

DATE OF DETERMINATION	26 July 2023
DATE OF PANEL DECISION	24 July 2023
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Greg Flynn and Lynette Hunt
APOLOGIES	None
DECLARATIONS OF INTEREST	Tony Tuxworth declared a conflict of interest as the applicant is one of his former clients.

Papers circulated electronically on 11 July 2023.

MATTER DETERMINED

PPSHCC-164 – Central Coast Council - DA/3345/2022 at 1A Shelly Beach Road, Shelly Beach – alterations and additions to an existing school (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings on this matter. The application has been amended during the course of the assessment period. The applicant indicated that they were in support of the recommendation but sought changes to conditions 2.1, 4.1 and 6.1 to allow for the staged construction of the proposal as outlined in the SEE and other recommended conditions of consent.

The Panel in its deliberation of the matter requested further information from Council regarding:

- (i) A response to the applicants request to change conditions to reflect staging.
- (ii) Specific consideration of bushfire requirements.
- (iii) Clarification of the actual number of staff onsite as opposed to FTE and carparking requirements.
- (iv) Clarification of clause 5.21 Flood Planning and clause 7.23 Transitional provision for flood plain risk management.
- (v) Correction of reference to clause in EPA Regulation 2021.
- (vi) Review of report to ensure all clauses in relevant SEPP's and LEP's that are required to be considered or satisfied have been identified.
- (vii) A summary of the clauses that require the consent authority to be satisfied or considered before the determination of the consent.
- (viii) New condition nominating maximum number of students and staff.

A further memo dated 20 July 2023 was provided to the Panel and has been considered by the Panel.

The majority of works proposed are internal to the site and are setback from sensitive boundaries. The proposal does involve an increase in student and staff numbers. A corresponding increase in on site carparking is proposed. The Panel however notes that there is a shortage of carparking spaces on site and that the drop of pick-up arrangements are carried out on street.

The bus bay at the site frontage operates as a bus zone during the morning drop off and afternoon pick up and is therefore available for casual visitors outside of these hours. The Panel notes that there is a sufficient capacity in the surrounding streets to accommodate the short morning and afternoon activity of drop off and pick up. The Panel also understands that there have been no objections to the traffic and parking

management associated with the school generally. It is understood that Council policies allows for some on street drop off and pick up arrangements.

In the context of this site, the impacts of the on street drop off and pick up arrangements are acceptable. The Panel notes that this is not always the case in different neighbourhoods with differing on street carparking demands.

An Operational Transport and Access Management Plan has been prepared and has been considered. The Panel is satisfied that the amount of carparking on site is acceptable notwithstanding the shortfall of four (4) spaces given the surrounding context.

The flood risk has been addressed and a condition has been included to require an access point for safe evacuation on the western boundary to The Entrance Road.

The report and supplementary memo have considered and referenced the relevant provisions of:

- EPA Act 1979 and EPA Regulation 2021
- SEPP (Transport & Infrastructure) 2021
- SEPP (Biodiversity & Conservation) 2021
- SEPP (Resilience & Hazards) 2021
- Central Coast LEP 2022

The Panel in its determination has considered the provisions of s4.15 EPA Act 1979 and the relevant SEPP's and LEP's applicable to the development as assessed in the Council report. The Panel considers that the proposal is suitable for the site and appropriately responds to its context. The Panel considers that the impacts arising from the development can be appropriately managed and mitigated.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions at Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

- (i) The site is suitable for the development and will provide improved educational facilities to the surrounding community.
- (ii) The Panel is satisfied that the General Terms of Approval have been obtained for the NSW Rural Fire Service in accordance with section 4.47 (2) of the EPA Act 1979 and are included as conditions to be attached to the consent (condition 1.2).
- (iii) The provision of SEPP (Biodiversity & Conservation) 2021 at chapter 4, s4.9 (2) have been considered and satisfied.
- (iv) The provisions of SEPP (Resilience & Hazards) 2021 at s2.10, s2.12 and s4.6 have been considered and satisfied.
- (v) The provisions of SEPP (Transport & Infrastructure) 2021 at chapter 2, s2.119 have been considered and satisfied.
- (vi) The provisions of the Central Coast Local Environmental Plan 2022 and clause 7.3 of the Wyong LEP 2013 have been considered and satisfied.






