

DATE OF DETERMINATION	4 November 2024
DATE OF PANEL DECISION	4 November 2024
DATE OF PANEL MEETING	29 October 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Stephen Leathley
APOLOGIES	Roberta Ryan
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 22 October 2024.

MATTER DETERMINED

PPSHCC-247 – Central Coast – DA/1474/2023 at 203 Tooheys Road, Bushells Ridge 2259 – Alterations and Additions to Asphalt Plant (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a detailed briefing from Council and the applicant and has inspected the site. The development site comprises an existing asphalt plant. The proposal involves an increase in production within the existing developed portion of the site currently used for asphalt production. The Council assessment report recommends approval of the application.

Arising from the Panel's consideration and deliberation of the matter, the Panel sought additional information regarding:

- Details of the C2 Environmental Conservation zone;
- Additional water quality and stormwater monitoring undertaken in response to the EPA request;
- Consideration of the response from the Department of Planning, Housing and Infrastructure to the submissions;
- Reduced levels on the building;
- Landscaping outcomes for the site; and
- Potential for solar panels on the office building.

Council prepared a further memo dated 29 October 2024 and revised conditions addressing the above. The Panel has considered this memo. The applicant also provided a revised set of plans with RL's on 30 October 2024, which were uploaded to the portal. The addition of RL's was the only change. These have also been considered.

The Panel notes that further assessment of the local water quality and environmental mixing of runoff was undertaken by Martens in response to the request for further information from the NSW Environmental Protection Authority. This information has informed the condition imposed by the EPA.

The site is not serviced by water, sewer or electricity and the Panel queried whether solar panels would be a matter that the applicant would pursue. The applicant has indicated that they are looking at a number of options to reduce the carbon emissions from the project.

The site is an existing asphalt plant seeking to increase the amount of asphalt produced from 100,000 tonnes per annum to 400,000 tonnes and to increase the amount of reclaimed asphalt pavement processed from 20,000 to 99,000 tonnes per annum. This is a fourfold increase, and, to this end, suitable measures are important to incorporate at this point. The Panel considers that a condition requiring solar panels should be incorporated, at the very least, for the administration building. A condition has been included.

The Panel notes that a Conservation Management Plan (CMP) will now be implemented over a conservation area, which has not previously occurred.

The Panel considers the site is suitable for the proposed use and, subject to compliance with conditions, any potential impacts can be managed and mitigated. The implementation of the CMP will provide improved ecological outcomes. Additional landscaping along the frontage of the site has been included in the requirement for a landscape plan.

Development application

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for following reasons:

- (i) The site is suitable for the development.
- (ii) Potential impacts arising from the development can be appropriately managed and mitigated.
- (iii) The proposed use is consistent with the policy framework applying to the site and surrounds.

CONDITIONS

The development application was approved subject to the conditions attached at Schedule 2.




The conditions include the following additions from those published with the Council report:

- Revised Condition 1.1 to reflect plans with RL's
- Landscape plan and implementation.
- Condition that requires the RLs on the construction certificate plans.
- Condition regarding solar panels to the administration building.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the one written submission made during the public exhibition. There were no submitters who wished to address the Panel. The Panel notes that issues of concern related to air and noise impacts, traffic and transport impacts, specifically swept paths and potential encroachment of vehicle movement onto adjoining lands.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that additional information was received regarding swept paths.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Stephen Leathley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-247 – Central Coast -DA/1474/2023
2	PROPOSED DEVELOPMENT	General Industry and Resource Recovery Facility – Alterations and Additions to Existing Asphalt Plant
3	STREET ADDRESS	Lot 10 DP834953, 203 Tooheys Road, Bushells Ridge 2259
4	APPLICANT/OWNER	Luke Farrell, Element Environment on behalf of Fulton Hogan Industries Pty Ltd Fulton Hogan Industries Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Central Coast Local Environmental Plan 2022 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 2021</i>: Part 8 Division 5 (EIS requirements), Section 60 – referral of submissions to Department of Planning and Environment 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 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: 22 October 2024 Council memo received: 28 October 2024 Consolidated memo received: 29 October 2024 Written submissions during public exhibition: 1 Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 14 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Greg Flynn <u>Council assessment staff</u>: Jenny Tattam, Emily Goodworth, Shann Mitchell, Danielle Allen, Sherie Cheers, Steven McDonald, Col Downe, Brendan Dee Site inspection: <ul style="list-style-type: none"> <u>Panel members</u>: <ul style="list-style-type: none"> Alison McCabe: 12 October 2024 Tony McNamara: 21 June 2024 Stephen Leathley: 28 October 2024 Final briefing to discuss council's recommendation: 29 October 2024

