

## **Annexure B**

### **DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT**

**Development Application No:** DA/1301/2024

**Development:** Specialised retail premises, associated civil works, including earthworks and retaining walls, construction of vehicular access and internal driveways.

**Site:** Land described as Lot 102 DP 1209157 and identified as No. 11 Bryant Drive, Tuggerah

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:** 3 June 2025

**Date from which consent takes effect:** Date of determination.

#### **TERMINOLOGY**

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 102 DP 1209157 and identified as No. 11 Bryant Drive, Tuggerah.

The conditions of consent are as follows:

#### **Deferred Commencement**

This consent does not operate until the following have been satisfied:

1. Submission of plans that show the swept path plans prepared on detailed civil engineering plans using an industry standard turning path model for a 19.0 metre

semi-trailer inclusive of all engineering details such as kerb alignment, location of guard rails, fencing and the like along the travel path of the heavy vehicles ensuring forward entry and exit and compliance with AS2890.2 and certified by an appropriately qualified traffic professional.

Evidence must be produced to the consent authority sufficient to enable it to be satisfied that above conditions have been complied within twelve (12) months of the date of this approval, otherwise this consent will lapse.

Upon compliance with the conditions of deferred commencement Council will issue an operative consent (including stamped plans) that is subject to the attached conditions.

## **1. PARAMETERS OF THIS CONSENT**

- 1.1 Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

### **Civil and Architectural Plans by:**

<b>Sheet Name</b>	<b>Sheet Number</b>	<b>Revision</b>	<b>Date</b>
Cover Sheet,	DA-00000	E	02/05/2025
Site Plan – Existing	DA-01000	F	02/05/2025
Site Plan – Stage 2	DA-01010	L	02/05/2025
Floor Plan Ground Floor	DA-20000	J	02/05/2025
Elevations – Stage 2 Building	DA-40000	F	02/05/2025
Sections – Stage 2 Building	DA-50000	E	02/05/2025
Floor Plan – Roof	DA-20200	J	02/05/2025
Civil – General Notes	02805_ST2_101	03	05/05/2025
Civil – General Arrangement Plan	02805_ST2_201	04	05/05/2025
Civil – Staging Plan	02805_ST2_210	02	05/05/2025
Civil – Cut Fill Plan	02805_ST2_231	03	05/05/2025
Civil – Longitudinal Sections – Sheet 1	02805_ST2_301	03	05/05/2025
Civil – Longitudinal Sections- Sheet 2	02805_ST2_302	03	05/05/2025
Civil – Typical Sections	02805_ST2_401	04	05/05/2025

**LEC No. 2024/382980**

Civil - Post-Development OSD Catchment Plan	02805_ST2_601	04	05/05/2025
Civil – Pre-Development OSD Catchment Plan	02805_ST2_602	02	05/05/2025
Civil – On-Site Detention Tank – Plan and Details	02805_ST2_621	05	05/05/2025
Civil – Level Spreader – Plan and Details	02805_ST2_622	02	05/05/2025
Civil – Stormwater Long sections 01	02805_ST2_651	02	05/05/2025
Civil – Stormwater Long sections 02	02805_ST2_652	02	05/05/2025
Sediment & Erosion Control Plan Earthworks Stage	02805_ST2_701	03	05/05/2025
Sediment & erosion control plan post earth works stage	02805_ST2_702	03	05/05/2025

**Landscape Plans by Site Image:**

<b>Drawing</b>	<b>Description</b>	<b>Job NO.</b>	<b>Issue</b>	<b>Date</b>
LS-St 2-100	Site Plan	SS22-4932	B	15/04/2025
LS-St 2-101	Landscape Plan	SS22-4932	B	15/04/2025
LS-St 2-102	Landscape Plan	SS22-4932	B	15/04/2025
LS-St 2-101	Planting Plan	SS22-4932	B	15/04/2025
LS-St 2-101	Planting Plan	SS22-4932	B	15/04/2025
LS-St 2-500	Landscape Specification Notes & Plant Schedule	SS22-4932	B	15/04/2025
LS-St 2-501	Landscape Details	SS22-4932	B	15/04/2025

**Supporting Documentation:**

<b>Document</b>	<b>Title</b>	<b>Date</b>
Stormwater Management Plan	C & M Consulting Engineers - REPORT NO. R02805-ST2-SWMP REVISION D	May 2025
Streamlined Biodiversity Development Assessment Report	AEP - Proposed Stage 2 Mixed Use Development at 11 Bryant Drive Tuggerah, NSW (Lot 102 DP 1209157) BOAMS Ref: 00046694/BAAS17002/24/00046695 Revision 03	May2025

Biodiversity Management Plan	AEP - Stage 2 Development (DA/530/2019/D) at 11 Bryant Drive, Tuggerah NSW (Lot 102 DP 1209157) AEP Reference: 1895 Revision 02	5 May 2025
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- 1.2. Carry out all building works in accordance with the Building Code of Australia.
- 1.3. Comply with the requirements from the Authorities as listed below and attached as a schedule of this consent.

<b>Government Agency / Department / Authority</b>	<b>Description</b>	<b>Ref No</b>	<b>Date</b>
Ausgrid	Conditions	TRIM 2017/11/366	4/7/2024
Transport for NSW	Conditions	TH24/00383/004	01 October 2024
Rural Fire Service	Conditions	CNR-73267 DA/1301/2024	30 September 2024

- 1.4. This consent does not authorise the use of any buildings approved under this consent. Separate development consent is to be obtained for the use and any associated signage prior to the use of any buildings approved under this consent.
- 1.5. Implement the impact mitigation and minimisation measures in the approved Streamlined Biodiversity Development Assessment Report (BOAMS Ref: 00046694/BAAS17002/24/00046695). Where these recommendations contained within the Streamlined Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.
- 1.6. Pursuant to Section 4.17(1)(b) and (5) of the *Environmental Planning and Assessment Act, 1979*, Development Consent DA/530/2019/D is required to be modified in accordance with the document entitled 'Proposed Modification of Development Consent DA/530/2019/D – pursuant to s4.17 of the *Environmental Planning Assessment Act 1979* – May 2025' which forms Appendix 1 to the conditions of this consent.

## **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. 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 minimum width of 20 metres at the road gutter crossing and a maximum width of 15 metres at the property boundary including construction of a gutter crossing and road pavement adjacent to the gutter crossing. A structural detail is to be included in the design that details the pavement design thickness, reinforcement and joint layout for the vehicle access crossing.
- b) Removal and replacement of all damaged / redundant VAC, kerb and gutter with new kerb and gutter.

Regrading and returfing of footway area adjacent to the site to match existing levels.

Note: The works shall include adjustment or relocation of utility services

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.

- 2.3. 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.
- 2.4. 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 address the following works:

- a) Construction of all piped and collected stormwater runoff and subsoil drainage from the access driveway and development site that drains to Council's stormwater system located within Lake Road Tuggerah.

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.

- 2.5. 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) Structural engineering plans prepared by a suitably qualified Structural Engineer detailing the elevated driveway including the piling / piling, retaining walls and structures. Note: The piling / piling, retaining walls and structures are to be designed in accordance with the findings and recommendations of the Geotechnical report.
- c) Construction of footings for structures that are 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.
- d) 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 Structural and geotechnical engineer as being in accordance with Australian Standards.
- e) Cut and fill plans that indicate all areas of excavation and filling and the concept design of any retaining structures.
- f) Staging plan for works, including staging details of construction of fill pad.
- g) Design and construction details on integration of stage 1 and 2 civil engineering works.
- h) Construction of on-site stormwater drainage collection, retention and detention system in accordance with requirements included in Council's Development

Control Plan and Council's *Civil Works Specification 2020*. 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.

