

**Location:** 133 Somersby Falls Road, SOMERSBY NSW 2250  
 Lot 3 DP 1292653  
**Owner:** Nichita Pty Ltd  
**Applicant:** PMANDO Holdings Pty Ltd  
**Date of Application:** 20 November 2023  
**Application No:** DA/2268/2023  
**Proposed Development:** General Industry and Resource Recovery Facility – Asphalt Batching Plant

## PROPOSED CONDITIONS

The development taking place in accordance with the approved development plans reference number DA/2268/2023 except as modified by any conditions of this consent.

### 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
A001	E	Cover Page	ADG Architects	15/11/2024
A002	E	Location Plan	ADG Architects	15/11/2024
A003	E	Site Analysis	ADG Architects	15/11/2024
A004	E	Site Plan	ADG Architects	15/11/2024
A005	E	Processing Plant	ADG Architects	15/11/2024
A100	E	Asphalt Plant Ground Floor	ADG Architects	15/11/2024
A101	E	Office Roof Plan	ADG Architects	15/11/2024
A204	E	Section A & B	ADG Architects	15/11/2024
A200	E	Elevations & External Material Finishes	ADG Architects	15/11/2024
A201	E	Elevations & External Material Finishes	ADG Architects	15/11/2024
A202	E	Processing Plant Elevations	ADG Architects	15/11/2024
A206	E	Retaining Walls North Boundary Elevations	ADG Architects	15/11/2024
A207	E	Retaining Walls West and East Boundary Elevations	ADG Architects	15/11/2024
A208	E	Retaining Walls Southern Elevation	ADG Architects	15/11/2024
A209	E	Retaining Walls Southern Boundary	ADG Architects	15/11/2024

A210	E	Retaining Walls – Cross Sections	ADG Architects	15/11/2024
A211	E	3D – Retaining Walls	ADG Architects	15/11/2024
A300	E	HRV Driveway Ramp	ADG Architects	15/11/2024
A400	E	Cut & Fill	ADG Architects	15/11/2024
A500	E	Site Photos and Montages	ADG Architects	15/11/2024
A501	E	Photomontage	ADG Architects	15/11/2024
A502	E	Photomontage	ADG Architects	15/11/2024
A503	E	Photomontage	ADG Architects	15/11/2024
A504	E	Photomontage	ADG Architects	15/11/2024

Document Title	Version No.	Prepared by	Dated
Waste Management Plan, Report No. 221145_WMP_Rev3	3	Benbow Environmental	22/08/2024
Air Quality Impact Assessment, Report No. 221145_AQIA_Rev6	6	Benbow Environmental	22/08/2024
Noise and Vibration Impact Assessment, Report No. 221145_NIA_Rev10	10	Benbow Environmental	03/12/2024
Environmental Management Plan, Report No. 221145_EMP_Rev3	3	Benbow Environmental	07/06/2024
Environmental Impact Statement Report No. 221145_EIS_Rev3 and Amendment Letter dated 28/10/2024 by PM Anderson Consulting	5	Benbow Environmental	06/12/2023 & 28/10/2024

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 Environment Protection Authority	General Terms of Approval	Notice No. 1641135	17/07/2024

NSW Rural Fire Service	Conditions	DA20241009004180-Original-1	24/10/2024
Ausgrid	Conditions	TRIM 2017/11/387	15/10/2024

- 1.4. Obtain an Environmental Protection Licence from the New South Wales Environment Protection Authority prior to the commencement of any asphalt batching activities.
- 1.5. The waste types permitted to be accepted for recovery or storage at the site are:
  - General solid waste (non- putrescible), consisting of reclaimed asphalt products, aggregates, road base or ballast only.

Any other waste types are not permitted to be stored at the site without the prior consent of the Council.

