

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	22 August 2025
DATE OF PANEL DECISION	22 August 2025
DATE OF PANEL MEETING	18 August 2025
PANEL MEMBERS	Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Rachel Stanton, Doug Eaton
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 August 2025.

MATTER DETERMINED

PPSHCC-340 – Central Coast – DA/1380/2024 at 47 Myoora Road, Somersby 2250 - Construction of a General Industrial Building (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

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

The Panel has had the benefit of a number of briefings from Council and the applicant.

The applicant has made a submission querying a number of conditions proposed in the assessment report. Council prepared a supplementary memo dated 15 August 2025, addressing the request and recommended changes to some conditions. The Panel has considered this memo.

The Panel notes that the application has been amended to provide for a greater landscape strip and retention of trees to Myoora Road, and more detail was provided in respect to the cut and fill proposed, and extent of retaining walls.

The proposed development will require a modification and/or surrender of two (2) development consents: DA/51047/2016 and DA/63453/2021. The Panel sought further information from Council and the applicant regarding the specifics of the modifications or surrender required. Council provided a further memo dated 19 August 2025, outlining the nature of the modification to DA/51047/2016, which the Panel has considered. DA/63453/2021 is required to be surrendered.

As a result, the original Condition 1.8 is to be deleted, and new conditions 2.15 and 2.16 have been proposed, requiring the modification and surrender of the consents, as outlined in the memo dated 19 August 2025.

The proposal is for an industrial use consistent with surrounding buildings and uses within the area.

The Panel is satisfied that the development is compatible with the surrounding development and that impacts arising from the development, including potential construction noise, can be managed and mitigated.

Development Application

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

The decision was unanimous.

REASONS FOR THE DECISION

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

1. The proposed development is consistent with the policy and statutory framework for the evolving industrial area.
2. Impacts arising from the development can be appropriately managed and mitigated.
3. The proposed development will provide employment opportunities for the broader area.

CONDITIONS

The Development Application was approved subject to the conditions at Schedule 2. The conditions were amended from those attached to the memo dated 15 August 2025 as follows:

- Deleted Condition 1.8.
- Amended Condition 2.6 to refer to a 600mm retaining wall for consistency.
- Added Condition 2.15 requiring the modification of DA/51047/2016.
- Added Condition 2.16 requiring the surrender of DA/63453/2021.
- Amended Condition 2.3 to remove reference to reduction of contribution.

CONSIDERATION OF COMMUNITY VIEWS

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

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-340 – Central Coast – DA/1380/2024
2	PROPOSED DEVELOPMENT	Construction and use of a General Industrial Building, Warehouse, Office and Signage, Earthworks, Retaining and Associated Works over two stages
3	STREET ADDRESS	47 Myoora Road, Somersby 2250
4	APPLICANT/OWNER	Mark Daniels Space Urban Pty Ltd and Space Urban 2 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Industry and Employment) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - Central Coast Local Environmental Plan 2022 - Draft environmental planning instruments: Nil - Development control plans: - Central Coast Development Control Plan 2002 - Planning agreements: Nil - Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: s23 (landowner's consent), s24 (approved form and documents). - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council Assessment Report: 4 August 2025 - Supplementary memo and amended conditions: 15 August 2025 - Supplementary memo and amended conditions: 19 August 2025 - Written submissions during public exhibition: Nil - Total number of unique submissions received by way of objection: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Initial Briefing: 3 March 2025 <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Doug Eaton, Rachel Stanton <u>Council assessment staff</u>: Jenny Tattam, Emily Goodworth <u>Applicant representatives</u>: Mark Daniels, Allison Basford <u>Department</u>: Leanne Harris, Holly McCann - Site inspection: - Alison McCabe: 3 April 2025 - Roberta Ryan: 26 April 2025 - Tony McNamara: 14 August 2025 - Doug Eaton: 23 January 2025

		• Final briefing to discuss Council's recommendation: 18 August 2025 ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Doug Eaton, Rachel Stanton ○ <u>Council assessment staff</u>: Jenny Tattam, Salli Pendergast ○ <u>Applicant representatives</u>: Mark Daniels, Allison Basford ○ <u>Department</u>: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and further amended 15 August