- i) A stormwater plan including a MUSIC model that achieves a Neutral or Beneficial Environmental Outcome (NorBE) for stormwater flows is required. The NorBE requirement is for the volume of post development flows to have the same or less volume, sediment and nutrients than would otherwise flow from the site in its current undeveloped landuse that is discharging to the area of ecological significance with EEC.
- j) Provision of a subsoil drainage system along the entry accessway from Lake Road and the associated retaining walls in the vicinity to neighbouring adjoining lots.
- k) Provision of a subsoil drainage system along the rear boundary of number 19 and 23 Lake Road and the associated retaining walls on this development site to prevent the build up of stormwater along the boundary with this development. Stormwater management plan to be approved by a suitably qualified ecologist who confirms that stormwater impacts as mitigated through the design of this development will not adversely affect the EEC on and adjacent to the site.
- l) Construction of on-site stormwater management system generally in accordance with the details shown in the stormwater engineering Plan Rev C by C&M Consulting dated May 2025 and Civil Engineering Works Drawings Rev 4 set by C&M Consulting dated 05/05/2025.
- m) Provision of an onsite detention tank with a minimum capacity of 224.4 cubic metres..
- n) Provision of a level spreader of minimum length 30 metres to discharge outflows from the onsite detention system flowing to the area of ecological significance in the ecological reserve in the south east of the site.
- o) Provision of an infiltration system in the base of the on site detention system with a minimum surface area of 250 square metres.
- p) Provision of a cantilevered accessway above the level spreader for a minimum length of 30 metres. No piers are to be included along this section to support this accessway.
- q) 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.
- r) A geotechnical report is to be undertaken for the area of the proposed development where earthworks and the level spreader for stormwater management are required. This report is to identify the most suitable method of support for the proposed development for the design loads, including movement of the largest design vehicles. Excavation and slope stability are to The report is to be submitted to the Accredited Certifier and shall demonstrate that the construction is suitable and will not have an adverse impact upon surrounding area, including the area of ecological significance in the ecological reserve. Details are to be approved by Accredited Certifier prior to a Construction Certificate being issued.

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

- 2.6. 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.

- 2.7. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier.

The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- any tree protection zones for the trees on adjoining land including road reserves (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

- 2.8. The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.
- 2.9. 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 Subdivision Works Certificate works, 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.

- 2.10. The tree protection zone and structural root zone of the trees to be retained must be clearly marked on all final engineering and landscaping plans. All fenced tree protection areas must be clearly marked.
- 2.11 Obtain Council approval of Erosion and Sediment Control Plans, prepared by a suitably qualified civil engineer/environmental consultant, prepared in accordance with the 'Blue Book' (*Managing Urban Stormwater: Soils and Construction, Landcom, 2004*).
- 2.12 The submission to the Council as the Roads Authority of a Design Concept stage' Road Safety Audit for the internal car parking and access prepared by a Level 3 and level 2 Road Safety Audit Team recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of design drawings.
- 2.13 Not used.
- 2.14 Not used.
- 2.15 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for structures within the zone of influence of the sewer main. The design shall indicate the proposed method of protecting the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. Design details must be approved by Council as the Water Supply Authority prior to the issue of a Construction Certificate.
- 2.16 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 \$249,436.95, as calculated at the date of this consent, in accordance with the Wyong District Section 7.11 Plan 2020. Refer to table below for full itemised list of contributions levied under this condition.

Cobbs Area 1/2/3 Roads	\$ 10,425.25
Tuggerah Industrial Est Drainage	\$ 3,901.05
Tuggerah Industrial Stage 3 Drainage Land	\$ 32,925.10
Tuggerah Industrial Stage 3 Drainage Works	\$ 105,932.85
Tuggerah Industrial Stage 3 Roads	\$ 96,251.70
<b>Total</b>	<b>\$ 249,435.95</b>

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Wyong District Section 7.11 Plan 2020. Contributions under the Wyong District Section 7.11 Plan 2020 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)

- 2.17 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	\$291,579.75
Total housing and productivity contribution	\$291,579.75

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.

- 2.18 A preliminary site investigation including an associated Unexpected Finds Management Plan must be prepared prior to the issue of any Construction Certificate for the discovery of any asbestos fragments, or any other unexpected contamination during any future construction works at the site.
- 2.19 Prior to the issue of any Construction Certificate a Noise Impact Assessment must be undertaken by a suitably qualified acoustic consultant who is an active member of the Association of Australasian Acoustical Consultants. This Noise Impact Assessment will be required to provide recommended attenuation measures that address all potential acoustic impacts being generated on the site.
- 2.21 Submit to the Certifying Authority a report prepared by a suitably qualified person attesting to the development being designed to enable the following:

- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
- (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
- (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
- (d) the generation and storage of renewable energy,
- (e) the metering and monitoring of energy consumption,
- (f) the minimisation of the consumption of potable water, and
- (g) the embodied emissions attributable to the development has been quantified.

### **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](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 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 The revised Biodiversity Management Zone boundary should be established by a suitably qualified surveyor. This boundary should guide the construction of a minimum two (2) metre high chain wire link security fence along the boundary of the area identified on the approved plan as being a Biodiversity Management Zone. A lockable access gate must be provided for maintenance purposes. The fence must be sign posted at intervals of no less than thirty (30) metres to identify the conservation value of the land and discourage access. No barbed wire is to be used for the fencing.

Signage is to be installed every 30 metres that states 'Ecological Corridor, no entry without landholder consent'

No clearing of vegetation, storage of vehicles or machinery, stockpiling, materials storage or unauthorised access is to occur within the fenced conservation area.

The ecologist must notify Council in writing of compliance with this condition.

- 3.6 Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.7 Establish Tree Protection Zones (TPZ) around trees identified to be retained. The distance from retained trees to the boundary of the tree protection zones can be determined by the following extract from AS4970-2009: Protection of trees on development sites:

**"DETERMINING THE TPZ**

The radius of the TPZ is calculated for each tree by multiplying its DBH x 12.

TPZ = DBH x 12

DBH = trunk diameter measured at 1.4m above ground

Radius is measured from the centre of the stem at ground level."

Trees to be retained are to be protected by fencing and / or other accepted protection measures in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites. All required tree protection measures are to be maintained for the duration of construction works.

Erect a 1.8 metre high chain mesh fence around Tree Protection Zones that must remain intact until construction is completed.

- 3.8 Like for Like (Ecosystem Credit Retirement)

Prior to commencement of any works the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development. This credit liability includes a 15% additional credit load increase (rounded up) to mitigate impacts on the Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East

Corner Bioregions EEC; in the absence of this loading the offset liability is 15 ecosystem credits.

The requirement to retire ecosystem credits in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Conservation Fund Charge System.

Evidence of the retirement of ecosystem credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works, including prior to any vegetation clearing works.