- 1.6. The maximum amount of waste permitted to be received at the premises annually is restricted to 125,000 tonnes.
- 1.7. The maximum amount of reclaimed asphalt products permitted to be stored at the site at any one time is restricted to 850 tonnes.
- 1.8. Asphalt plant operations must not commence prior to the installation of the acoustic mitigation measures recommended in section 7.4 of the *State Line Asphalt Batching Plant, Noise and Vibration Impact Assessment, 133 Somersby Falls Rd Somersby NSW 2250*, prepared by Benbow Environmental, dated 3 December 2024.
- 1.9. Asphalt plant operations must not commence prior to the installation of the air quality mitigation measures recommended in section 6.2 of the *Air Quality Impact Assessment for Stateline Asphalt Pty Ltd, 133 Somersby Falls Road Somersby*, dated 22 August 2024, prepared by Benbow Environmental.
- 1.10. Operate generally in accordance with the *Environmental Management Plan* dated June 2024, Revision 3, prepared by Benbow Environmental, except whereby modified with the endorsement of the NSW EPA and subject to conditions of consent. 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 (Development Certification and Fire Safety) Regulation 2021*.
- 1.12. 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. Comply with all commitments listed in the BASIX Certificate for the caretakers dwelling as part of the development as required under Section 75 *Environmental Planning and Assessment Regulation 2021*. 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 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:
- 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. Before the issue of a Construction Certificate, pursuant to Section 7.12 of the *Environmental Planning & Assessment Act 1979*, the applicant must pay a contribution to Council totalling \$88,802.20, 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 \(nsw.gov.au\)](#)

- 2.4. Before the issue of a Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Plan name		Amount
Housing and Productivity Contribution Central Coast Region_A&A		\$23,707.40
	Total:	\$23,707.40

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order ).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and*

*Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

- 2.5. 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](http://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, subdivision works certificate, occupation certificate and/or subdivision certificate.

- 2.6. 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 an industrial/commercial vehicle access crossing that has a width that can accommodate the swept turning paths of the largest vehicle required to enter and exit the development, including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing. The final design must ensure that vehicle access crossing including required transition wings does not conflict with the lintel associated with the existing kerb inlet pit.
- b) 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.

- 2.7. 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, street lights 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.
- 2.8. 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 a stormwater detention system. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast Development Control Plan 2022 and Council's *Civil Works Specifications*. The design shall be generally in accordance with Water Cycle Management Plan prepared by CUBO Consulting (Ref 23053-WCMP-1.2 dated 6 November 2024) and the associated stormwater plans within that document. The stormwater detention system must limit post development peak flows from the proposed development to less than or equal to predevelopment peak flows for all storms events up to and including the 1% Annual Exceedance Probability (AEP) storm event. A runoff routing model/method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention is not permitted within drainage easements, and / or secondary flow paths.
  - c) Construction of nutrient and pollution control measures. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast Development Control Plan 2022. The design shall be generally in accordance with Water Cycle Management Plan prepared by CUBO Consulting (Ref 23053-WCMP-1.2 dated 6 November 2024) and the associated stormwater plans within that document. A nutrient and pollution control report including an operation and maintenance plan must accompany the design.
  - d) Construction of on-site stormwater retention measures. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast Development Control Plan 2022. The design shall be generally in accordance with Water Cycle Management Plan prepared by CUBO Consulting (Ref 23053-WCMP-1.2 dated 6 November 2024) and the associated stormwater plans within that document. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan must accompany the design.

- e) Construction stormwater drainage collection and piping of all stormwater runoff from areas within the site via an on-site stormwater detention facility and nutrient/pollution control measures to the approved existing interallotment drainage pit located within the south-eastern corner of the site. The design shall be generally in accordance with Water Cycle Management Plan prepared by CUBO Consulting (Ref 23053-WCMP-1.2 dated 6 November 2024) and the associated stormwater plans within that document.
- f) Construction of retaining walls where indicated on development approval documentation. Retaining wall design 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. The design of retaining walls shall be based on the recommendations of a Registered practising Geotechnical Engineer.

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

- 2.9. Prior to issue of a Construction Certificate provide a detailed Landscape Plan prepared by a suitably qualified landscape architect to Council for approval. The plan shall detail landscaping within the site consistent with the landscape areas shown on the approved Site Plan A004 to soften the appearance of the development from the public domain. The plan shall utilise native species endemic to the area. The plan shall include a selection of trees and shrubs and shall include trees to a minimum mature height of 4m to screen retaining walls and the 6m high acoustic wall located inside the southern boundary.
- 2.10. Prior to issue of a Construction Certificate provide details of the 1.8m high acoustic boundary fences to the Private Certifier. The fences shall be constructed in colorbond in accordance with the Noise & Vibration Impact Assessment prepared by Benbow Environmental, dated 3 December 2024 and shall be of a suitable colour to blend with the landscaping on the site.

## **2. 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. 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.

### 3.3. 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](http://www.centralcoast.nsw.gov.au)

### 3.4. 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.
- 3.5. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
  - diverting uncontaminated run-off around cleared or disturbed areas, and
  - preventing the tracking of sediment by vehicles onto roads, and
  - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- 3.6 Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - b) could cause damage to adjoining lands by falling objects, or
  - c) involve the enclosure of a public place or part of a public place.