CONDITIONS

The development application was approved subject to the conditions in Schedule 2. The conditions were amended from those contained in the Council report as follows:

- (i) Condition 2.1, 4.1 and 6.1 amended to refer to the relevant stage.
- (ii) New condition 9.6 to nominate max student and staff numbers.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Tony McNamara	 Greg Flynn
 Lynette Hunt	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-164 – Central Coast Council - DA/3345/2022
2	PROPOSED DEVELOPMENT	Alterations and Additions to Existing School (Educational establishment) in 3 stages
3	STREET ADDRESS	1A Shelly Beach Road, Shelly Beach, Lot 1 DP 1021657
4	APPLICANT OWNER	DFP Planning Pty Ltd Trustee of the Roman Catholic Church for the Diocese of Broken Bay
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none">• Environmental planning instruments:<ul style="list-style-type: none">○ State Environmental Planning Policy (Transport and Infrastructure) 2021○ State Environmental Planning Policy (Biodiversity and Conservation) 2021○ State Environmental Planning Policy (Resilience and Hazards) 2021○ State Environmental Planning Policy (Planning Systems) 2021○ Central Coast Local Environmental Plan YYYY• Draft environmental planning instruments: Nil• Development control plans:<ul style="list-style-type: none">○ Central Coast Development Control Plan 2022• Planning agreements: Nil• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>• Coastal zone management plan: Nil• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality• The suitability of the site for the development• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations

		<ul style="list-style-type: none"> The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 29 June 2023 Supplementary Council Assessment Memorandum: 20 July 2023 Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick-off Briefing: 8 February 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara and Greg Flynn <u>Applicant representatives</u>: Tom West, Laszlo Szoboszlay, Michael Smith, Yvette Owens, Josie Vescio and Keith Cookson <u>Council assessment staff</u>: Jennifer Tattam and Emily Goodworth <u>Department staff</u>: Leanne Harris and Lisa Foley Site inspections: <ul style="list-style-type: none"> <u>Alison McCabe (Chair)</u>: 14 July 2023 <u>Tony McNamara</u>: 17 July 2023 <u>Greg Flynn</u>: 7 July 2023 Final briefing to discuss Council's recommendation: 18 July 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Greg Flynn and Lynette Hunt <u>Council assessment staff</u>: Jennifer Tattam, Steven McDonald, Michelle Gilson, Emily Goodworth and Tara Van Neilson <u>Department staff</u>: Leanne Harris and Lisa Foley Applicant Briefing: 18 July 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Greg Flynn and Lynette Hunt <u>Council assessment staff</u>: Jennifer Tattam, Michelle Gilson, Emily Goodworth and Tara Van Neilson <u>Department staff</u>: Leanne Harris and Lisa Foley <u>Applicant representatives</u>: Thomas West, Kendall Mackay, Michael Smith, Liam Whitfield, Dylan Alexander, Cathy Thomas, Sean Morgan and Keith Cookson <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

SCHEDULE 2

PROPOSED CONDITIONS

The development taking place in accordance with the approved development plans reference number DA/3345/2022 except as modified by any conditions of this consent, and any amendments in red.