SCHEDULE 2

PROPOSED CONDITIONS

1.PARAMETERS OF THIS CONSENT

Approved Plans and Supporting Documentation

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

Plan No.	Revision No.	Plan Title	Drawn By	Dated
-	C	Cover Sheet	Space Urban	Undated
-	C	Perspectives	Space Urban	Undated
DA002	C	Location Plan	Space Urban	24/06/2025
DA004	C	Site Analysis Plan	Space Urban	24/06/2025
DA005	C	Site Plan	Space Urban	24/06/2025
DA006	C	Staging Plan	Space Urban	24/06/2025
DA100	C	Ground Floor Plan	Space Urban	24/06/2025
DA101	C	First Floor Plan	Space Urban	24/06/2025
DA102	C	Office Layout – Ground and First Floor	Space Urban	24/06/2025
DA103	C	Lunch Room 2 and Amenities	Space Urban	24/06/2025
DA110	C	Roof Plan	Space Urban	24/06/2025
DA150	C	Area Calculation Plans	Space Urban	24/06/2025
DA160	C	Services Plan	Space Urban	24/06/2025
DA200	C	Elevations	Space Urban	24/06/2025
DA300	C	Section (Page 1 of 2)	Space Urban	24/06/2025
DA301	C	Section (Page 2 of 2)	Space Urban	24/06/2025
DA500	C	Vehicle Movement Plan	Space Urban	24/06/2025
DA501	C	Waste Management Plan	Space Urban	24/06/2025
DA600	C	Glazing Schedule	Space Urban	24/06/2025
L01	F	Landscape Report Cover Sheet	Green Space Planning Co.	16/04/2025
L02	F	Planting Plan	Green Space Planning Co.	16/04/2025
L03	F	Plant Details	Green Space Planning Co.	16/04/2025
L04	F	Landscape Notes	Green Space Planning Co.	16/04/2025

Document Title	Revision No.	Prepared by	Dated
Resource and Waste Management Plan	-	Mitchell Gillard	15/04/2025
Embodied Emissions Report, Ref: J004411	2	Perception Planning	08/05/2025

Soil & Water Management Plan, Ref: 10762-002-swmp	A	Eclipse Consulting Engineers	03/04/2025
Arborist Impact Assessment, Ref: 3565	01	AEP	17/03/2025
Detailed Contamination Assessment, Ref: JME24047-5	-	JM Environments	06/05/2025
Traffic Impact Statement, Ref: P3038 PP	-	SECA Solution	02/07/2024
Crime Prevention Through Environmental Design (CPTED) Report, Ref: J004411	2	Perception Planning	21/08/2024
Noise Assessment, Ref: MAC242150-01RP1V1	-	Muller Acoustic Consulting	23/07/2024

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

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

1.2. The development shall be carried out in the following two stages:

- **Stage 1** – Bulk earthworks (whole development), including stormwater and retaining walls.
- **Stage 2** – Construction of general industrial building and warehouse, hardstand areas, landscaping and business identification signage.

1.3. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.

1.4. Comply with the requirements from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
NSW Rural Fire Service	Conditions	DA20241001004041-S38-2	09/07/2025
Ausgrid	Conditions	TRIM 2017/11/384	03/10/2024

1.5. A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

1.6. Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

1.7. Where conditions of this consent require approval from Council under the *Roads Act 1993*, *Local Government Act 1993* or *Water Management Act 2000*, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2. **Stages 1 & 2** - No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- a) Site investigation for the preparation of the construction, and / or
 - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - c) Demolition.
- 2.3. **Stage 2** – Before issue of any Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Plan name		Amount
Housing and Productivity Contribution Central Coast Region_A&A		\$537,191.27
	Total:	\$537,191.27

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.

- 2.4. **Stages 1 & 2** - Trees and native vegetation proposed for retention and those approved for removal must be clearly marked on all final plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans.
- 2.5. **Stage 1** - Submit an application to Council under section 305 of the *Water Management Act 2000* for a section 306 Requirements Letter. The Application form can be found on Council's website centralcoast.nsw.gov.au. Early application is recommended.