		<ul style="list-style-type: none">○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Stephen Leathley○ <u>Applicant</u>: Luke Farrell, Neville Hattingh, Andrew Lyndon, Kevin Saliba, Jamie Davies○ <u>Council assessment staff</u>: Jenny Tattam, Salli Pendergast
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/1474/2023 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
TP00	0	Location Plan	Fulton Hogan	15/06/2023
TP01	1	Site Plan – Existing Conditions	Fulton Hogan	17/10/2024
TP02	4	Site Plan – Proposed Works	Fulton Hogan	30/10/2024
TP03	3	Site Plan – Proposed Works Administration and Carpark	Fulton Hogan	30/10/2024
TP04	1	Proposed Works Asphalt Plant Upgrade	Fulton Hogan	30/10/2024
TP05	1	Proposed Works RAP Storage Bunker General Arrangement	Fulton Hogan	30/10/2024
TP06	1	Proposed Works Admin, Lab & Ablution Building Floor Plans	Fulton Hogan	30/10/2024
TP07	0	Proposed Works - Building Roof Plan	Fulton Hogan	15/06/2023
TP08	1	Proposed Works - Elevations	Fulton Hogan	30/10/2024

Document Title	Version No.	Prepared by	Dated
Preliminary Site Investigation – Final Report, Ref: P2310077JR01V01	1	Martens	05/04/2024
Conservation Management Plan	1.0	Land Eco Consulting	01/05/2024
Flora and Fauna Impact Assessment Report	2.0	Land Eco Consulting	01/05/2024
Environmental Impact Statement	2	Element Environment	02/09/2023

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. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3. Comply with the General Terms of Approval / requirements 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	Conditions	DA20230928004315-Original-1	10/10/2023
NSW Environment Protection Authority	General Terms of Approval	Notice No. 1643987	15/10/2024

- 1.4. 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 2000*.
- 1.5. 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.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2. No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
 1. Site investigation for the preparation of the construction, and / or
 2. Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 3. Demolition.
- 2.3. Before the issue of a Construction Certificate, pursuant to Section 7.12 of the Environmental Planning & Assessment Act, the applicant must pay a contribution to Council totalling \$63,742.37, as calculated at the date of this consent, in accordance with the Central Coast 7.12 Local Infrastructure Contributions Plan 2023.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Central Coast 7.12 Local Infrastructure Contributions Plan 2023. Contributions under the Central Coast 7.12 Local Infrastructure Contributions Plan 2023 are subject to quarterly indexation by CPI.

A copy of the Contributions Plan is available for inspection at 2 Hely St, Wyong or on Council's website: [Development Contributions Plans and Planning Agreements | Central Coast Council \(nsw.gov.au\)](https://www.centralcoast.nsw.gov.au/development-contributions-plans-and-planning-agreements)

