



Telephone: 1300 463 954

Reference: DA56751/2019.3
02 February 2021

Trend Investments Pty Ltd
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TUGGERAH NSW 2259

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APPLICATION NUMBER: DA56751/2019.3
PROPOSAL: Amendment under Section 4.55 (1A) of the Environmental Planning and Assessment Act to the Approved Proposed Two (2) Lot Subdivision (Section 4.55(1A) Amendment Change width of Easement).
PROPERTY: LOT: 1 DP: 880254, 27 Sunny Bank Road LISAROW NSW 2250

Dear Sir/Madam

I refer to your application lodged 19 January 2021 for modification of consent 56751/2019

Having regard to the provisions of Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979, the Council is of the opinion that the amended proposal is a minor modification and is substantially the same development consented to by the Council.

Accordingly, the consent dated 13 August 2019 is modified in the following manner:

To amend condition 1.1 relating to the approved plans by widening the easement to 2.5 metres
Please note that the approved amendment does not extend the term of the original consent. Attached to this approval is the reproduced consent as amended.

The works (if any) that are associated with this amended development consent may require a modified Construction Certificate in accordance with Clause 148 of the Environmental Assessment Regulation 2000.

Your attention is drawn to your right of appeal against the conditions to the Land and Environment Court of NSW.

Yours faithfully

Per: 

Rik Hart
Acting Chief Executive Officer

Conditions

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

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.

Survey Plans by: Barry Eric Charles Hunt

Drawing	Description	Sheets	Issue	Date
55982DP-Rev B	Plan of Subdivision	4	B	30/05/19
55982DP-Rev C	Plan of Subdivision	1	C	30/05/2019

Supporting Documentation:

Title	Prepared by	Date
Statement of Environmental Effects	Moore Architects	March 2019
Cover letter dated 3rd December 2020	Moore Architects	3rd Dec 2020

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

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1** All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2** No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
 - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - Demolition
- 2.3** ~~Submit a Vegetation Filter Strip Plan to the Accredited Certifier for approval. The Plan must illustrate the location of the vegetation filter strip along the entire western boundary of the site having a minimum width of ten (10) metres fronting the sensitive area. The strip must be planted with native species which occur within a 1km radius of the site. Details of species selection, methodology, densities and scheduling must be included on the Plan~~
- .Submit a Vegetation Filter Strip Plan to the Accredited Certifier for approval. The Plan must illustrate the location of the vegetation filter strip along the entire western boundary of proposed Lot11 having a minimum width of ten (10) metres fronting the sensitive area. The strip must be planted with native species which occur within a 1km radius of the site. Details of species selection, methodology, densities and scheduling must be included on the Plan.

- 2.4** Submit a dilapidation report to Council with the Roads Act application and / or Construction Certificate application. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development. The dilapidation report may be updated with the approval of the Principal Certifying Authority prior to the commencement of works.
- 2.5** Submit engineering plans for the following subdivision works within the private property designed by a suitably qualified professional, in accordance with Council's *Civil Design Guide, Construction Specifications and Standard Drawings* and Chapter 6.3 - *Erosion Sedimentation Control* of the Gosford Development Control Plan 2013.
- a. Reconstruction of the on-site stormwater detention system on proposed Lot 10 designed in accordance with Council's Chapter 6.7 - Water Cycle Management of the Gosford Development Control Plan 2013 that must limit flows from proposed Lot 10 to less than or equal to the undeveloped (i.e. 100% pervious scenario) flows for all storms up to and including the 1% Annual Exceedance Probability (AEP) storm event. The on-site stormwater detention facility shall have an impermeable base. A runoff routing method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. The on-site stormwater detention facility is not permitted within drainage easements, and / or secondary flow paths. A safety fence may be required around the facility
 - b. Interallotment drainage where stormwater from individual allotments cannot be discharged directly into the street drainage system.
 - c. Secondary stormwater flow path from the on-site stormwater detention system to Sunny Bank Road, capable of conveying 50% of the 1% Annual Exceedance Probability (AEP) flood flow.
 - d. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Sunny Bank Road.
 - e. All existing building and structures being connected to the stormwater systems.
 - f. Erosion and sedimentation controls
- The engineering plans and any associated reports for the above requirements must form part of the Subdivision Works Construction Certificate.
- 2.6** Submit engineering / structural drawings of any proposed retaining walls greater than 600mm in height. The retaining wall structural design drawings must be designed by a qualified Structural / Civil Engineer. The retaining wall structural design drawings must be submitted to the Accredited Certifier for approval as part of the Construction Certificate.

