

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	7 January 2025
DATE OF PANEL DECISION	7 January 2025
DATE OF PANEL BRIEFING	18 December 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Doug Eaton,
APOLOGIES	Rachel Stanton
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 December 2024.

MATTER DETERMINED

PPSHCC-275– Central Coast – DA/2317/2023 at 3 Warren Road, Warnervale 2259 – Asphalt Batching Plant and Waste or Resources Management Facility (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 a briefing from the Applicant and Council on this matter. The Panel notes that additional information and amendments to the application have been made over the course of the assessment period.

The site is located within an established industrial area, is surrounded by other industrial uses, and is readily accessible from the Warnervale Interchange of the M1 Pacific Motorway. The location of the site within a planned industrial estate with limited physical constraints means the site is suitable for the use.

Acoustic mitigation measures are proposed, which include extensive use of acoustic walls up to 3.6 m. The presentation of these measures to the street and rear is acceptable given the setback and landscape elements.

The acoustic walls along the side boundaries are set back (variable width of between 600mm and 1.8m), for most of the length of the boundary – there is a portion of the wall on the southern boundary. The development supports some landscape between the site boundary and the wall. Given the context of the site and surrounding uses, the presentation is acceptable.

The Panel is satisfied that there is sufficient car parking on site to accommodate the use and its function.

The Panel is satisfied that within the acoustic measures, the proposed use and 24/7 operation is acceptable, and potential impacts can be 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 proposed use is consistent with the policy framework applying to the site, being located within a developed industrial area.
- (ii) The impacts arising from the development can be appropriately managed and mitigated.
- (iii) The site is suitable for the development.





CONDITIONS

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

- Amend condition 1.1 to include a tree retention plan.
- Amend condition 2.17 to require traffic management improvements to be at the Applicant's expense.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Roberta Ryan	 Doug Eaton

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-275 – Central Coast – DA/2317/2023
2	PROPOSED DEVELOPMENT	Construction and operation of an Asphalt Batching Plant (bitumen pre-mix and hot-mix facilities) and Waste or Resource Recovery Facility and associated works.
3	STREET ADDRESS	Lot 410, DP 1058215 3 Warren Road, Warnervale 2259
4	APPLICANT/OWNER	Wyee Asphalt Pty Ltd Wyee Asphalt 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 (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 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>: sections 61-68 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: 11 December 2024 Council memo: 18 December 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 27 February 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony Tuxworth, Greg Flynn <u>Council assessment staff</u>: Salli Pendergast, Emily Goodworth Site inspection: <ul style="list-style-type: none"> Alison McCabe: 28 June 2024 Roberta Ryan: 10 February 2024 Tony McNamara: 21 June 2024 Greg Flynn: 25 June 2024

		<p>Tony Tuxworth: 18 June 2024</p> <ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 18 December 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Doug Eaton <u>Council assessment staff</u>: Salli Pendergast, Emily Goodworth, Lara Davis <u>Applicant representatives</u>: Rob Dwyer Patrick Quinlan, Geoff Cox, John Fletcher, Tristan Magin, Hugh Jones, Sam Carruthers Department: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

1. PARAMETERS OF THIS CONSENT

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

Architectural Plans

Description/Title	Drawing No	Issue /Rev	Date	Author
Site Setout Plan	A01	14	12.11.24	MPC Consulting Engineers
Site Elevations	A02	3	12.11.24	MPC Consulting Engineers
6x Raw Product Storage Bins Setout Plan	A10	0	12.11.24	MPC Consulting Engineers
4x Raw Product Storage Bins Setout Plan	A11	1	14.11.24	MPC Consulting Engineers
Unprocessed RAP Storage Setout Plan	A12	0	12.11.24	MPC Consulting Engineers
Processed RAP & Crumbed Rubber Storage Setout Plan	A13	0	12.11.24	MPC Consulting Engineers
Lab & Office Setout & Dimension Plans, Sections & Elevations	A14	0	12.11.24	MPC Consulting Engineers
Landscape Plan Package	630.30563.00000 Plans 1-4	05	11.11.24	SLR
Amended Tree Removal/Retention Plan	(Appendix Q) (Project No.630.30563)	-	5 July 2024	SLR Consulting