- 2.4. Submit an application to Council under the provisions of section 68 of the *Local Government Act 1993* for an approval to install an on-site sewage management system. The system must be designed generally in accordance with the Wastewater Management Report, report R.0634.001.02_203, dated 17/04/2023 and prepared by Decentralised Water. The section 68 application can be found on Council's website: www.centralcoast.nsw.gov.au
- 2.5. Trees and native vegetation proposed for retention must be clearly marked on all final development, engineering and landscaping plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans. The location of any threatened species and ecological communities must also be marked on all plans.
- 2.6. Prepare a Construction Environmental Management Plan for the site in accordance with Section 13.4.1 of the Environmental Impact Statement, element, 2 September 2023 and Table 7.1 of the Air Quality Impact and Greenhouse Gas Assessment (Todoroski Air Sciences Pty Ltd, 27 April 2023), and Section 7.6 of the *Noise and Vibration Impact Assessment (SLR, April 2023)*.
- 2.7. 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, ramps 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 stormwater drainage collection and piping of all stormwater runoff from areas within the site to the existing stormwater drainage system servicing the allotment.
 - c) Construction of any retaining walls must not conflict with existing or proposed services or utilities. Retaining walls designs for wall greater than 600mm in height must be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.

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

- 2.8. Provide a detailed Landscape Plan and specification by a suitably qualified landscape architect to the Private Certifier for approval. The plan shall detail enhancement of existing landscape areas and proposed new landscaping utilising native species endemic to the area. Proposed landscaping should result in an increased amount of landscape screening to soften the appearance of the development from the public domain, particularly along the road frontage of the property.

- 2.9. RLs to AHD on the elevations, sections and floor plans of the proposed development for all existing and proposed structures are to be shown on the Construction Certificate drawings.
- 2.10. The applicant is to include solar panels to the administrative building as a sustainability measure. Details are to be submitted with any construction certificate.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. All conditions under this section must be met prior to the commencement of any works.
- 3.2. Prior to commencement of any works, including any vegetation clearing works, implement the impact mitigation and minimisation measures as in the "*Flora and Fauna Impact Assessment Report*", Ver Final 2.0, by Land Eco, dated 1 May 2024 and commence implementation of the "*Conservation Management Plan*", Ver Final 1.0, by Land Eco, dated 1 May 2024. The Conservation Management Plan is to be commenced no later than three (3) months from the date of this consent. Where the recommendations contained within the Flora and Fauna Assessment or CMP are inconsistent with these conditions of consent, the conditions of consent prevail.
- 3.3. Protective fencing of the all remnant vegetation on the site that is outside the approved asphalt plant footprint must be installed prior to commencement of any works.
- 3.4. 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
- 3.5. 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.
- 3.6. 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.

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 or the Roads and Maritime Service where on a classified road.

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. DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.3. Protect the land application area from damage from vehicles during all construction works on-site.
- 4.4. Implement and comply with the requirements of the Flora and Fauna Impact Assessment Report", Ver Final 2.0, by Land Eco, dated 1 May 2024 and the "Conservation Management Plan", Ver Final 1.0, by Land Eco, dated 1 May 2024. Supervision by a suitably qualified Ecologist is required for all vegetation clearing and

construction works. Where the recommendations contained within the Flora and Fauna Assessment or CMP are inconsistent with these conditions of consent, the conditions of consent prevail.

- 4.5. All required tree and vegetation protection measures are to be maintained for the duration of construction works.
- 4.6. All conditions under this section must be met during works.
- 4.7. 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.

- 4.8. 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.

- 4.9. 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.
- 4.10. Immediately notify Council of any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation.

- 4.11. Implement dust suppression measures on-site during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the *Protection of the Environment Operations Act 1997*. Implement all soil and water management control measures and undertake works in accordance with the approved Soil and Water Management Plan prepared by martens, dated 04/04/2024. 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*).
- 4.13. Install the LPG facility in accordance with Australian Standard AS 1596-2014: The storage and handling of LP Gas. The LPG facility must be licensed by SafeWork NSW.