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

- 2.6. **Stage 1** – Prior to issue of a construction certificate or commencement of earthworks whichever occurs first, provide a geotechnical report prepared by a suitably qualified professional to the Principal Certifying Authority and demonstrate the earthworks (including cut and retaining walls higher than 600mm) will be undertaken in compliance with the recommendations of the report.

- 2.7. **Stage 2** - Submit to the Registered Certifier, responsible for issuing a construction certificate for works within the development properties, detailed design drawings approved by a suitably qualified consultant for fences located on or in proximity to the road frontage of the site which ensure pedestrian and vehicle sight distance is maintained in accordance with of Australian Standard AS/NZS 2890: *Parking Facilities, Parts 1, 2 and 6*.
- 2.8. **Stage 1** - 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 in Pinnacle Place generally in accordance with the plans prepared by Eclipse Consulting Engineers (Project No 10762, Drawing No's C107-D dated 14.04.25 and C109-D dated 14.04.25), including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing. The design shall also accommodate the swept turning path of an Austroads 25m B-Double Vehicle entering or exiting the site from or to Pinnacle Place.
- b) Removal of all redundant vehicle gutter crossings / laybacks and replacement with kerb in Pinnacle Place and Myoora Road.
- c) Removal and replacement of all damaged kerb and gutter with new kerb and channel in Pinnacle Place and Myoora Road.
- d) Removal of all redundant vehicular access crossings in Pinnacle Place and Myoora Road. The road verge/footway formation is to be reinstated and stabilised with topsoil and turf from top of kerb to property boundary.
- e) Construction of a storm water drainage connection from the development site to Council's piped storm water drainage system within the road reserve in Myoora Road.
- f) Construction//upgrading of street storm water drainage across and along Myoora Road as required to safely accommodate the piped stormwater discharging from site. (This requirement is inferred by the not on the plan prepared by Eclipse Consulting Engineers (Project No 10762, Drawing No's C105-D dated 14.04.25).
- g) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.

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

- 2.9. **Stages 1 & 2** - Submit to Council a dilapidation report detailing the condition of all Council assets within the vicinity of the development in both Pinnacle Place and Myoora Road, including in the vicinity of any works required in these roads beyond the site frontages. 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.

2.10. Stage 1 - 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, circulation roadways, 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 AUSTROADS. The design must ensure that AUSTROADS 25m B-Double vehicle can circulate around and throughout the site.
- b) Construction of a stormwater detention system. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast DCP2022 and Council's *Civil Works Specifications*. 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. Outflows from the site are to be limited to the predevelopment flows associated with that catchment it is discharging into. A runoff routing model/method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. The design of the on-site stormwater detention shall be generally in accordance with the 'Stormwater Management Plan Report' ('Report') prepared by Eclipse Consulting Engineers (Ref: 10762-001-smp Issue 1 dated 29 July 2024) and the plans prepared by Eclipse Consulting Engineers (Ref: Project No 10762, Drawing No's C101 Rev C dated 30/07/2024, C103-C dated 14.04.25, C104-D dated 14.04.25, C015-D dated 14.04.25, C106-D 14.04.25, C107-D dated 14.04.25, C108-D dated 14.04.25, C109-D dated 14.04.25, C110-D dated 14.04.25, C111-D dated 14.04.25, C112-D dated 14.04.25, C113-D dated 14.04.25, & C114-D dated 14.04.25).
- c) Construction of nutrient and pollution control measures. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast DCP2022. A nutrient and pollution control report including an operation and maintenance plan must accompany the design. The design of the nutrient and pollution control measures shall be generally in accordance with the 'Stormwater Management Plan Report' ('Report') prepared by Eclipse Consulting Engineers (Ref: 10762-001-smp Issue 1 dated 29 July 2024) and the plans prepared by Eclipse Consulting Engineers (Ref: Project No 10762, Drawing No's C101 Rev C dated 30/07/2024, C103-C dated 14.04.25, C104-D dated 14.04.25, C015-D dated 14.04.25, C106-D 14.04.25, C107-D dated 14.04.25, C108-D dated 14.04.25, C109-D dated 14.04.25, C110-D dated 14.04.25, C111-D dated 14.04.25, C112-D dated 14.04.25, C113-D dated 14.04.25, & C114-D dated 14.04.25).
- d) Construction of on-site stormwater retention measures. The design shall be in accordance with Chapter 3.1 Part C of the Central Coast DCP2022, and generally in accordance with the 'Stormwater Management Plan Report' ('Report') prepared by Eclipse Consulting Engineers (Ref: 10762-001-smp Issue 1 dated 29 July 2024) and the plans prepared by Eclipse Consulting Engineers (Ref: Project No 10762, Drawing No's C101 Rev C dated 30/07/2024, C103-C dated 14.04.25, C104-D dated 14.04.25, C015-D dated 14.04.25, C106-D 14.04.25, C107-D dated 14.04.25, C108-D dated 14.04.25, C109-D dated 14.04.25, C110-D dated 14.04.25, C111-D dated 14.04.25, C112-D dated 14.04.25, C113-D dated 14.04.25, & C114-D dated 14.04.25). A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan must accompany the design.
- e) Construction stormwater drainage collection and piping of all stormwater runoff from areas within the site via the on-site stormwater detention facilities to the approved connection with Council's drainage system located in Myoora Road.
- f) Construction of retaining walls where indicated on development approval documentation. Retaining wall design must not conflict with existing or proposed services or utilities. Retaining walls designs for wall greater than 600mm in height must be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.
- g) Provision of safety barriers that can withstand vehicular impact located adjacent to the car parking areas on top of the excavation and on top of the eastern side of the ramp.