*Table 1. Ecosystem credits required to be retired – like for like*

<b>Impacted plant community type</b>	<b>Number of ecosystem credits</b>	<b>HBT</b>	<b>IBRA sub-region</b>	<b>Plant community type(s) that can be used to offset the impacts from development</b>
PCT 4020	18	No	Wyong, Hunter, Pittwater and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 3272, 3906, 3983, 3985, 3986, 3988, 3989, 3990, 3995, 3997, 3998, 4000, 4001, 4004, 4006, 4009, 4013, 4019, 4020, 4021, 4044, 4047, 4057

### 3.9 Like for Like (Species Credit Retirement)

Prior to commencement of any works the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development. This credit liability includes a 15% additional credit load increase (rounded up) to mitigate impacts on Biconvex paperbark (*Melaleuca biconvexa*); in the absence of this loading the offset liability is 16 species credits.

The requirement to retire species credits outlined in Table 2 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Conservation Fund Charge System.

Evidence of the retirement of ecosystem credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works, including prior to any vegetation clearing works.

*Table 2. Species credits required to be retired – like for like*

<b>Impacted species credit species</b>	<b>Number of species credits</b>	<b>IBRA sub-region</b>
Biconvex paperbark ( <i>Melaleuca biconvexa</i> )	19	Anywhere in NSW

3.11 Implement the impact mitigation and minimisation measures in the approved Biodiversity Management Plan (Stage 2 Development (DA/530/2019/D) at 11 Bryant Drive, Tuggerah NSW (Lot 102 DP 1209157) AEP Reference: 1895 dated 5 May 2025) and the approved Streamlined Biodiversity Development Assessment Report (AEP dated 5 May 2025). Where these measures contained within the Biodiversity Development Assessment Report are inconsistent with the conditions of consent, the conditions of consent prevail.

3.12 Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication *'Soils and Constructions- Volume 1'* (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent ESCP until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the *Protection of the Environment Operations Act*

3.13 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.

- 3.14 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 Subdivision Works Certificate works, 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.
- 3.15 Implement all erosion and sediment control measures and undertake works in accordance with the approved Erosion and Sediment Control Plan.
- 3.16 Submit a dilapidation report to Council, the Registered Certifier and relevant adjoining property owners. The report is to be prepared by a suitably qualified person detailing the structural characteristics of all buildings and retaining walls located on properties immediately adjoining the site boundaries and any Council asset in the vicinity of the development. The report must document and provide photographs that clearly depict any existing damage to the improvements erected upon allotments immediately adjoining the development site and to the road, kerb, footpath, driveways, water supply and sewer infrastructure, street trees and street signs or any other Council asset in the vicinity of the development.

In the event that access to an adjoining property(s) for the purpose of undertaking the dilapidation report is denied, submit evidence in writing demonstrating that all steps were taken to obtain access to the adjoining property(s).

- 3.17 Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority
- 3.18 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*.

#### **4 DURING WORKS**

- 4.1. All conditions under this section must be met during works.
- 4.2. Carry out construction or demolition works during the construction phase of the development only between the hours as follows:

7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 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.



- 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. Replace any Swamp Mahogany (*Eucalyptus robusta*) removed by the proposal as compensatory planting at a ratio of 4:1 i.e. four (4) Swamp Mahoganies planted for each single Swamp Mahogany removed.
- 4.7. Ensure any approved filling within Tree Protection Zones is of a material coarser or more porous than the underlying material. Depth and compaction is to be minimised and material is not to be built up against trunks.
- 4.8. Design, locate and install underground services to minimise or prevent tree root damage in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites.
- 4.9. Ensure a qualified arborist (AQF 5) is on-site to oversee the works in relation to tree protection measures during critical stages of construction.
- 4.10. 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.
- 4.11. Supervision by a suitably qualified Ecologist is required for all vegetation clearing works. The Ecologist must:
- Check and ensure that the development interface with the approved BMP area is accurately located and sufficient to ensure the BMP land is protected.
  - Supervise the installation of fencing around all trees and vegetation to be retained.
  - Provide an environmental induction to civil contractors and subcontractors.
  - Undertake pre clearing surveys for fauna and directly supervise all clearing to mitigate any animal welfare issues.
- The Ecologist must provide updates in writing to Council's Ecologist within five business days after completion of the environmental protection measures.
- 4.12. Maintain the fence around the BMP area. The fence must be maintained in perpetuity. No storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced vegetation protection areas.
- 4.13. Undertake vegetation clearing in accordance with the approved Biodiversity Management Plan tree removal/retention survey plan. Trees must be removed in such a manner so as to prevent damage to surrounding trees to be retained.

- 4.14 Supply any plant stock used in Biodiversity Management Plan land works from provenance specific seed/material collected from locally endemic species to maintain genetic diversity. Non-provenance specific material is prohibited. The Landscape Plan is to integrate with the required Biodiversity Management Plan.
- 4.15 Manage native fauna appropriately during clearing and construction phase of the approved works. In this regard, an appropriately licensed Fauna Ecologist is to be engaged to advise and supervise the clearing of trees. When fauna are present, the animals are to be removed and suitably relocated by the Ecologist prior to felling or the tree must be sectionally dismantled under the supervision of the Ecologist before relocating animals. Wildlife must be relocated locally to an area with adequate resources and provided with a nest box or relocated hollow under instruction from the Ecologist. Where, in spite of precautions, wildlife is injured, the Fauna Ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as WIRES or Wildlife Arc.
- 4.16 Conduct all works in accordance with the Biodiversity Management Plan (Stage 2 Development (DA/530/2019/D) at 11 Bryant Drive, Tuggerah NSW (Lot 102 DP 1209157) AEP Reference: 1895) and the approved Streamlined Biodiversity Development Assessment Report (AEP 5 May 2025).
- No development or any works contrary to the Biodiversity Management Plan are permitted in the designated Biodiversity Management Zone as shown on the approved plan.
- 4.17 Vehicles and other equipment to be used on site must be completely free of soil, seeds and plant material before entering/leaving the site to prevent the spread of exotic plant species and pathogens. All vehicles and machinery must be inspected prior to site entry/exit and those failing inspection should be sent away for cleaning. Appropriate records of inspections shall be maintained.
- 4.18 Preserve the identified wetland area by restricting all access except for monitoring and / or maintenance activities such as the removal of litter or weeds.
- 4.19 Implement the approved Nest Box Replacement Strategy and provide documentary evidence of compliance to Council and Principal Certifier for its records.
- 4.20 Design, locate and install underground services to minimise or prevent tree root damage in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites.
- 4.21 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.

- 4.22 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 4.23 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.
- 4.24 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*.
- 4.25 All excavated material removed from the site must be classified in accordance with NSW EPA (1999) Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 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.
- 4.26 Implement dust suppression measures on-site during the demolition, earthworks, and construction phase of the development in order to suppress dust generated by wind, vehicles and plant and equipment. Dust must be suppressed in order to comply with the *Protection of the Environment Operations Act 1997*.
- 4.27 In the event that construction works causes the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease, Council and the Principal Certifying Authority must be notified in writing within 7 days and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.
- 4.28 Cease all excavation works if acid sulfate soils are identified until such time as details of mitigation and treatment measures are submitted to, and approved by, the Principal Certifier.
- 4.29 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.

- 4.30 Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified Environmental Consultant confirming all fill material imported to the site must be:
- (a) virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*; or
  - (b) a material identified as being subject to a resource recovery exemption by the NSW EPA and is identified to be suitable for the intended land use; or
  - (c) combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA and is identified to be suitable for the intended land use.
- 4.31 Submit to Council a Clearance Certificate issued by a suitably qualified independent Occupational Hygienist or Licensed Asbestos Assessor certifying that the site has been made free of asbestos material following completion of demolition works.
- 4.32 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.

