- (i) building work carried out inside an existing building, or
  - (ii) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. Approved toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The provision of toilet facilities in accordance with this Clause must be completed before any other work is commenced.
37. The site is to be cleared of all building refuse and spoil immediately after completion of the building/structure.
38. No building materials, refuse or spoil are to be deposited on or be allowed to remain on Council's footpath.
39. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

## VEHICLE ACCESS

40. **Prior to issue of the Occupation Certificate** the driveway layout and profile, from the road pavement to the vehicle parking area shall be constructed as "heavy duty", in accordance with an engineer's design or Council's standard drawings SD007, SD008, SD009, SD010 & SD012 in the *Manual of Engineering Standards* (also with reference to Council's information document "*Footway Crossings – Driveways*").
41. **Prior to commencement of construction** of the driveway crossing on a public footway verge, the works shall have been approved by Council. An application form, "Application To Construct Private Works On Footway" shall be submitted to Council, together with the appropriate fee.

## STORMWATER DRAINAGE

42. A stormwater drainage system providing:
- i) On-Site Detention (OSD) of stormwater, and
  - ii) an emergency overland flow path for major storm events,

- iii) entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas,
- iv) detailed pavement finished surface levels, to ensure stormwater runoff catchment and its direction into the detention system,

shall be constructed in accordance with a design prepared by a suitably qualified person and Council's Manual of Engineering Standards.

The design shall be based on the stamped *concept* plan number **10243C Rev 2 C01 – C07** and modified where necessary to accommodate the change in surface materials for the gravel hardstand area in the south west corner of the site as required under condition 8.

## ROADWORKS

- 43. **Prior to issue of the Occupation Certificate**, documentary evidence shall be submitted to the Principal Certifying Authority verifying that all necessary arrangements have been made with the Roads & Maritime Services regarding works at the New England Highway and Mirage Rd intersection (see advice below).
- 44. **Prior to issue of the Occupation Certificate** the following requirements of the RMS in accordance with their correspondence to Council dated 10.11.11 ref. 11/1657 307DA46.2, must be satisfied, whereby the RMS requires construction to completion of the intersection of the New England Highway and Mirage Rd or its commencement. If the Occupation Certificate is sought prior to completion the following shall be provided by the responsible developer:
  - an indicative programme for the timing of the works. The programme should list the timing of major milestones including RMS acceptance of detailed design, award of the contract of construction and completion of construction. The programme will be incorporated into the RMS Works Authorisation Deed (WAD).
  - Execution of the WAD between RMS and the developer.
  - Provision of an unconditional bank guarantee for the value of the works.

## ADVICE

- A You are advised that, prior to submitting an application for an **Occupation Certificate** the applicant should ensure that all relevant conditions of development consent have been complied with.
- B You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the **Protection of the Environment & Operations** (POEO) Act and may incur infringement fines.
- C You are advised that the issue of this development consent does not amount to a release, variation or modification by Council of any **covenant or easement** applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.
- D You are advised that compliance with the requirements of the **Disability Discrimination Act**, (DDA) applies to works on this site. It should be noted that compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.



- E** You are advised that the site (proposed lot 801) is the subject of a Conservation Agreement and as such specific consent conditions pursuant to ID 07-1884 have been applied by the Department of Environment and Climate Change in respect of removal of vegetation on the site. The relevant consent conditions of ID 07-1884 must be satisfied prior to the commencement of any works on the site.