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

- 2.11. **Stage 2** - The consolidation of Lot 51 DP 1151970, Lot 52 DP 1151970, Lot 131 DP 1034432, Lot 1 DP1093201, & Lot 1 DP1194987 into one lot by registered subdivision prior to the issue of any Construction Certificate for Stage 2. Documentary evidence of the lodgement of the Consolidation Plan with NSW Land and Property Information can be accepted by the Principal Certifier as satisfying this requirement.
- 2.12. **Stage 1** - Submit to Councils Environmental Protection Officer for Approval a Sediment and Erosion Control Plan. The plan submitted with the DA (Sediment and Erosion Control Plan, Eclipse Consulting Engineers, DRG No. C102- D, dated 14.04.2025) requires the following amendments:
- a) Include all erosion and sediment control measures outlined in Section "Erosion and Sediment Control", page 10 of the Soil and Water Management Plan (Eclipse Consulting Engineers, dated 3 April 2025). Including but not limited to:
 - a. Soil Stockpiles
 - b. Clean and Dirty Water diversion drains
 - c. Rock check dams at 40m intervals to reduce flow velocity.
- 2.13. **Stage 1 & 2** - Prepare a Construction Management Plan. The Plan must detail the proposed construction times, provide details on managing potential dust and odour impacts, stormwater management, asbestos and hazardous materials management, noise (including the recommendations in Section 8 of the Noise Assessment prepared by Muller Acoustic Consulting, dated 23 July 2024) and vibration management, liquid and solid waste management, community consultant and complaints management.
- 2.14. **Stage 2** – Implement the sustainability initiatives for the development recommended in the Embodied Emissions Report (prepared by Perception Planning dated 08/05/2025). A report shall be provided to the Principal Certifying Authority confirming how the proposal meets the requirements of Clause 3.2(1) of *State Environmental Planning Policy (Sustainable Buildings) 2022*.
- 2.15. **Stage 1** - Prior to issue of a Construction Certificate consent DA/51047/2016 shall be modified in accordance with Schedule A to this consent and in the manner prescribed by the *Environmental Planning and Assessment Regulation 2021*.
- 2.16. **Stage 1** – Prior to issue of a Construction Certificate consent DA/63453/2021 is to be surrendered in accordance with the *Environmental Planning and Assessment Act 1979* and *Regulation 2021*.

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. **Stages 1 & 2** - Appoint a Principal Certifier for the building work:
- a) The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - b) Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au

3.3. **Stage 1 & 2** - Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

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

3.4. **Stages 1 & 2** - Tree removal, retention and protection is to be as per the recommendations of the Arboricultural Impact Assessment, prepared by AEP, 17/3/25.