Supporting Documentation

Document	Title	Date
D15988589	Environmental Impact Statement, Rev.1.1 prepared by SLR Consulting Australia P/L	11 Dec 2023
D15759958	Planning Secretary's Environmental Assessment Requirements (SEARS)- 1780 prepared by NSW Department of Planning and Environment – EF23/6037	7 July 2023
D16517963	Geotechnical Investigation (Ref 17382-201/0 prepared by RCA Australia	12 Nov 2024

D15970837	Noise and Vibration Impact Assessment prepared by SLR Consulting Australia P/L, Rev.v1.0	3 Nov 2023
D15970814	Bush Fire Assessment Report prepared by Peak Land Management. V.4	6 Nov 2023
D15970797	Construction Waste Management Plan prepared by SLR Consulting Rev:2.0	21 Nov 2023
D15970820	Construction Environmental Management Plan prepared by SLR Consulting, Revision V-1.0	22 Nov 2023
D15970795	Crime Risk Assessment prepared by SLR Consulting Rev:1.0	21 Nov 2023
D15970786	Air quality and Greenhouse Gas Assessment prepared by SLR Consulting Australia P/L Revision R10-1.0	14 Nov 2023
D15970781	Stormwater Management Report prepared by MPC Consulting Engineers Ref: 230470(2)	Nov 2023
D15970771	Applicant's SEARS compliance table	Undated
D15970819	Capital Investment Value Report – Final Ref:PR1042	17 Nov 2023
D15970835	Preliminary Site Investigation (Contamination) prepared by SLR Consulting Rev.- 3.0	19 Oct 2023
D15970847	Preliminary Hazard Assessment, Rev.1.0 prepared by SLR Consulting Australia P/L	2 Nov 2023
D15970842	Operational Waste Management Plan Rev.2.0 prepared by SLR Consulting Australia P/L	21 Nov 2023
D15970845	Mitigation Measures Table (Appendix F) prepared by SLR	Undated
D15988767	Statutory Compliance Table (Appendix B)	Undated
D16552857	Preliminary Plan of Management for Stormwater Basin (630.V30563.00012_Pom_V0.120241108) prepared by SLR	4 Dec 2024
D16552843	Coversheet & General Notes Plan No.C01 Rev.11, prepared by MPC Consulting Engineers	12.11.24
D16552843	Civil Site Sections No. C06 Rev.11 prepared by MPC Consulting Engineers	12.11.24
D16552843	Civil Site elevations No.C07 Rev.4, prepared by MPC Consulting Engineers	12.11.24
D16552843	Chainage Sections Sheet 1 (no, C08 Rev. 4) & Sheet 2 (no.C09 Rev.5) Prepared by MPC Consulting Engineers	12.11.24
D16552843	Retaining Wall Elevations and Details No.C11 Rev.3 & Retaining Wall Details C12, Rev. 0, prepared by MPC Consulting Engineers	04.12.24
D16552843	Retaining Wall Plan No.C10 Rev.5 prepared by MPC Consulting Engineers	04.12.24
D16552843	Stormwater Plan No.C05 Rev.15 prepared by MPC Consulting Engineers	04.12.24

D16552843	Turning Path Plan Sheet 1, T01, Rev.14, & Sheet 2 Rev. 14, & Sheet 3 Rev.4 prepared by MPC Consulting Engineers	12.11.24
D16552824	Correspondence prepared by MPC Consulting Engineers	4 Dec 2024
D16517947	Embodied Emissions Reporting prepared by SLR Consulting, Rev1.0	7 Nov 2024
D16517937	Correspondence titled 'Response to submissions' prepared by SLR	5 April 2024
D16517924	Correspondence titled 'Response to Request for Further Information prepared by SLR	14 Nov2024
D16297904	Updated Traffic Impact Assessment, Rev.v2.2prepared by SLR Consulting	8 July 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.

The recommendations of the supporting documentation above are to be implemented as part of the development during the relevant stages of construction and operation except as otherwise specifically stated under the conditions below.