1.PARAMETERS OF THIS CONSENT

Approved Plans and Supporting Documentation

- 1.1 Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn By	Dated
A-0000	-	Cover Sheet	GSArchitects	-
A-0100	05	Site Location Plan	GSArchitects	13/09/2022
A-0200	05	Existing Overall Ground Plan	GSArchitects	13/09/2022
A-0201	04	Existing Overall Roof/Site Plan	GSArchitects	13/09/2022
A-0202	04	Existing Block D, G & H Ground Floor Plan	GSArchitects	13/09/2022
A-0203	04	Existing Block A, D & E Ground Floor Plan	GSArchitects	13/09/2022
A-0204	04	Existing Blocks F Demountables	GSArchitects	13/09/2022
A-0205	02	Existing Area for Future Carpark	GSArchitects	13/09/2022
A-0300	06	Demolition Overall Ground Plan	GSArchitects	19/04/2023
A-0301	04	Demolition Overall Roof Plan	GSArchitects	13/09/2022
A-0302	04	Demolition Plan Block G & H	GSArchitects	13/09/2022
A-0303	04	Demolition Block H Ground Floor Plan	GSArchitects	13/09/2022
A-0400	04	Site Analysis Plan	GSArchitects	19/04/2023
A-0500	04	Environmental Site Management Plan	GSArchitects	13/09/2022
A-0501	02	Stage 1 Construction Management Plan	GSArchitects	19/04/2023
A-0502	02	Stage 2 Construction Management Plan	GSArchitects	19/04/2023
A-1100	09	Proposed Overall Ground Plan	GSArchitects	19/04/2023
A-1101	09	Proposed Overall Level 1 Floor Plan	GSArchitects	19/04/2023
A-1102	08	Proposed Site/Roof Plan	GSArchitects	19/04/2023
A-1103	08	Proposed Block G & H Ground Floor Plan	GSArchitects	19/04/2023
A-1104	08	Proposed Block H Ground Floor Plan	GSArchitects	19/04/2023
A-1105	08	Proposed Block G & H Level 1 Floor Plan	GSArchitects	19/04/2023
A-1106	08	Proposed Block H Level 1 Floor Plan	GSArchitects	19/04/2023
A-1107	01	Proposed Carpark Plan	GSArchitects	11/05/2023
A-1200	06	Sections	GSArchitects	19/04/2023
A-1300	07	Elevations North	GSArchitects	19/04/2023
A-1301	07	Elevations South	GSArchitects	19/04/2023
A-1302	04	Elevations East	GSArchitects	19/04/2023
A-1303	04	Elevations West	GSArchitects	19/04/2023
A-1900	03	Materials & Finishes	GSArchitects	19/04/2023

Document Title	Version No.	Prepared by	Dated
Arboricultural Impact Assessment, Report Ref: 22-151a-02(2023)	-	Russell Kingdom	08/05/2023
Landscape Plan (includes Concept Car Park Landscape Plan, Concept Landscape Plan, Landscape Plan & Materials Palette)	-	iScape Landscape Architecture	June 2023
Operational Transport and Access Management Plan	-	SECA Solution	March 2023
Acid Sulfate Soil Management Plan (ASSMP) Report ID: EBG-02984.ASSMP.06.22.R01	R01	EBG Environmental Geoscience	August 2022
Environmental Noise Assessment, Report Number 7526-1.1R	Rev A	Day Design Pty Ltd	09/08/2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- 1.2 Comply with the General Terms of Approval from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
NSW Rural Fire Service	General Terms of Approval and a Bushfire Safety Authority	DA20221213012217-Original-1	29/01/2023

- 1.3. Approval is granted for the development to be carried out in three stages in the following manner:

Stage 1A

- Construction of a new 10 space car park and associated driveway crossover via Shelly Beach Road.

Stage1B

- Demolition of the existing Block D and existing Block H;
- Construction of new Block D and Block H buildings that are proposed to be connected on Level 1;
- Partial demolition works to Block B and Block C;
- Associated landscaping.

Stage 2

- Refurbishment works of existing Block E (library) and existing Block G (multipurpose hall);
- Removal of Block F (demountable building);
- Associated landscaping.

Works and contributions are to be finalised appropriate for each stage prior to the release of the Occupation Certificate. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.