## **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 Implement Biodiversity Management activities in accordance with the Biodiversity Management Plan (Stage 2 Development (DA/530/2019/D) at 11 Bryant Drive, Tuggerah NSW (Lot 102 DP 1209157) AEP Reference: 1895 dated 5 May 2025) and the approved Biodiversity Development Assessment Report (AEP dated May 2025)
- 5.3 Permanent solid fencing of the Swamp Sclerophyll Forest Endangered Ecological Community Biodiversity Management Plan area is to be installed prior to issue of Occupation Certificate. Locked access gates are to be provided for maintenance.
- 5.4 Prepare and submit 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.
- 5.5 The area subject to the Biodiversity Management Plan will be placed under a 'Restriction on Use' pursuant to section 88B and 'Public Positive Covenant' 88E of the Conveyancing Act 1919. These instruments must require the land to be managed under an approved Biodiversity Management Plan for the conservation of endangered ecological communities and threatened species. The public positive covenant must be created to require the implementation of the Biodiversity Management Plan.

The public positive covenant must permit Council or its nominee to enter and inspect the site and carry out any works required under the Biodiversity Management Plan, at the owner's cost, if the owner fails to implement and maintain the site in accordance with the Biodiversity Management Plan as amended and approved by Council.

The public positive covenant must be submitted to Council's General Counsel for approval. The authority empowered to release, vary or modify the Restriction is Central Coast Council.

- 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 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.
- 5.8 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.
- 5.9 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.
- 5.10 Repair any damage to Council's infrastructure and road reserve as agreed with Council and repair any damage to adjoining properties. Damage not shown in the dilapidation report submitted to Council or the Certifying Authority before the development works had commenced will be assumed to have been caused by the development works unless the Developer can prove otherwise.
- 5.11 Complete construction of all works approved in the Local Government Act Section 68 Stormwater Drainage Works Approval. Completion 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 adopted fees and charges.
- 5.12 Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.

- 5.13 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. The car park shall be properly line marked and visitor and staff parking spaces identified as per the approved plans. Certification by a suitably qualified person that construction is complete is to be provided to the Principal Certifier.
- 5.14 Submit to the Principal Certifier certification prepared by a Registered Surveyor certifying that all construction has been affected within the appropriate property and easement boundaries. The certification must be accompanied by a copy of the proposed subdivision plan, with the distances from the boundaries to the edges of these structures endorsed in red and signed by the surveyor.
- 5.15 Amend the Certificate of title for lot 9 DP 31250 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:
  - 2) 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.
  - 3) 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:
  - 4) 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.

- 5.16 Prior to the issue of an Occupation Certificate, suitable lighting to car park areas shall be provided in accordance with the requirements of *AS/NZS 1158* and *AS/NZS 2890.1*.

## **6. ONGOING**

- 6.1 Use external lighting that minimises overspill into retained vegetated areas.
- 6.2 Implement biodiversity management activities in accordance with the approved Biodiversity Management Plan. Fencing of the BMP areas is to be maintained in good working condition in perpetuity.
- Progress reports are to be submitted to Council's Ecologist by the 30th June each year for a minimum of 5 years after the commencement of works. Reports are to detail the progress of the works and any recommended additional actions, with a final report certifying completion of the Biodiversity Management Plan at the end of the implementation period, or once the specific objectives of the plan have been met. Any recommended additional actions must be completed to the satisfaction of Council prior to the maintenance period being confirmed as complete.
- 6.3 Monitor nest boxes/salvaged hollows to determine their usage and to carry out repairs or replacement as required every six months for a minimum period of five years following installation. Monitoring and reporting is to be undertaken by the consulting Ecologist and reports are to be submitted to Council after each monitoring event.
- 6.4 Implement the "during operation" impact mitigation and minimisation measures the approved Streamlined Biodiversity Development Assessment Report (AEP dated 5 May 2025).
- 6.5 Store all waste generated on the premises in a manner so that it does not pollute the environment.
- 6.6 Transport all waste generated on the premises to a facility which is licensed to receive that material.
- 6.7 No obstructions to the wheel out of waste bins are permitted including grills, speed humps, barrier kerbs etc.
- 6.8 Comply with all commitments as detailed in the Waste Management Plan.
- 6.9 Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 6.10 Waste bin storage area/s to be screened from public view.

- 6.11 Waste containers to be wheeled out on arrival of the commercial waste contractors for servicing and immediately returned to the screened waste bin storage area/s after servicing.
- 6.12 Load and unload delivery vehicles wholly within the site. Delivery vehicles must enter and exit the site in a forward direction.
- 6.13 Do not obstruct loading bays when not in use.
- 6.14 Ensure the garbage / recycling bins do not encroach on the car parking or vehicle manoeuvring areas.
- 6.15 Maintain the site landscaping for the life of the development.
- 6.16 Do not store goods, equipment, packaging material or machinery exposed outside the building so as to be visible from any public road or thoroughfare.
- 6.17 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.
- 6.18 Do not use any flashing light, animated or reflective or moving parts, iridescent or fluorescent colours or materials on the external surface of the advertising sign. The colours exhibited on the sign must be in keeping with the amenity of the surrounding area.
- 6.19 Maintain internal pavement and pavement marking.
- 6.20 The Lake Road service truck access and access to the Lake Road car park for all vehicles is to be restricted so that access into the area via the boom gate is unavailable during nighttime noise restriction hours of 10pm to 7am.
- 6.21 The Lake Road service access shall be boom gated at both entry points and shall be available for delivery vehicles only. Restricted access (via boom gate) to the northern access is limited to staff vehicles and service trucks at all times. The boom gate is to be closed at all times and accessed electronically as required for the above identified vehicles.
- 6.22 The development is not to be serviced by truck deliveries or collections between the hours of 10pm and 7am.
- 6.23 The operation of all plant (including rooftop and all mechanical ventilation) in combination is required to not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm - 7.00am) when measured at the nearest affected residence and property boundary.



- 6.24 Maintain the installed system of Closed Circuit Television (CCTV) that monitors / records all public areas within the site.
- 6.25 Area of ecological significance / EEC to be monitored in accordance with the Biodiversity Management Plan and the stormwater management system to be updated if found to be adversely impacting the EEC community.
- 6.26 All stormwater management devices to be maintained as per the operation and maintenance plan approved as part of the construction certificate.
- 6.27 Nominated warehouse areas are to be used exclusively for storing or handling items pending their sale, with no retail sales being made from these areas. No customer access permitted to these areas.
- 6.28 All car parking spaces are to be freely available to all users upon the site at all times the site is accessible.

## 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 mailboxes in new commercial and residential developments
  - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
  - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

### Dial Before You Dig

- Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](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.

**APPENDIX 1**

**Proposed Modification of Development Consent DA/530/2019/D – pursuant to s4.17  
of the Environmental Planning Assessment Act 1979 – May 2025**

**1. PARAMETERS OF THIS CONSENT**

- 1.1 Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp “Development Consent” unless modified by any following condition.