3.5. **Stages 1 & 2** - Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. The plan must be prepared and implemented only by persons with Roads and Maritime Service accreditation for preparing and implementing traffic management plans at work sites.

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

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

- Ingress and egress of construction related vehicles to the development site.
- Details of the various vehicle lengths that will be used during construction and the frequency of these movement.
- Use of swept path diagrams to demonstrate how heavy vehicles enter, circulate and exit the site or Works Zone in a forward direction.
- Deliveries to the site, including loading / unloading materials and requirements for work zones along the road frontage to the development site. A Plan is to be included that shows where vehicles stand to load and unload, where construction plant will stand, location of storage areas for equipment, materials and waste, locations of Work Zones (if required) and location of cranes (if required).
- Works Zones if heavy vehicles cannot enter or exit the site in a forward direction.
- Control of pedestrian and vehicular traffic where pre-construction routes are affected.
- Temporary Road Closures.

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

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

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

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

3.6. **Stage 1** - Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* form with supporting documentation prior to the commencement of any

Roads Act Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.

3.7. **Stage 1** - Remove any stockpiles and other waste materials from Lot 52 prior to the commencement of construction in accordance with Detailed Site Investigation, prepared by JME Environmental, 6 May 2025.

3.8. **Stage 1** - Like for like ecosystem credit retirement

1. Prior to commencement of any works or issue of any subdivision certificate (whichever is first) the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.
2. 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.
3. 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

Impacted plant community type	TEC	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 3593 Sydney Coastal Sandstone Bloodwood Shrub Forest	No	6	No	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Sydney Coastal Dry Sclerophyll Forests. This includes PCT's 1681, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598.

3.9. **Stage 1** - Prior to commencement of any works, a site-specific Construction Biodiversity Management Plan (BMP) must be approved by Council's Ecologist. The Biodiversity Management Plan may form part of the Construction Environmental Management Plan and is to:

- The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report and approved plans.
- The Biodiversity Management Plan must identify any trees that are to be retained as outlined in the tree removal/retention survey plan.

- Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the Biodiversity Development Assessment Report.
 - The Biodiversity Management Plan must identify all impact mitigation and minimisation measures from the approved Biodiversity Development Assessment Report (Rev 01, by Andersen Environment and Planning 8 August 2024) to mitigate and manage impacts on biodiversity, including performance measures for each commitment.
- 3.10. **Stages 1 & 2** - Implement the impact avoidance, minimisation and mitigation measures in the approved Streamlined Biodiversity Development Assessment Report (BDAR), Rev 01, by Andersen Environment and Planning 8 August 2024 and the Construction Biodiversity Management Plan approved under this consent. Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

4.DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. **Stages 1 & 2** - The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday.

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

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

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

- 4.3. **Stages 1 & 2** - Ensure a qualified arborist (AQF 5) is on-site to oversee the works in relation to tree protection measures during critical stages of construction.
- 4.4. **Stages 1 & 2** - All care is to be taken to avoid damage to tree roots. Roots that can't be avoided are to be cut (not ripped) with a sharp tool such as pruners or handsaw. Seek Arboricultural advice before severing roots greater than 75mm diameter.
- 4.5. **Stages 1 & 2** - Implement all soil and water management control measures and undertake works in accordance with the approved Soil and Water Management Plan. Update the plan as required during all stages of the construction or in accordance with the *'Blue Book' (Managing Urban Stormwater: Soils and Construction, Landcom, 2004)*.
- 4.6. **Stages 1 & 2** - No soils to be imported to the subject site except for Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and/or Excavated Natural Material (ENM) that meets the Resource Recovery Orders under Part 9, Clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014*.
- 4.7. **Stage 1** - Implement dust suppression measures on-site during bulk earthworks to suppress dust generated by vehicles and equipment. Dust must also be suppressed at all other stages of construction in order to comply with the *Protection of the Environment Operations Act 1997*.