- 1.5. A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2021*.
- 1.6. Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 1.7. Where conditions of this consent require approval from Council under the *Roads Act 1993*, *Local Government Act 1993* or *Water Management Act 2000*, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to issue of the relevant stage ~~any~~ Construction Certificate.
- 2.2. **ALL STAGES** - No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
 - a) Site investigation for the preparation of the construction, and / or
 - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent.
 - c) Demolition.
- 2.3. **ALL STAGES** - Engage a suitability qualified (licenced) and experienced project ecologist to oversee and / or implement tree and ecological conditions.
- 2.4. **STAGE 1A** - Engage a local nursery to supply local provenance Swamp Mahogany (*Eucalyptus robusta*) replacement trees required by the approved Landscape Plan.
- 2.5. **STAGE 1A** – Submit to the Registered Certifier, responsible for issuing a Construction Certificate for works within the development properties, detailed design drawings approved by a suitably qualified consultant for fences and landscaping located on or in proximity to the road frontage of the site which ensure pedestrian and vehicle sight distance is maintained in accordance with of Australian Standard AS/NZS 2890: *Parking Facilities, Parts 1, 2 and 6*.
- 2.6. **STAGE 1A** – Submit to the Registered Certifier, responsible for issuing a Construction Certificate for works within the development property, lighting design drawings approved by an accredited electrical designer for the car park and public places. The design must be prepared in accordance with the requirements of the current editions of Australian Standard AS/NZS 1158: *Lighting for roads and public spaces* and AS/NZS 4282: *Control of the obtrusive effects of outdoor lighting*. The design is to include the provision of current best practice energy efficient lighting.
- 2.7. **STAGE 1A** – Obtain a Roads Act Works Approval by submitting an application to Council for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* form.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's *Civil Works Specifications*.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) Construction of a commercial vehicle access crossing that has a width of 10.0 metres at the road gutter crossing and 6.3 metres at the property boundary including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing.
- b) Removal and replacement of all damaged kerb and gutter with new kerb and channel.
- c) Construction of a storm water drainage connection from the development site to Council's storm water drainage system within the road reserve.
- d) Road pavement designs. An Investigation and Design report prepared by a practising Geotechnical Engineer must be provided. The pavement design thickness must be determined in accordance with Council's specifications and the following traffic loadings:

<i>Name of Street</i>	<i>Traffic Loading (ESAs)</i>
Shelly Beach Road	8 x 10 ⁶
- e) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed prior to occupying and commencing any works in the road reserve.

2.8. **STAGE 1A** – Submit to the Registered Certifier responsible for issuing the Construction Certificate for works within the development site detailed design drawings and design reports for the following engineering works:

- a) Construction of driveways and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: Parking Facilities and other applicable Australian Standards.
- b) Construction of nutrient and pollution control measures to treat stormwater runoff from the new hardstand car parking area in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to being discharged from the site. A nutrient and pollution control report including an operation and maintenance plan must accompany the design.
- c) Construction of stormwater drainage collection and piping of all stormwater runoff from the new paved carpark and driveway area within the site to the approved connection to Council's storm water drainage system located in Shelly Beach Road.
- d) Construction of driveways, car parking, and stormwater drainage to be generally in accordance with the *Civil Design Plans* prepared by JN Responsive Engineering, Project No. N0220428, Rev's 5-7, dated 12/05/23.

Detailed design drawings and design reports acceptable to the Registered Certifier must be included in the Construction Certificate documentation.

2.9. **STAGE 1B** – Submit to the Registered Certifier responsible for issuing the Construction Certificate for works within the development site detailed design drawings and design reports for the following engineering works:

- a) Construction of stormwater drainage collection and piping of all stormwater runoff from the new roof areas within the site into the existing system servicing the site and discharging to Council's open channel to the east of the site.
- b) Construction of stormwater drainage to be generally in accordance with the *Civil Design Plans* prepared by JN Responsive Engineering, Project No. N0220428, Rev's 5-7, dated 12/05/23.

Detailed design drawings and design reports acceptable to the Registered Certifier must be included in the Construction Certificate documentation.