**Architectural Plans by: Buchan**

Sheet Name	Sheet Number	Revision	Date
Title Sheet	0000	3	01/07/2022
	DA-0000	6	20/09/2024
Proposed Site Plan	0001	14	06/04/2023
	DA-0001	20	10/07/2024
Existing/Demo Site Plan	0002	2	24/06/2022
Building A - Proposed Floor Plan	1001	2	24/06/2022
	DA-1000	4	11/04/2024
Building B - Proposed Floor Plan	1002	2	24/06/2022
	DA-1002	4	16/04/2024
Building C - Proposed Floor Plan	1003	2	24/06/2022
	DA-1003	9	10/07/2024
Building D - Proposed Floor Plan	1004	2	24/06/2022
	DA-1004	3	11/04/2024
Building A - Proposed Reflected Ceiling Plan	1101	2	24/06/2022
	DA-1100	4	11/04/2024
Building B - Proposed Reflected Ceiling Plan	1102	2	24/06/2022
	DA-1101	4	16/04/2024
Building C - Proposed Reflected Ceiling Plan	1103	2	24/06/2022
	DA-1102	6	10/07/2024
Building A - Proposed Roof Plan	1201	2	24/06/2022
	DA-1200	4	11/04/2024
Building B - Proposed Roof Plan	1202	2	24/06/2022
	DA-1201	4	16/04/2024
Building C - Proposed Roof Plan	1203	2	24/06/2022
	DA-1202	4	11/04/2024
Building A - Proposed Elevations	3001A	2	08/03/2023
	DA-3001	8	20/09/2024

Building B - Proposed Elevations	3002A DA-3002	2 9	08/03/2023 20/09/2024
Building C - Proposed Elevations	3003A DA-3003	2 9	08/03/2023 20/09/2024
Building A - Proposed Sections	DA-2100	4	11/09/2024
Building B - Proposed Sections	DA-2101	5	11/09/2024
Building C - Proposed Sections	DA-2102	4	11/09/2024
Pylon Signage	DA-4003	3	10/04/2024

**Landscape Plans by Site Image:**

Drawing	Description	Sheet	Issue	Date
SS22-4932	Cover Sheet	000	I	15/02/2023
SS22-4932	Landscape Masterplan	100	I	15/02/2023
SS22-4932	Landscape Plan 1	101	I	15/02/2023
SS22-4932	Landscape Plan 2	102	I	15/02/2023
SS22-4932	Landscape Plan 3	103	I	15/02/2023
SS22-4932	Landscape Plan 4	104	I	15/02/2023
SS22-4932	Landscape Plan 5	105	I	15/02/2023
SS22-4932	Landscape Specification Notes and Plant Schedule	500	I	15/02/2023
SS22-4932	Landscape Details	501	I	15/02/2023

**Supporting Documentation:**

Document	Title	Date
-	<del>Water Cycle Management Plan Addendum Letter</del> <del>Revision C (ADW)</del>	<del>December</del> <del>2021</del>
-	<del>Water Cycle Management Plan Rev E (ADW)</del> Watercycle Management Plan prepared by ADW Johnson Issue A <u>as modified by the Stormwater Management Plan for Stage 2 prepared by C &amp; M Consulting Engineers dated May 2025.</u>	<del>March</del> 2021 June 2022
CC190039 220346 Rev 2	Waste Management Plan (Barker Ryan Stewart)	<del>May 2020</del> June 2022

-	Civil Engineering Plans prepared by ADW, Version B <u>as modified by the Stage 2 Civil Engineering Works prepared by C &amp; M Consulting Engineers dated 5 May 2025.</u>	06/04/2023
1895	Ecological Assessment Report (AEP)	March 2020
	Ecological Assessment Report (EAR) addressing Section 4.55 Modification of Stage 1 at 11 Bryant Drive Tuggerah (AEP)	06 April 2023
18/191 Rev I TR/12013/jj	Traffic & Parking Assessment (Intersect Traffic) S4.55 Application Traffic Review prepared by CBRK	01/06/21 24 June 2022

- 1.2 Carry out all building works in accordance with the Building Code of Australia.
- 1.3 Comply with the requirements from the Authorities as listed below and attached as a schedule of this consent.

## **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 Roadworks - Design Requirements**

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.

- 2.3 The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:
  - Pavement marking & signage.
  - Street trees
  - Pavement design.
  - Vehicle access crossing(s).
  - The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation.
  - Any associated works to ensure satisfactory transitions to existing infrastructure
  - The submission to Council as the Roads Authority of street lighting and reticulation design drawings. The design shall be prepared in accordance with AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting, documentation confirming a minimum of twenty (20) year design life and be approved by the Council as the Roads Authority prior to issue of a Construction Certificate.
  - Adjustment of services as required.

- Roundabout in Bryant Drive generally in accordance with ~~ADW Johnson Plan 190557-DA-010 Version F dated 3/3/2021~~ ADW Johnson Plan 190557-DA-210 Version B dated 06/04/2023.

Required design drawings are to be prepared in accordance with Council's Civil Works Specification Design Guidelines 2018 and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

- 2.4 The submission of a comprehensive road signage and pavement marking design drawings identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.
- 2.5 Prior to the commencement of detailed design works within any public road, contact should be made with the National Community Service "Dial before you Dig" on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.
- 2.6 The submission to the Council as the Roads Authority of a Design Concept stage' Road Safety Audit for the roundabout and site accesses prepared by a Level 3 and level 2 Road Safety Audit Team recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of design drawings.

**2.7 Stormwater Drainage - Design Requirements**

The submission to the Accredited Certifier of a detailed stormwater management plan featuring:

- Stormwater disposal in accordance with the Watercycle Management Plan prepared by ADW Johnson dated June 2022 Issue A as modified by the Stormwater Management Plan for Stage 2 prepared by C&M Consulting Engineers dated May 2025~~ADW Johnson dated March 2021 issue E as revised by the Water Cycle Management Plan Addendum Letter Revision C by ADW Johnson dated December 2021 incorporating:~~
- The provision of an onsite stormwater detention system. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms.
- The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality - A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.
- Stormwater disposal generally in accordance with the Watercycle Management Plan prepared by ADW Johnson dated June 2022 Issue A as modified by the Stormwater Management Plan for Stage 2 prepared by C&M Consulting Engineers dated May 2025~~. 19055-ESK-011(A) to 19055-ESK-015(A) revision A dated 15/10/2021 as further amended by condition 2.20190557-ESK-202~~
- Provision of a subsoil drainage system along the entry accessway from Lake Road and the associated retaining walls in the vicinity to neighbouring adjoining lots. This could include a bioretention filter in the area between the Lake Road entry and No.7 Lake Road with subsoil outlets.

The plans must be prepared in accordance with *AS/NZS3500.3:2018 and Council's Civil Works Specification Design Guidelines 2018*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate.

**2.8 Structural Design Requirements**

Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.

- 2.9 Prior to the issue of a Construction Certificate, suitable detailed design drawings for all retaining wall structures on the site are to be provided for the approval of the Accredited Certifier. Such design drawings are to be prepared by a suitably qualified Registered Structural Engineer in accordance with the requirements of *AS 4678-2002 - Earth Retaining Structures*. All retaining walls must be contained wholly within the property and designed so as to accommodate possible surcharge loading from vehicles or structural improvements within the adjoining property.

**2.10 Subdivision - Design Requirements**

The submission to the Accredited Certifier of detailed design drawings for all subdivision works in accordance with Council's *Civil Works Specification Design Guidelines 2018*. The design drawings, including an overlay of the vegetation plan identifying trees to be retained as per the approved development plans, and any trees to be removed must be approved by the Accredited Certifier prior to issue of a Construction Certificate.

**2.11 Vehicle Access and Parking - Design Requirements**

The submission to the Accredited Certifier of a detailed car parking design. The design shall include:

- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
- Pavement design able to withstand anticipated vehicle loading.
- Control point/boom gates to Lake Road access located so that queuing for the boom gate for the largest design vehicle is contained within the property boundary.
- Suitable guard rails/physical barrier provided to parking and manoeuvring areas in proximity to level changes.