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 (s414 EPA Act)	DA20231221005809-Original-1	3 Jan 2024
Ausgrid	Conditions (SEPP T&I)	TRIM 2017/11/346	27 Jan 2024
Transport for NSW	Correspondence	NTH24/00187/004	7 August 2024
NSW Environment Protection Authority	General Terms of Approval- Notice No. 1636393	1636393	21 May 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 (Development Certification and Fire Safety) Regulation 2021*.

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.

1.6 Where conditions of this consent require approval from Council under Section 138 of the *Roads Act 1993*, Section 68 of the *Local Government Act 1993* or Section 305 of the *Water Management Act 2000*, a completed Works 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.

1.7 The waste types permitted to be accepted for recovery or storage at the site are to be in accordance with the EPL and limited to:

- A maximum waste storage capacity of processed Recycled Asphalt Products (RAP) of up to 500t at any one time
- A maximum storage capacity of unprocessed RAP of up to 1,000t at any one time.
- A maximum storage of crumbed rubber for up to 100t at any one time.

No RAP processing will occur at the site. Any other waste types are not permitted to be stored at the site without the prior consent of the Council.

1.8 Obtain an Environmental Protection Licence from the New South Wales Environment Protection Authority prior to the commencement of any asphalt batching activities.

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 Submit amendments to the approved plans to the Accredited Certifier that must detail:

- A detailed landscape plan prepared by a suitably qualified and experienced landscape architect based on the approved Landscape Plan Package prepared by SLR demonstrating dense landscape screening of the site.

2.4 Before the issue of a Construction Certificate, pursuant to Section 7.11 of the Environmental Planning & Assessment Act, the applicant must pay contributions to Council totalling \$25,749.39 as calculated at the date of this consent, in accordance with the Warnervale District Section 7.11 Plan 2021. Refer to table below for full itemised list of contributions levied under this condition.

Warnervale District - WEZ South/West & Education Precinct - Transport Land	\$ 84.46
Warnervale District - WEZ South/West & Education Precinct - Transport Works	\$ 15,055.97
Warnervale District - Plan Prep & Administration	\$ 10,608.96
TOTAL	\$ 25,749.39

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Warnervale District Section 7.11 Plan 2021. Contributions under the Warnervale District Section 7.11 Plan 2021 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)

2.11 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](https://www.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, Commencement of Works, Subdivision Works Certificate and/or Occupation Certificate.

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

Housing and productivity contribution plan	Amount
Housing and Productivity Contribution Central Coast Region_A&A	\$142,244.37
Total housing and productivity contribution	\$142,244.37

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.

2.13 Prepare a Construction Environmental Management Plan for the site in accordance with:

- a. Table 27 and Appendix F of the Air Quality and Greenhouse Gas Assessment (SLR, November 2023).
- b. Section 6.1 of the *Noise and Vibration Impact Assessment* (SLR, 3 November 2023).
- c. stipulate appropriate environmental controls during Site development, including an unexpected fines protocol (to account for potential unknown contamination within the subsurface).

2.14 Submit to Council for approval a detailed design of the weighbridge in accordance with Protection of the Environment (Waste) Regulation 2014 and Waste Levy Guidelines (NSW EPA, 2018).

2.15 Submit engineering / structural drawings of any proposed retaining walls greater than 600mm in height. The retaining wall structural design drawings must be designed by a qualified Structural / Civil Engineer. The retaining wall structural design drawings must be submitted to the Accredited Certifier for approval as part of the Construction Certificate.

2.16 The above DA will require the lodgement of a trade waste application if anything other than domestic sewer is discharged into Council's sewage system. The fuel filling area will be required to be referred to the environmental section for approval.

<https://www.centralcoast.nsw.gov.au/business/health-and-safety/liquid-trade-waste>

2.17 The road signage and pavement marking design drawings identifying parking, other regulatory elements and traffic management facilities must be endorsed by the Local Traffic Committee prior to any installation on site. The road signage and pavement marking design drawings are to be submitted to Council with the *Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works* form. All costs associated with these works are the responsibility of the applicant.

2.18 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 of a minimum of 10 metres at the road gutter crossing and a minimum of 10 metres at the property boundary including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing.
- b) Up to half width road construction including kerb and guttering, subsurface pavement drainage, verge formation, with end transitions across the full frontage of the site in 3 Warren Road.
- c) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.
- d) Removal and replacement of all damaged kerb and gutter with new kerb and channel.