- 2.10. **STAGE 2** – Submit to the Registered Certifier responsible for issuing the Construction Certificate for works within the development site detailed design drawings and design reports for the following engineering works:
- a) Construction of an internal emergency access road around the perimeter of the school buildings, to create a connection between the western end of the existing concrete access roadway to the south of Block H to the southern end of the existing concrete access roadway to the west of Block E. This internal emergency access perimeter road connection is to be designed in accordance with the *NCC 2022 S43C14* and relevant NSW RFS's *Planning for Bush Fire Protection 2019* requirements, including for an all-weather surface/pavement capable of withstanding the vehicular loads of a 23T firefighting appliance.
 - b) Construction of the internal emergency access road connection to be generally in accordance with the *Civil Design Plans* prepared by JN Responsive Engineering, Project No. N0220428, Rev's 5-7, dated 12/05/23.
 - c) The installation of a gated pedestrian emergency access opening within the western property boundary fence, fronting The Entrance Road reserve, to enable safe pedestrian access to/from the site to this trafficable road frontage in the Probable Maximum Flood event.

Detailed design drawings and design reports acceptable to the Registered Certifier must be included in the Construction Certificate documentation.

- 2.11. **STAGE 2** – Submit to the Registered Certifier confirmation from a suitably qualified Structural Engineer that the detailed design drawings have been prepared in accordance with the requirements of the Hawkesbury-Nepean Floodplain Management Steering Committee publication *Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas*, for the following flooding characteristics applicable to the development:
- Probable Maximum Flood level of Reduced Level (RL) 5.55m Australian Height Datum (AHD)
 - A minimum floor level of RL 5.55m AHD
 - Average flood velocity of 2.0 metres per second.

An appropriate factor of safety must be applied to the forces exerted by the 1% Annual Exceedance Probability (AEP) flood before it is used in any structural calculations.

- 2.12. **ALL STAGES** – Submit to Council a dilapidation report detailing the condition of all Council assets within the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs, streetlights, or any other Council assets in the vicinity of the development. The dilapidation report will be required to be submitted to Council prior to the issue of the Section 138 Roads Act Works approval or the issue of any Construction Certificate for works on the site. The dilapidation report may be updated with the approval of Council prior to the commencement of works. The report will be used by Council to establish damage to Council's assets resulting from the development works.
- 2.13. **ALL STAGES** – Submit an application to Council under Section 305 of the *Water Management Act 2000* for a Section 306 Requirements Letter. The Application form can be found on Council's website centralcoast.nsw.gov.au. Early application is recommended.

The Section 305 application will result in a Section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone, e.g., prior to Construction Certificate and/or Occupation Certificate.

- 2.14. **STAGE 1A** - Pay to Council a contribution amount of \$5,205.69, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact Council's Contributions Planner on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the Principal Certifier to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at Council's office of 2 Hely Street Wyong or on Council's website:

A copy of the Contribution Plan may be inspected at the office of Central Coast Council, 2 Hely Street Wyong, or on Council's website: [Development Contributions Plans and Planning Agreements | Central Coast Council \(nsw.gov.au\)](#)

- 2.15 **STAGE 1B** – Pay to Council a contribution amount of \$72,879.66, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact Council's Contributions Planner on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the Principal Certifier to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at Council's office of 2 Hely Street Wyong or on Council's website:

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- 2.16 **STAGE 2** – Pay to Council a contribution amount of \$26,028.45, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact Council's Contributions Planner on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the Principal Certifier to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at Council's office of 2 Hely Street Wyong or on Council's website:

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3.PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

No Conditions

4.PRIOR TO COMMENCEMENT OF ANY WORKS

4.1. All conditions under this section must be met prior to the commencement of any works for the relevant stage.

4.2. **ALL STAGES** - Fencing is to be erected before any machinery or materials are brought onto the site and before commencement of works. Once erected, protective fencing must not be removed or altered with.

Erect a barrier fence between works and trees to be retained that are located behind Block F, no closer than two metres from tree trunk. Radius is measured from the centre of the stem at ground level and to be constructed of 1.8-meter-high temporary chain wire fencing.