The design drawings shall be prepared in accordance with the requirements of *AS/NZS 2890 - Parts 1, 2 and 6*, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

- 2.12 The submission to the Accredited Certifier of lighting design drawings for the carpark and public places. The design shall be prepared in accordance with the requirements of *AS/NZS 1158* and *AS 4282-1997*, including the provision of current best practice energy efficient



lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

**2.13 Water and Sewer Services - Design Requirements**

All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent.

**Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

- 2.14 The developer must submit an application to Council under Section 305 of the *Water Management Act 2000* for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate.

**Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

- 2.15 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for structures within the zone of influence of the sewer main. The design shall indicate the proposed method of protecting the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. Design details must be approved by Council as the Water Supply Authority prior to the issue of a Construction Certificate.

- 2.16 The submission to the Accredited Certifier of lighting design drawings for the carpark and public places. The design shall be prepared in accordance with the requirements of *AS/NZS 1158* and *AS 4282-1997*, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

- 2.17 Pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979* pay to Council a total contribution amount of **\$339,300.28** that may require adjustment at the time of payment, in accordance with the Wyong District Development Contributions Plan with the applicable amounts as follows:

Cobbs Area 1/2/3 Roads	\$ 14,106.31
Tuggerah Industrial Est Drainage	\$ 4,040.75
Tuggerah Industrial Stage 3 Drainage Land	\$ 47,579.60
Tuggerah Industrial Stage 3 Drainage Works	\$ 143,336.52
Tuggerah Industrial Stage 3 Roads	\$ 130,237.10
<b>Total</b>	<b>\$ 339,300.28</b>

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

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

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

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

*'Section 7.11 contributions may be satisfied by the value of works as part of a "Works in Kind" agreement with Council. Works in kind to be carried out shall be agreed to by Council in writing prior to the payment of the contributions and issue of a construction certificate (related to the works in kind). All such agreements shall be in accordance with Council's policies.'*

- 2.17 An Unexpected Finds Management Plan must be developed and implemented prior to the issue of any Construction Certificate for the discovery of any asbestos fragments, or any other unexpected contamination during any future construction works at the site.
- 2.18 Prior to the issue of any Construction Certificate a Noise Impact Assessment must be undertaken by a suitably qualified acoustic consultant who is an active member of the Association of Australasian Acoustical Consultants. This Noise Impact Assessment will be required to provide recommended attenuation measures that address all potential acoustic impacts being generated on the site, these activities are to include but not limited to:
- Vehicle movements, Parking & Congregational noise
  - Boom gates
  - The use of Loading docks and vehicles associated with this activity
  - Waste collection including the bottle recycling facility
  - Mechanical Plant
- 2.19 Submit to the Principle Certifying Authority Construction Certificate Plans indicating the following amendment to the development:
- The deletion of car parking along the delivery/entry accessway from Lake Road for the length of the common boundaries with lots 3, 5 and 13 DP5536. Development is limited to construction of access driveway for delivery vehicles, associated fill, retaining walls, fencing, boom gates and drainage works.
  - No fill or pavement is to be located within 4 metres of the common boundary of lots 3, 5 and 13 DP5536. A setback of 4 metres to these properties shall be maintained.
  - A pedestrian footpath shall be provided on the eastern side of the accessway.
  - The acoustic fence shall be located at the edge of the accessway pavement at a minimum distance of 4 metres from the property boundary.

- The boom gate to be relocated so that it allows queuing for the largest (delivery) design vehicle within the property boundary.
  - Provision of a subsoil drainage system along the entry accessway from Lake Road and the associated retaining walls in the vicinity to neighbouring adjoining lots. This could include a bioretention filter in the area between the Lake Road entry and No.7 Lake Road with subsoil outlets.
- 2.20 Submit to the Principle Certifying Authority Construction Certificate Plans indicating the following amendment to the development:
- The deletion of car parking along the delivery/entry accessway from Lake Road for the length of the common boundaries with lots 3, 5 and 13 DP5536. Development is limited to construction of access driveway for delivery vehicles, associated fill, retaining walls, fencing, boom gates and drainage works.
  - No fill or pavement is to be located within 4 metres of the common boundary of lots 3, 5 and 13 DP5536. A setback of 4 metres to these properties shall be maintained.
  - A pedestrian footpath shall be provided on the eastern side of the accessway.
  - The acoustic fence shall be located at the edge of the accessway pavement at a minimum distance of 4 metres from the property boundary.
  - The boom gate to be relocated so that it allows queuing for the largest (delivery) design vehicle within the property boundary.
  - Provision of a subsoil drainage system along the entry accessway from Lake Road and the associated retaining walls in the vicinity to neighbouring adjoining lots. This could include a bioretention filter in the area between the Lake Road entry and No.7 Lake Road with subsoil outlets.
- 2.21 Details of public art shall be submitted to and approved in writing by Central Coast Council prior to the issue of any Construction Certificate. Details of the public art shall include creative and original works sited in locations visible from the public domain. The public art shall be implemented at a minimum of 1% of the total cost of the development or an alternative figure agreed to by Central Coast Council.
- 2.22 The substation and switch room shall be located within the front setback to Bryant Drive and screened from the road by landscaping. The location of the substation and switch room shall be confirmed prior to issue of any Construction Certificate. This infrastructure needs to be located in an area that is clear of any utilities and in accordance with the requirements of the relevant authority. Details of proposed landscaping that screens the substation and switch room shall also be provided prior to issue of any Construction Certificate. All details shall be provided to the Private Certifying Authority responsible for issue of any Construction Certificate.
- 2.23 Prior to issue of the Construction Certificate, the Plans are to be amended to ensure all turning movements comply with AS/NZS 2890 for all design vehicles accessing the site. This includes:
- Provide a splay/radius corner to the south eastern corner of the access road from Lake Road opposite building 'A'
  - Provide a larger radius to the corner of the service road at the north eastern corner of Building 'C'

- Widen the southern egress across the Bryant Drive road reserve to ensure all vehicles exiting the site at this location maintain lane discipline within Bryant Drive.

### **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](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 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 Clearly mark and identify all trees and native vegetation proposed for retention and removal onsite and on all final engineering and development plans. All *Melaleuca biconvexa* trees to be retained under the Revised Biodiversity Management Plan prepared by AEP (AEP Ref 1895), Revision 02 dated 5 May 2025 (Revised Biodiversity Management Plan) must be protectively fenced. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans.
- ~~3.6 Prior to commencement of any works submit to Council's Ecologist for approval a Vegetation Management Plan for all areas of retained native vegetation on Lot 102/DP1209157. The Vegetation Management Plan must be prepared to Council's satisfaction prior to the commencement of any works. The Vegetation Management Plan must be prepared by a suitably qualified Ecologist and in accordance with Central Coast Council's Flora and Fauna Survey Guidelines 2019. The VMP must include as a minimum:~~

- ~~Site specific management actions to protect and mitigate the impacts of the development on the Swamp Sclerophyll Forest on Coastal Floodplains Endangered Ecological Community (EEC) and Melaleuca biconvexa on the property.~~
- ~~Integrate with the Erosion and Sediment Control or Soil and Water Management Plan.~~
- ~~Clearly stage management actions to identify works required prior to commencement of construction works, during works, prior to occupation certificate and ongoing.~~
- ~~Include a protocol to prevent the transfer of weeds or pathogens onto or off the site, including during construction.~~
- ~~A monitoring program and performance objectives.~~
- ~~Detail ongoing reporting requirements.~~
- ~~Be implemented for no less than five years.~~

Progress reports are to be submitted to Council's Ecologist by the 30th June each year for a minimum of 5 years after the commencement of works in accordance with the Revised Biodiversity Management Plan. Reports are to detail the progress of the works and any recommended additional actions, with a final report certifying completion of the ~~Vegetation~~ Revised Biodiversity Management Plan at the end of the implementation period, or once the specific objectives of the plan have been met. Any recommended additional actions must be completed to the satisfaction of Council prior to lodgement of the final report.