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2. Obtain an Approval to Operate the on-site sewage management system from Council.
- 5.3. Implement and comply with the requirements of the "*Conservation Management Plan*", Ver Final 1.0, by Land Eco, dated 1 May 2024.
- 5.4. Permanent fencing of the all-remnant vegetation on site that is outside the approved asphalt plant footprint must be constructed prior to release of any occupation certificate.
- 5.5. Prepare and submit to Council's Ecologist a final certification report detailing the level of compliance for each stage of the development. The report with all conditions relating to ecology/trees must be prepared by the engaged Ecologist and forwarded to Council for review.
- 5.6. Protect the land in identified in Figure 1 of the *Conservation Management Plan*", Ver Final 1.0, by Land Eco, dated 1 May 2024 as Conservation Management Area through a 'Restriction on Use' pursuant to section 88B and 'Public Positive Covenant' 88E of the *Conveyancing Act 1919*. The area covered by the Covenant must be designated as a '*Conservation Area to be protected and managed in perpetuity*' with Central Coast Council having the sole authority to remove or modify the Covenants. The Covenants are in general terms to require that:
 - No structures are to be erected/placed on this land, and no development carried out or permitted except for works detailed in the approved CMP
 - The approved *Conservation Management Plan (Ver Final 1.0, by Land Eco, dated 1 May 2024)* must be implemented.
 - The Conservation Area must be permanently fenced and protected in perpetuity.
 - Weeds must be continually suppressed and destroyed and the land must be maintained as an ecologically sensitive area.
 - All rubbish and other waste is to be removed on a continual basis, with minimum 3 monthly inspections.
 - The stockpiling of materials or equipment is prohibited.
 - Provides Council with the authority to inspect the land with 7 days written notice to the registered land owner.
 - Where the landholder fails to comply with its obligations under the covenant, authority is given to Council to do anything necessary to comply and to recover compensation for any works.

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

- 5.7. Complete construction of the stormwater management system in accordance with the Stormwater Management Plan and Australian Standard AS 3500.3-*Stormwater drainage systems*. Discharge shall be to the existing drainage system servicing the allotment. Certification of the construction by a suitably qualified consultant must be provided to the Principal Certifier.
- 5.8. Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.
- 5.9. Complete Construction of driveways, ramps 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.
- 5.10. Implement the landscaping in accordance with the approved Landscape Plan.
- 5.11. Provide the Principal Certifier with written certification from a qualified landscape designer certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

6. ONGOING

- 6.1. Maintain all Conservation Area fencing in good order for the life of the development. Inspection of the fencing and signage must occur on a sufficiently frequent basis to detect and repair any damage to the fence in a timely manner. Any rubbish in the Conservation Area must also be removed a minimum of every three months.
- 6.2. The landowner is required to fully implement vegetation and biodiversity monitoring and management activities in accordance with the approved Implement and comply with the requirements of the "*Conservation Management Plan*", Ver Final 1.0, by Land Eco, dated 1 May 2024 and these conditions of this consent. The required annual reporting to Council's Ecologist detailed in the approved Conservation Management Plan is to be prepared by a suitably qualified and experienced Ecologist for a minimum period of 5 years.

The Conservation Management Plan is to be commenced no later than three (3) months from the date of this consent, and the first report must be provided to Council's Ecologist within 12 months of commencement. The final report certifying completion of the Conservation Management Plan at the end of the implementation period and once the specific objectives of the plan have been met. Any recommended additional actions must be completed to the satisfaction of Council prior to Council providing confirmation that the reporting period is completed.

- 6.3. Use external lighting that minimises overspill into retained vegetated areas.

- 6.4. Update the existing Operational Environmental Management Plan in accordance with *Section 13.4.2 of the Environmental Impact Statement, element, 2 September 2023* and include mitigation and management measures as outlined in *Section 9 of the Air Quality Impact and Greenhouse Gas Assessment (Todoroski Air Sciences Pty Ltd, 27 April 2023)*.
- 6.5. Update the existing Operational Environmental Management Plan in accordance with Section 7.2 incorporating best practice noise mitigation and management strategies of *the Noise and Vibration Impact Assessment (SLR, April 2023)*.
- 6.6. Comply with the current Environmental Protection Licence issued by the NSW EPA.
- 6.7. The loading and unloading of goods from vehicles must only be carried out on the land.
- 6.8. The permitted hours of operation of the asphalt plant and reclaimed asphalt pavement processing area are:
 - 24 hours a day, 7 days a week.
- 6.9. Maintain the landscaping for the life of the development.

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.

ADVISORY NOTES

- 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 mail boxes 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.