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

**Note 2:** The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.7 Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- a) be a standard flushing toilet connected to a public sewer, or
  - b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - c) be a temporary chemical closet approved under the *Local Government Act 1993*.

### 3. DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. The principal certifier must ensure that building work, earthworks, demolition, or vegetation removal is only carried out between:
- 7.00 am and 6.00 pm on Monday to Friday
  - 8.00am and 1.00pm Saturdays

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.

- 4.3. Classify all excavated material removed from the site in accordance with NSW EPA (November 2014) *Waste Classification Guidelines* and/or the Resource Recovery Orders under Part 9, Clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014*.
- 4.4. No soils to be imported to the subject site except for Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and/ or *Excavated Natural Material (ENM)* that meets the Resource Recovery Orders under Part 9, Clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014*.
- 4.5. Implement all soil and water management control measures and undertake works in accordance with the *Civil Works Plans* titled *Sediment and Erosion Control Plan*, Drawing Number 23053-CI-200 and *Sediment and Erosion Control Detail*, Drawing Number 23053-CI-210, Revision 2, dated 17/05/2024, and the Water and Soils Report, 133 Somersby Falls Road Somersby, dated 4 April 2023, prepared by Cubo Consulting. 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).
- 4.6. During the earthworks and construction phase of the development implement all acoustic mitigation measures recommended in section 9.3.1 of the *State Line Asphalt Batching Plant, Noise and Vibration Impact Assessment, 133 Somersby Falls Rd Somersby NSW 2250*, prepared by Benbow Environmental, dated 3 December 2024.
- 4.7. During the earthworks and construction phase of the development implement all air quality impact mitigation measures recommended in the *Air Quality Impact Assessment for Stateline Asphalt Pty Ltd, 133 Somersby Falls Road Somersby*, dated 22 August 2024, prepared by Benbow Environmental.
- 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. 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*. Re-use, recycle or dispose of all building materials during the demolition and construction phase of the development in accordance with the Waste Management Plan submitted with the application.
- 4.12. While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

## **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 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.
- 5.3. 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.

- 5.4. 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.
- 5.5. 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.
- 5.6. Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.
- 5.7. Amend the Deposited Plan (DP) for lot 3 DP 1292653 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:
    - 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.

- 5.8. 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.
- 5.9. Complete the landscaping works.
- 5.10. 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. All vehicles must enter & exit the site in a forward direction.
- 6.2. B-Doubles may only be used in conjunction with the development under the approval of a valid permit issued by the National Heavy Vehicle Register (NHVR).
- 6.3. Load and unload delivery vehicles wholly within the site. Delivery vehicles must enter and exit the site in a forward direction.
- 6.4. Maintain the site landscaping for the life of the development.
- 6.5. Do not erect advertising sign(s) on or in conjunction with the use and / or development without development consent unless the advertisement is exempt development or otherwise permitted without development consent.
- 6.6. Hours of operation are restricted to between the following times only:
  - Monday to Friday: 7:00AM to 6:00PM
  - Weekends (and public holidays): Closed.

Any variation to these permitted hours of operation requires the prior consent of Council.

- 6.7. Lighting shall not adversely impact any surrounding properties.
- 6.8. Comply with the current Environmental Protection Licence issued by the NSW EPA.
- 6.9. Trucks associated with the site shall not utilise Howes Road or Myoora Road to approach or leave the plant. The proponent shall ensure that all truck drivers are aware of these restrictions.
- 6.10. The maximum height of the reclaimed asphalt pavement (RAP) stockpile/s shall be 4.5 metres 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.

## ADVISORY NOTES

- Reference to the NHVR Portal indicates that Somersby Falls Road north-west of the Somersby Falls Road / Myoora Rd intersection is not a B-Double Route. If B-Double vehicles are proposed to be utilised with the development, a site specific and use specific B-Double permit from the NHVR would be required. Such permits are subject to renewal every few years.
- 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.
- Environmental Protection Authority
  - The New South Wales Environment Protection Authority are the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997* for works, as well as the ongoing operation and management of this site.
  - The proponent is required to comply with the conditions of this consent and the conditions applied by the EPA in Schedule A.
  - The proponent must obtain an Environmental Protection Licence prior to commencing operations under this consent.
- 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](http://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.