Erect a barrier fence between works and trees to be retained that are located in close proximity to the new proposed carpark area, no closer than three metres from tree trunk. Radius is measured from the centre of the stem at ground level and to be constructed of 1.8-meter-high temporary chain wire fencing.

Sign-post fences around Tree Protection Zones to warn of its purpose.

4.3. **ALL STAGES** - Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions as recommended within the Arboricultural Impact Assessment Report by Russell Kingdom of Advanced Treescape Consulting on the 13/3/23.

4.4. **ALL STAGES** - Tree protection is to be as per the recommendations within sections 5.0, 6.0 & 7.0 of the Arboricultural Impact Assessment report, prepared by Russell Kingdom of Advanced Treescape Consulting, dated 13/3/23.

Sign-post fences around Tree Protection Zones to warn of its purpose.

4.5. **STAGE 1A** – Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* form with supporting documentation prior to the commencement of any Roads Act Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.

- 4.6. **ALL STAGES** – Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

The CTPMP must describe the proposed construction works, the traffic impacts on the local area and how these impacts will be addressed.

The CTPMP must address, but not be limited to, the following matters:

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.
- Appropriate time restrictions for the *Occasional Construction Vehicle Access*, at the western end of the Shelly Beach Road frontage (as detailed within Drawings A-0501 and A-0502 of the approved Architectural Plans), to ensure this access is not utilised during the peak drop-off and pick-up times for the educational establishment. Note: this point is applicable to Stages 1B & 2 only.

Where the plan identifies that the travel paths of pedestrians and vehicular traffic are proposed to be interrupted or diverted for any construction activity related to works inside the development site an application must be made to Council for a Road Occupancy Licence. Implementation of traffic management plans that address interruption or diversion of pedestrian and/or vehicular traffic must only take place following receipt of a Road Occupancy Licence from Council.

Where a dedicated delivery vehicle loading and unloading zone is required along the road frontage of the development site a Works Zone Application must be lodged and approved by Council. A minimum of 3 months is required to allow Traffic Committee endorsement and Council approval.

The Construction Traffic and Pedestrian Management Plan must be reviewed and updated during construction of the development to address any changing site conditions.

A copy of the Construction Traffic and Pedestrian Management Plan must be held on site at all times and be made available to Council upon request.

- 4.7. **ALL STAGES** – Submit a Hoarding Application to Council for approval under the Roads Act where it is proposed to erect construction fencing, a hoarding, site sheds or utilise the road reserve for any construction activity related to the development works within the site.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application and will be required to be paid prior to Council releasing any approval.

- 4.8. **ALL STAGES** - Appoint a Principal Certifier for the building work:

- a) The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
- b) Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au

4.9. **ALL STAGES** - Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

- a) The name, address and telephone number of the Principal Certifier for the work; and
- b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
- c) That unauthorised entry to the work site is prohibited.
- d) Remove the sign when the work has been completed.

4.10. **STAGES 1B & 2** - Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.

5.DURING WORKS

5.1. All conditions under this section must be met during works.

5.2. **STAGES 1B & 2** - Within three days prior to demolition of buildings, the project Ecologist is to undertake a visual inspection within all roof cavities including internal and external cracks/crevices that may be utilised by microbats/other fauna using a spotlight. If microbats are identified, entrance points are to be blocked once it is confirmed microbats have exited the buildings. The project ecologist is to provide recommendations on clearing protocols to ensure any fauna present in buildings are not harmed during demolition. Demolition works must cease if any wildlife is located, and advice of the project ecologist obtained on how to proceed. If applicable, any fauna encountered during the pre-clearance survey/demolition must be captured and relocated to adjacent bushland and provided with adequate resources and/ or where relevant taken into care by a licenced wildlife carer.