The design is to be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.

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.

2.19 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.

2.20 Obtain a Section 68 Local Government Act Works Approval for Stormwater Drainage works by submitting an application to Council for a 'Section 68 Local Government Act Works Approval – stormwater drainage' for storm water drainage works connecting to or within Council's storm water system 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 be generally in accordance with the details shown in the *Civil Engineering Plans Issue 15* by MPC Consulting Engineers, dated 4/12/24. Post developed stormwater flows are to be controlled to not exceed existing flow rates for the 20% AEP to the 1% AEP design storm events.

The *Section 68 Local Government Act Works Approval – stormwater drainage* must be issued and all conditions of that approval addressed prior to commencing any works that are the subject of the approval.

2.21 Submit to Council 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 a stormwater drainage retention, detention and pollution control measures infrastructure generally in accordance with the details shown in the *Civil Engineering Plans Issue 15* by MPC Consulting Engineers, dated 4/12/24 and the *Preliminary Plan of Management for OSD Basin*, by SLR dated 4/12/2024.
- c) A minimum of two pedestrian accesses to be constructed to the OSD basin from the hardstand areas.
- d) The design of sewer and stormwater infrastructure is to be prepared by a suitably experienced qualified professional in accordance with Council's *Civil Works Specifications*.
- e) Design of footings for structures, structures and retaining walls to be designed in accordance with the requirements of Council's *Guidelines for Building Adjacent to a Drainage Easement and Building in Proximity to Water and Sewer Pipelines* procedure.
- 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.

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

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. 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 approved by this consent.

3.3. Appoint a Principal Certifying Authority for the building work:

- a) The Principal Certifying Authority (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 Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: 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 Certifying Authority 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 Prior to commencement of construction or site works, a Soil and Water Management Plan (SWMP) prepared in accordance with the latest edition of the Landcom Publication "Managing Urban Stormwater: Soils and Construction – Volume 1" (the Blue Book). Sediment control fencing must remain in place until such time as the site is landscaped or turf is established.

Note: 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.

3.8 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*.

3.9 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.

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.

3.10 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, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.

3.11 Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.

3.12 Protect street trees by installing protective fencing. Any street tree damaged during works must be immediately reported to Council, which may incur a compensation fee, rectifying and / or replaced with a tree of similar height and species at no cost to Council.

3.13 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, 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. 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:

7.00am and 5.00pm 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.

4.3. During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately in that area, and
- b) The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

4.4. Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment. Implement measures in accordance with the approved Erosion and Sediment Control Plan prepared by MPC Consulting Engineers dated November 2023. 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).

4.5. 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 Certifying Authority or an officer of Council.

4.6. Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.

4.7 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*.

4.9 During construction works, all cut or fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.

4.10 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*.

4.11 Tree 4 is to be removed to accommodate for the development as specified in the Amended Tree Removal /Retention Plan.

4.12 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.

4.13 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.

4.14 Install outdoor lighting in accordance with *AS/NZS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting*

4.15 Implement all erosion and sediment control measures and undertake works in accordance with the approved Erosion and Sediment Control Plan prepared by MPC Consulting Engineers dated November 2023. 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)*.

4.16 Classify all excavated material removed from the site in accordance with NSW EPA (2014) *Waste Classification Guidelines* prior to disposal. All excavated material must be disposed of to an approved waste management facility, and receipts of the disposal must be kept on-site.

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 Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.

5.3 Complete the landscaping works in accordance with the approved landscape plan.

5.4 Plant a street tree on the road reserve. Provide one (1) advanced specimen (minimum 45 litre pot size) that is to be evenly located and adequately staked / protected to prevent vandalism. Street tree must be native tree species capable of achieving a minimum height of 8 meters.

Do not locate trees within an authority's underground service easement nor be closer than:

- a) 12m from an intersection, or
- b) 3m from a driveway or access way, or
- c) 3m from a power pole.

5.5 Plant a minimum of 2 additional tree(s) (spotted gums, advanced specimens min 25lt pot size) in the rear area of the site. Replacement trees must be native species capable of achieving a minimum height of 8m. New trees are not to be located within an authority's service easement, or within 3m of an approved building. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

5.6 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.