### 3.7 Install temporary fencing

Prior to works associated with the development commencing, vegetation nominated for retention, including all *Melaleuca biconvexa* trees, are to be suitably protected by a 1.8 metre high fence. Temporary fencing may be relocated to protect only that vegetation nominated for retention in the Revised Biodiversity Management Plan. The fence is to be clearly marked as a "No Go Area" on the fencing itself. No clearing of vegetation, dumping of weeds or other vegetable material, storage of vehicles or machinery, stockpiling, materials storage or unauthorised access is to occur within the fenced ~~conservation~~ BMP area.

- 3.8 Implement the mitigation measures outlined in the "Revised Ecological Assessment Report (EAR)- PROPOSED RETAIL AND CARPARK -STAGE 1 AT 11 BRYANT DRIVE, TUGGERAH, NSW" Andersen Environment and Planning, March 2020 (section 13.0) and the "Ecological Assessment Report (EAR) addressing Section 4.55 Modification of Stage 1 at 11 Bryant Drive Tuggerah", by Andersen Environment and Planning dated 06 April 2023 as amended by the Revised Biodiversity Management Plan. Where the measures are inconsistent, the conditions of consent prevail.

### 3.9 Erosion and Sediment Control Requirements

Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication 'Soils and Constructions- Volume 1' (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent ESCP until the site is fully stabilised and landscaped. Failure to comply

with this condition may result in fines under the provision of the *Protection of the Environment Operations Act*

**3.10 Protection of Adjoining Property Requirements**

Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.

**3.11 Roads - Preconstruction Requirements**

Prior to commencing any works upon public roads the developer and their contractor will be required to:

- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
- Obtain a copy of Council's Civil Works Specification Construction Guidelines 2018. This is Council's Specification for Civil Works and is available on Council's web site.
- Arrange a meeting on-site with Council's Principal Development Construction Engineer on 1300 463 954.

3.12 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.

3.13 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, channel, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.

**Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

**3.14 Construction Traffic Management Plan**

Prior to the commencement of any works, the Applicant shall prepare a Construction Traffic Management Plan for the development. The plan shall include Traffic Control Plans prepared by a suitably qualified and experienced consultant. All works must ensure the safety of all vehicles and pedestrians within the frontage service road.

The construction traffic management plan shall identify construction access via Bryant Drive only. Access via Lake Road is limited to those works directly in proximity (within 75 metres) of the Lake Road frontage of the site.

- 3.15 Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.
- 3.16 Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and this 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.

- 3.17 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*.

#### **4. DURING WORKS**

- 4.1 All conditions under this section must be met during works.
- 4.2 Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday
- No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.
- 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.
- 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 Conduct all works in accordance with the approved Vegetation Management Plan.
- 4.7 Supervision by a suitably qualified Ecologist is required for all vegetation clearing works. The Ecologist must:
- Mark trees and native vegetation for retention and removal.
  - Supervise the installation of fencing around all trees and vegetation to be retained.
  - Provide an environmental induction to civil contractors and subcontractors.
  - Undertake pre clearing surveys for fauna and directly supervise all clearing to mitigate any animal welfare issues.

The Ecologist must provide updates in writing to Council's Ecologist within five business days after completion of the environmental protection measures.

- 4.8 Maintain the fence around the retained vegetation. The fence must be maintained for the duration of construction works. No storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced vegetation protection areas.
- 4.9 Implement the mitigation measures outlined the “Revised Ecological Assessment Report (EAR)- PROPOSED RETAIL AND CARPARK -STAGE 1 AT 11 BRYANT DRIVE, TUGGERAH, NSW” Andersen Environment and Planning, March 2020 (section 13.0) and the “Ecological Assessment Report (EAR) addressing Section 4.55 Modification of Stage 1 at 11 Bryant Drive Tuggerah”, by Andersen Environment and Planning dated 06 April 2023 as amended by the Revised Biodiversity Management Plan. Where the measures are inconsistent, the conditions of consent prevail.
- 4.10 Design, locate and install underground services to minimise or prevent tree root damage in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites.
- 4.11 Vehicles and other equipment to be used on site must be completely free of soil, seeds and plant material before entering/leaving the site to prevent the spread of exotic plant species and pathogens. All vehicles and machinery must be inspected prior to site entry/exit and those failing inspection should be sent away for cleaning. Appropriate records of inspections shall be maintained.



- 4.12 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 signed by Barker Ryan Stewart, dated ~~7 May 2020~~ June 2022.
- 4.12 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 4.13 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

~~Full implementation of the recommendations of the Anderson Environment & Planning (2019). Ecological Assessment Report for the Construction of a two-storey office premises containing a medical centre 23-25 Anzac Road, Tuggerah, NSW, August 2019.~~

- 4.14 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.15 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*.
- 4.16 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 which is compliant with the Excavated Natural Material Exemption 2014 issued under clauses 91 and 92 of the Protection of the Environment Operations Act 1997.
- 4.17 All excavated material removed from the site must be classified in accordance with NSW EPA (1999) Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 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.
- 4.18 In the event that construction works causes the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease, Council and the Principal Certifying Authority must be notified in writing within 7 days and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

**4.19 Cease excavation if ASS identified**

Cease all excavation works if acid sulfate soils are identified until such time as details of mitigation and treatment measures are submitted to, and approved by, the Principal Certifier.

- 4.20 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.

**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 Permanent solid fencing of the Swamp Sclerophyll Forest Endangered Ecological Community and areas containing *Melaleuca biconvexa* to be retained under the Revised Biodiversity Management Plan is to be installed prior to issue of Occupation Certificate. Locked access gates are to be provided for maintenance.

- 5.3 The area subject to the ~~Vegetation~~ Revised Biodiversity Management Plan will be placed under a 'Restriction on Use' pursuant to section 88B and 'Public Positive Covenant' 88E of the Conveyancing Act 1919. These instruments must require the land to be managed under ~~an~~ the approved Vegetation Revised Biodiversity Management Plan for the conservation of endangered ecological communities and threatened species. The public positive covenant must be created to require the implementation of the Revised Biodiversity ~~Vegetation~~ Management Plan.

The public positive covenant must permit Council or its nominee to enter and inspect the site and carry out any works required under the Revised Biodiversity ~~Vegetation~~ Management Plan, at the owner's cost, if the owner fails to implement and maintain the site in accordance with the Revised Biodiversity ~~Vegetation~~ Management Plan as amended and approved by Council.

The public positive covenant must be submitted to Council's General Counsel for approval. The authority empowered to release, vary or modify the Restriction is Central Coast Council.