5.3. **ALL STAGES** - Stockpiling will be undertaken within the approved works footprint. Stockpiling will not be undertaken in locations that impact on adjacent areas of retained native vegetation. Stockpiles are to be managed to suppress dust, prevent erosion and reduce the impact of sediment and other contaminants on the environment. This may require compaction and the installation of adequate sediment and erosion control measures around the stockpiles in accordance with the Blue Book and Best Practice Erosion and Sediment Control (IECA) guidelines.

5.4. **ALL STAGES** - Manual (hand) excavation must occur when within three metres of trees to be retained.

All care is to be taken to avoid damage to tree roots.

Roots that can't be avoided are to be cut (not ripped) with a sharp tool such as pruners or handsaw.

Seek Arboricultural advice before severing roots greater than 50mm diameter.

5.5. **ALL STAGES** - Implement all erosion and sediment control measures and undertake works in accordance with the approved Erosion and Sediment Control Plan prepared by JN Responsive Engineering dated June 2022. Update the plan as required during all stages of the construction or in accordance with the 'Blue Book' (Managing Urban Stormwater: Soils and Construction, Landcom, 2004).

- 5.7. **ALL STAGES** - Ensure a qualified arborist (AQF 5) is on-site to oversee the works in relation to tree protection measures during critical stages of construction.
- 5.8. **ALL STAGES** - Activities generally excluded from the Tree Protection Zone, but not limited to:
- Machine excavation, trenching, material storage, prepare chemicals or cement, park, refuel, dump waste, wash down, fill or change soil level.
- 5.9. **STAGES 1B & 2** – The *Occasional Construction Vehicle Access*, at the western end of the Shelly Beach Road frontage (as detailed within Drawings A-0501 and A-0502 of the approved *Architectural Plans*), must only be utilised outside of the peak drop-off and pick-up times for the educational establishment. Usage of this access must be in accordance with the time restrictions detailed within the CTPMP prepared for the site under Condition 4.6.
- 5.10. **ALL STAGES** – Arrange with the relevant service provider / Authority (e.g., Ausgrid, Jemena, NBN or other communications provider) for the supply of services concurrently with the engineering works required by this consent and/or any relocation of existing mains and services as required to facilitate the design.
- 5.11. **ALL STAGES** - The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 5.12. **ALL STAGES** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

“relic” means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance; and

“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance.

- 5.13. **ALL STAGES** - Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.

- 5.14. **ALL STAGES** - Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 5.15 **ALL STAGES** – undertake construction in accordance with the recommendations in the Acid Sulfate Soil Management Plan (ASSMP) prepared by EBG Environmental Geoscience.
- 5.16 **STAGES 1B & 2** - Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a) more than 10m² of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b) friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

- 5.17 **STAGES 1B & 2** - Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.

6. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 6.1. All conditions under this section must be met prior to the issue of any Occupation Certificate for the relevant stage.
- 6.2. **STAGE 1A** - Plant a minimum six (6) local provenance Swamp Mahogany (*Eucalyptus robusta*) trees in accordance with the approved Landscape Plan.
- 6.3. **STAGE 1B** - Prior to the issue of any Occupation Certificate, an independent suitably qualified acoustic consultant who is currently practising in this field must provide the Principal Certifying Authority a "Compliance Certificate". This compliance certificate must certify that all acoustic measures outlined in the Environmental Noise Assessment prepared by Day Design Pty Ltd Consulting Acoustical Engineers, dated 9 August 2022, council reference number D15378376, has been correctly applied and installed. A copy of the "Compliance Certificate" must be provided to Council with the Occupation Certificate.
- 6.4. **STAGE 1A** – Construct any additional civil works, where required by Council, to ensure satisfactory transitions to existing site formations and pavements where designs contained in the Roads Act Works Approval do not adequately address transition works.
- 6.5. **STAGE 1A** – Complete construction of all works within the road reserve in accordance with the Roads Act Works Approval. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance/defects bond to Council in accordance with Council's Fees and Charges.
- 6.6. **STAGE 1A** – Complete construction of driveways and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: *Parking Facilities*, other

applicable Australian Standards and the detailed designs and design reports within the Construction Certificate. Certification by a suitably qualified person that construction is complete is to be provided to the Principal Certifier.