5.7 Construct the car park and access in accordance with Australian Standard AS2890.1-2004: *Parking facilities - Off-street parking*. Certification of the construction of the car park and associated accesses by a suitably qualified consultant must be provided to the Principal Certifier.

5.8 Submit to Councils Environmental Protection Officer, certification by an accredited Acoustic Consultant that a solid boundary fence has been installed around the site with two openings at the entrance and exit on the northern side of the site in accordance with the *Noise and Vibration Impact Assessment (SLR, 3 November 2023)*. It is recommended that this fence be constructed of any solid material with no holes or gaps.

5.9 Obtain an Environmental Protection Licence from the NSW Environmental Protection Authority for the activity.

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.

5.11 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.

5.12 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.

5.13 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.

5.14 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.

5.15 Complete construction of all works approved in the Local Government Act Section 68 Stormwater Drainage Works Approval. Completion include 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 adopted fees and charges.

5.16 Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.

5.17 Create the following on the title of the Deposited Plan (DP) for lot 410 DP 1058215 to:

1) Include an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with Council having the benefit of these covenants (as applicable) 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 and retention 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 and retention 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.

5.18 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.

5.19 Submit to the Principal Certifier certification prepared by a Registered Surveyor certifying that all construction has been affected within the appropriate property, easement boundaries and rights of carriageway. The certification must be accompanied by a copy of the proposed subdivision plan, with the distances from the boundaries to the edges of these structures endorsed in red and signed by the surveyor.

5.20 Bund all above ground storage of hazardous materials, oils, chemicals. The bund is to be made from an impervious material and must be covered and large enough to hold the contents of the largest container plus 10%.

5.21 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 Subdivision Certificate.

5.22 Prior to issue of the OC and any operation of the use commencing, the 3.6m high acoustic fence is to be installed around the perimeter of the development in accordance with the approved plans.

- 6.1 Maintain the solid boundary fence to be constructed of any solid material such as lapped and capped timber, masonry, or fibre cement etc. with no holes or gaps.
- 6.2 Operate the weighbridge in accordance with the Protection of the Environment Operations (Waste) Regulation 2014.
- 6.3 Comply with all requirements in the Environmental Protection Licence (EPL) from the NSW Environmental Protection Authority for the activity. Operate and manage the site in accordance with the EPL.
- 6.4 Provide a minimum of 9 off-street car parking for staff and visitors to the development.
- 6.5 Load and unload delivery vehicles wholly within the site. Delivery vehicles must enter and exit the site in a forward direction.
- 6.6 Maintain all security/front/perimeter fencing for the life of the development in the approved location.
- 6.7 Maintain the site landscaping for the life of the development.
- 6.8 Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.9 Maintain internal pavement and pavement marking.
- 6.10 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.
- 6.11 Do not expose goods for sale, hire or other reward.
- 6.12 Operate and maintain all external lighting so as not to impact on any adjoining property.
- 6.13 Do not give rise to offensive noise, odour or air pollution or water pollution as defined in the *Protection of the Environment Operations Act 1997*.
- 6.14 Store all waste generated on the premises in a manner so that it does not pollute the environment. Comply with all commitments as detailed in the Operational Waste Management Plan prepared by SLR, dated 21 Nov 2023.
- 6.15 Implement dust control measures to ensure airborne dust particulates are abated and airborne movement of sediment blown from exposed disturbed areas is contained within the site.

6.16 Store all Dangerous Goods in accordance with: AS 1940-2017: *The Storage and Handling of Flammable and Combustible Liquids*; and / or the *Protection of the Environment Operations Act 1997*.

6.17 Maintain the external finishes of the building(s), structures, walls and fences for the life of the development and remove any graffiti within seven (7) days.

6.18 Keep a sufficient supply of appropriate spill control equipment on the premises at all times. Materials used in the clean-up of a spill must be disposed of to an appropriately licensed waste facility.

PENALTIES

1.1. 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.

Offence to disturb Aboriginal artefact

It is an offence under the *National Parks and Wildlife Act 1974* to disturb an Aboriginal artefact without a Permit.