- 5.4 Prior to the issue of any Occupation Certificate the completed Noise Impact Assessment must be provided to Council's Senior Environmental Health officer for endorsement prior to implementing any of the recommended acoustic attenuation measures.
- 5.5 Prior to the issue of any Occupation Certificate a compliance certificate must be provided to the Principal Certifying Authority demonstrating that all recommended attenuation measures from the Noise Impact Assessment have been implemented.
- 5.6 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.
- 5.7 Install a system of Closed Circuit Television (CCTV) of a type and in locations on the site that will provide high-quality images of all public areas within the site. CCTV surveillance of the Lake Road car park shall be installed.
- 5.8 Complete the landscaping works.

5.9 Provide the Principal Certifying Authority 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.

5.10 Solid acoustic attenuating fencing of at least 2.1 metres in height above the finished ground level shall be provided as follows:

- directly adjoining the north boundary with lots 5, 6, 7, 8 and 9 DP5536, and
- to either side of the delivery access at a distance of 4 metres from the common boundary with Lot 3, 5 and 13 DP5536 and
- to the common boundary with Lot 141 DP1007716.

Where the recommendations of the acoustic report dictate a higher fence, this must be provided.

**5.11 Dilapidation Rectification Requirements**

Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

**5.12 Filling and Haulage- Completion Requirements**

All filled areas are to be compacted in accordance with the requirements of AS 3798-1996. The submission of test results and appropriate documentation attesting to this requirement having been achieved is to be provided for the approval of the Accredited Certifier prior to issue of the Occupation/Subdivision Certificate.

**5.13 Lighting Requirements**

Prior to the issue of an Occupation Certificate, suitable lighting to car park areas shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

**5.14 Authorities - Compliance Requirements**

Prior to the issue of an Occupation Certificate, the developer must comply with the requirements (including financial costs) of any relevant utility provider (for electricity, water, sewer, drainage, gas, telecommunications, roads, etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

5.15 All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

5.16 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.

5.17 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Specification Construction Guidelines 2018*

and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

- 5.18 The submission to the Council as the Roads Authority of certification from an Accredited Service Provider (ASP) that the street lighting installation has been completed in accordance with AS/NZS 1158 and AS 4282-1997, the approved design drawings and will achieve a minimum of twenty (20) year design life. The certification must be received by Council prior to the issue of the Occupation Certificate.
- 5.19 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2018. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 5.20 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Specification Construction Guidelines 2018*. All works must be approved by Council under Section 68 of the *Local Government Act 1993* prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.
- 5.21 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of to the existing stormwater disposal system servicing the allotment.
- 5.22 Prior to the issue of the final Occupation Certificate, a 'Restriction on the Use of Land' shall be created on the title of the land restricting any alteration to the on-site stormwater detention system. The terms of the Restriction are to be prepared to Council's standard requirements. Central Coast Council shall be nominated as the party to release, vary or modify the restriction.
- 5.23 Prior to the issue of the final Occupation Certificate, a 'Positive Covenant' shall be created on the title of the land requiring the registered proprietor to ensure the continued maintenance and performance of the on-site stormwater detention structure. The terms of the positive covenant are to be prepared to Council's standard requirements. Central Coast Council shall be nominated as the party to release, vary or modify the restriction.
- 5.24 Prior to the issue of the final Occupation Certificate, a 'Restriction on the Use of Land' shall be created on the title of the land prohibiting the registered proprietor from altering the overland stormwater drainage flow path or erecting any structure within the overland stormwater drainage flow path, without the express written consent of Council. Central Coast Council shall be nominated as the party to release, vary or modify the restriction.
- 5.25 Creation of an easement over the trunk drainage line benefitting the adjoining properties connected to the trunk drainage line.
- 5.26 The construction of the carpark and accesses in accordance with AS/NZS 2890. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

- 5.27 Prior to the issue of an Occupation Certificate, all water and sewer works for the development must be approved by Council as the Water and Sewer Authority.
- 5.28 The obtaining of a satisfactory final plumbing & drainage inspection advice or 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. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.
- 5.29 Prior to the issue of an Occupation Certificate, Works as Executed information for the development as identified in Council's *Civil Works Construction Specification* is to be submitted to and approved by Council.
- 5.30 Prior to the issue of any Occupation Certificate, land required for the roundabout on both sides of Bryant Drive is to be dedicated at no cost to Council as Public Road.
- 5.31 The public art required by Condition 2.21 of this consent shall be implemented to the satisfaction of Central Coast Council.

## **6. ONGOING**

- 6.1 Use external lighting that minimises overspill into retained vegetated areas.
- 6.2 Implement the works specified in the approved Vegetation Management Plan. Progress reports are to be submitted to Council's Ecologist by the 30th June each year for a minimum of 5 years after the commencement of works.
- 6.3 Store all waste generated on the premises in a manner so that it does not pollute the environment.
- 6.4 Transport all waste generated on the premises to a facility which is licensed to receive that material.
- 6.5 No obstructions to the wheel out of waste bins are permitted including grills, speed humps, barrier kerbs etc.
- 6.6 Comply with all commitments as detailed in the Waste Management Plan signed by Barker Ryan Stewart, dated ~~7 May 2020~~ June 2020.
- 6.7 **Deleted**
- 6.8 Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 6.9 Waste bin storage area/s to be screened from public view.
- 6.10 Waste containers to be wheeled out on arrival of the commercial waste contractors for servicing and immediately returned to the screened waste bin storage area/s after servicing.
- 6.11 Load and unload delivery vehicles wholly within the site. Delivery vehicles must enter and exit the site in a forward direction.

- 6.12 Do not obstruct loading bays when not in use.
- 6.13 Ensure the garbage / recycling bins do not encroach on the car parking or vehicle manoeuvring areas.
- 6.14 Maintain the site landscaping for the life of the development.
- 6.15 Do not store goods, equipment, packaging material or machinery exposed outside the building so as to be visible from any public road or thoroughfare.
- 6.16 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.
- 6.17 Do not use any flashing light, animated or reflective or moving parts, iridescent or fluorescent colours or materials on the external surface of the advertising sign. The colours exhibited on the sign must be in keeping with the amenity of the surrounding area.
- 6.18 Maintain internal pavement and pavement marking.
- 6.19 **Deleted**
- 6.20 The Lake Road service truck access and access to the Lake Road car park for all vehicles is to be restricted so that access into the area via the boom gate is unavailable during nighttime noise restriction hours of 10pm to 7am.
- 6.21 The Lake Road service access shall be boom gated at both entry points and shall be available for delivery vehicles only. Restricted access (via boom gate) to the northern access is limited to staff vehicles and service trucks at all times. The boom gate is to be closed at all times and accessed electronically as required for the above identified vehicles.
- 6.22 The development is not to be serviced by truck deliveries or collections between the hours of 10pm and 7am.
- 6.23 Ongoing compliance with the recommendations of the approved acoustic report.
- 6.24 The operation of all plant (including rooftop and all mechanical ventilation) in combination is required to not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm - 7.00am) when measured at the nearest affected residence and property boundary
- 6.25 **Maintain CCTV**
- Maintain the installed system of Closed Circuit Television (CCTV) that monitors / records all public areas within the site.
- 6.26 All signage including the Pylon Sign media shall comply with the requirements of the *Transport Corridor Outdoor Advertising and Signage Guidelines*, prepared by the Department of Planning and Environment, including, but not limited to, the digital sign criteria contained within Table 3 and the luminance levels requirements contained within Table 6.

**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 mailboxes in new commercial and residential developments
  - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
  - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- • Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

#### Dial Before You Dig

- Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](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.