6.7. **STAGE 1A** – Amend the Deposited Plan (DP) for Lot 1 DP 1021657 to:

- 1) Include an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan. The plan and instrument must:
 - a) Create a 'Restriction on the use of Land' over all lots containing an on-site stormwater detention system and / or a nutrient / pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- 2) Include an instrument under the *Conveyancing Act 1919* for the following positive covenants; with Council having the benefit of these covenants and having sole authority to release and modify. Covenant(s) required:
 - a) To ensure on any lot containing on-site stormwater detention system and / or a nutrient / pollution facility that:
 - (i) the facility will remain in place and fully operational.
 - (ii) the facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner.
 - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owner's cost.
 - (iv) Council is indemnified against all claims of compensation caused by the facility.

Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.

Submit to the Principal Certifier copies of registered title documents showing the restrictive and positive covenants.

6.8. **STAGES 1A & 1B** – Complete construction of the stormwater management system in accordance with the Stormwater Management Plan and Australian Standard AS 3500.3-*Stormwater drainage systems*. Certification of the construction by a suitably qualified consultant must be provided to the Principal Certifier.

6.9. **STAGE 2** – Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the Construction Certificate. Certification by a suitably qualified person that construction of the internal emergency access perimeter road connection is complete and in accordance with the relevant Standards, Guidelines and/or Codes is to be provided to the Principal Certifier.

6.10. **ALL STAGES** – Repair any damage to Council's infrastructure and road reserve as agreed with Council. Damage not shown in the dilapidation report submitted to Council before the development works had commenced will be assumed to have been caused by the development works unless the Developer can prove otherwise.

6.11. **ALL STAGES** – Submit to the Principal Certifier certification prepared by a Registered Surveyor certifying that all construction has been affected within the appropriate property and easement boundaries. The certification must be accompanied by a copy of the final survey plan (for the relevant stage), with the distances from the boundaries to the edges of these structures endorsed in red and signed by the surveyor.

- 6.12. **ALL STAGES** – Obtain the Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.

7.PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

No Conditions

8.PRIOR TO OCCUPATION OF THE MANUFACTURED HOME

No Conditions

9.ONGOING

- 9.1. Maintain all Swamp Mahogany (*Eucalyptus robusta*) trees planted in accordance with the approved Landscape Plan for a period of five years (the maintenance period) to ensure the survival and establishment of the trees. All damaged, dead or missing Swamp Mahogany trees are to be replaced during the maintenance period with local provenance Swamp Mahogany.
- 9.2. Construct, operate and manage the site in accordance with the Acid Sulfate Soil Management Plan reference EBG-02984.ASSMP.06.22.R01, prepared by EBG Environmental Geoscience, dated August 2022.
- 9.3. Construct, operate and manage the site in accordance with the Acoustic Report number 7526-1.1R Rev A, prepared by Day Designs Pty Ltd, dated 9 August 2022.
- 9.4. Do not give rise to offensive noise as defined in the *Protection of the Environment Operations Act 1997*.
- 9.5. Operate the site in accordance with the Operational Transport and Access Management Plan, prepared by SECA Solution and dated March 2023.
- 9.6. The school shall accommodate a maximum of 630 students and 45 staff at all times.

10.PENALTIES

Failure to comply with this development consent and any condition of this consent may be a **criminal offence**. Failure to comply with other environmental laws may also be a **criminal offence**.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

- It is an offence under the *Biodiversity Conservation Act 2016* to harm protected native wildlife. If during works fauna is displaced, it must not be harmed. If required works will cease and fauna will be transferred to the nearest veterinary hospital and Councils Ecologist will be notified within 24hrs.
- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a) Australia Post for the positioning and dimensions of mailboxes in new commercial and residential developments
 - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry
- Dial Before You Dig
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- Telecommunications Act 1997 (Commonwealth)
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.