- 4.8. **Stages 1 & 2** - Classify all excavated material removed from the site in accordance with *NSW EPA (2014) Waste Classification Guidelines* prior to disposal. All excavated material must be disposed of to an approved waste management facility, and receipts of the disposal must be kept on-site.
- 4.9. **Stages 1 & 2** - Construct the proposed development in accordance with Section 6.1 of the Noise Assessment, prepared by Muller Acoustic Consulting, dated July 2024.
- 4.10. **Stages 1 & 2** - Supervision by a suitably qualified Ecologist is required for all vegetation clearing and construction works. The Ecologist must:
- Mark trees for retention and removal
 - Supervise the installation of fencing around any conservation areas
 - Provide an environmental induction to civil contractors and subcontractors
 - Undertake pre clearance surveys for fauna and supervise all vegetation clearing
 - Undertake any other works specified on the approved management plans or BDAR
- The Ecologist must provide updates in writing to Council's Ecologist upon completion of the above environmental control measures.
- 4.11. **Stages 1 & 2** - Maintain the temporary fence around retained trees and vegetation. The fence must be maintained for the duration of construction works.
- 4.12. **Stage 1** - Undertake clearing in accordance with the approved tree removal/retention survey plan. Trees must be removed in such a manner so as to prevent damage to surrounding trees to be retained.
- 4.13. **Stage 1** - Prior to and during any clearing, the animal welfare measures outlined in the Construction Biodiversity Management Plan and Streamlined Biodiversity Development Assessment Report (BDAR), Rev 01, by Andersen Environment and Planning 8 August 2024 are to be fully implemented. Submit to Council's Ecologist a certification letter that summarises results of the pre-clearance survey and clearing supervision within three weeks following vegetation clearing.
- 4.14. **Stages 1 & 2** - Implement the impact avoidance, minimisation and mitigation measures in the approved Streamlined Biodiversity Development Assessment Report (BDAR), Rev 01, by Andersen Environment and Planning 8 August 2024 and the Construction Biodiversity Management Plan approved under this consent. Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.
- 4.15. **Stages 1 & 2** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

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

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

“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being

habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential significance.

- 4.16. **Stages 1 & 2** - Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.17. **Stages 1 & 2** - 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*.
- 4.18. **Stages 1 & 2** - Re-use, recycle or dispose of all building materials during the demolition and construction phase of the development in accordance with the Resource and Waste Management Plan signed by Mitchell Gillard and dated 15/04/2025.

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. **Stage 2** - Plant replacement trees as per approved Landscape Plan. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.
- 5.3. **Stages 1 & 2** - Obtain the Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.
- 5.4. **Stage 2** - 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.
- 5.5. **Stage 2** - 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.
- 5.6. **Stage 2** - 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.
- 5.7. **Stage 2** - Repair any damage to Council's infrastructure and road reserve as agreed with Council. Damage not shown in the dilapidation report submitted to Council before the development works had commenced will be assumed to have been caused by the development works unless the Developer can prove otherwise.
- 5.8. **Stage 2** - Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.
- 5.9. **Stage 2** - Amend the Deposited Plan (DP) to:

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

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

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

- 5.10. **Stage 2** - Complete construction of driveways, ramps, and car parking areas in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: *Parking Facilities*, other applicable Australian Standards and the detailed designs and design reports within the construction certificate. Certification by a suitably qualified person that construction is complete is to be provided to the Principal Certifier.
- 5.11. **Stage 2** - Complete the landscaping works.
- 5.12. **Stage 2** - Provide the Principal Certifier with written certification from a qualified landscape designer certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

6.ONGOING

- 6.1. Any activity carried out, or plant operated at the premises is to comply with the requirements set out in the *Protection of the Environment Operations Act 1997* & *Protection of the Environment Operations (Clean Air) Regulation 2022*.
- 6.2. Use external lighting that minimises overspill into retained vegetated areas, particularly in relation to bushland located to the south of the property.

10.PENALTIES

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

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

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

Warnings as to Potential Maximum Penalties

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

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a) Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry
- Dial Before You Dig
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- Telecommunications Act 1997 (Commonwealth)
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

SCHEDULE A

to Consent No. DA/1380/2024

- 1) DA/50147/2016 is to be modified by insertion of the following Condition 1.1A within the 'Parameters' section of the consent:

1.1A The materials handling waste wood building no longer forms part of this consent by virtue of the modification required by Condition 2.15 of Consent No. DA/1380/2024.