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

- 3.3** 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:
- The name, address and telephone number of the Principal Certifying Authority for the work; and
 - The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - That unauthorised entry to the work site is prohibited
 - Remove the sign when the work has been completed.
- 3.4** Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

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:
- All excavation or disturbance of the area must stop immediately in that area, and
 - 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** Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 4.7** Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8** Plant a minimum of 18 trees (45 liter pots) in a linear strip along the eastern boundary of the site fronting Sunny Bank Rd. Trees must include native species which occur within a 1km radius of the site. Tree plantings must be spaced no more than 8 metres apart. Plantings must be mulched and monitored initially on a monthly basis for the first six months, including watering and weed control, to ensure plant success. Where replacement trees die or are substantially damaged within five (5) years of planting, it must be replaced and maintained.
- 4.9** Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, communications provider) for the supply of services concurrently with the engineering work approved by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services.

5. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

- 5.1** All conditions under this section must be met prior to the issue of any Subdivision Certificate.
- 5.2** Submit, and have approved, an application for a Subdivision Certificate to Council / Certifying Authority. The Subdivision Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.3** Contact Council's Land Information Officer or email ask@centralcoast.nsw.gov.au for the allocation of street addressing for inclusion on Deposited Plan / Strata Plan.
- 5.4** Implement vegetation management activities in accordance with the Filter Strip Plan prepared under Condition 2.3 number of this consent.
- 5.5** Submit an application to Council under section 305 of the *Water Management Act 2000* to obtain a 307 Certificate of Compliance. The *Application for a 307 Certificate under section 305 Water Management Act 2000* form can be found on Council's website www.centralcoast.nsw.gov. Early application is recommended.
- A section 307 Certificate must be obtained prior to the issue of any Subdivision Certificate.
- 5.6** Complete all subdivision works.
- 5.7** Provide 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.
- 5.8** Submit Works as Executed information as identified in Council's *Civil Works Specification*. The information is to be submitted in hard copy and in electronic format and must be approved by Council.
- 5.9** Rectify any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority.

- 5.10** Submit written confirmation from the relevant service authorities that satisfactory arrangements have been made for the provision of the following services to each lot where available:
- telecommunications
 - electricity supply
 - gas supply
 - national broadband network
 - water supply
 - sewerage
- 5.11** Include on the Deposited Plan (DP) 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.
- a. Create a 'Restriction as to User' over all lots containing an on-site stormwater detention system restricting any alterations to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
 - b. Create a 'Restriction as to User' over all lots affected by a secondary flow path to ensure;
 - (i) The shape of the flow path is not altered.
 - (ii) No structures are erected within the flow path, excluding fences that are flood compatible.
 - (iii) The minimum floor level of any dwelling is defined by a reduced level related to Australian Height Datum (AHD) must be 500mm above the 1% Annual Exceedance Probability (AEP) flood level.
- 5.12** Include on the Deposited Plan (DP) a positive covenant by the registered proprietor in favour of Council pursuant to the *Conveyancing Act 1919* establishing the following with the authority empowered to release, vary or modify the positive covenant is Central Coast Council.
- a. Ensure on any lot containing an on-site stormwater detention system that:
 - the facility will remain in place and fully operational
 - the facility is maintained so that it operates in a safe and efficient manner
 - Council staff is permitted to inspect and repair the facility at the owner's cost
 - Council is indemnified against all claims of compensation caused by the facility

6. ONGOING OPERATION

- 6.1** 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.
- 6.2** Maintain the on-site stormwater detention facility in accordance with the operation and maintenance plan.

7. PENALTIES

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

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

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

Warnings as to Potential Maximum Penalties

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

- Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.
- In reference to subsection 109E(2) of the *Environmental Planning & Assessment Act 1979*, you are advised that Accredited Certifiers are not permitted to undertake the role of the Principal Certifying Authority for subdivisions. Therefore, only Central Coast Council can be appointed as the Principal Certifying Authority for the approved subdivision work.
- 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.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).