

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	29 June 2021
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Chris Wilson, Greg Flynn and Anthony Tuxworth
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant declared a conflict of interest as her employer, City Plan, prepared the Statement of Environmental Effects (SEE)

Papers circulated electronically on 17 June 2021.

MATTER DETERMINED

PPSHCC-52 – Central Coast – DA58884 at 27 Sunny Bank Road, Lisarow – mixed use light industrial park (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 had the benefit of a detailed assessment report and briefing from Council and the applicant. The Panel requested that the applicant put their position regarding the proposed conditions in writing and that Council considers this request and provide additional information relating to:

- Approved subdivision
- Applicable Koala SEPP
- Consideration of Draft SEPPs
- Carparking requirements and allocation
- Potential impacts on the childcare centre and relating to management
- Council's position regarding applicant's submission

The Panel had the benefit of a further supplementary report addressing the above which included an amended set of conditions:

In considering this report the Panel notes:

1. The applicable Koala SEPP would appear to be the SEPP (Koala Habitat Protection) 2021 – as this is the SEPP referred to in Appendix 5 of the Biodiversity Assessment Report, lodged with the application. On lodgement of the application on 20 July 2020 – the relevant SEPP in place was SEPP (Koala Habitat Protection) 2019 which has since been repealed.
2. The provisions of clause 24 of SEPP (Educational Establishments and Child Care Facilities) 2017 requires a consideration of the following matters under clause 24(2).
 - (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses;
 - (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses; and
 - (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.

3. A minimum carparking allocation will need to be conditioned for each use.

The Panel is satisfied that the biodiversity issues regarding koalas has been appropriately addressed.

The Panel having regard to the design and location of the proposed childcare centre and the design of buildings within the site, the range of uses proposed, and to be conditioned, considers that the childcare use is compatible with the proposed uses on site. Furthermore the location of the childcare centre will not pose a health or safety risk to children, visitors or staff.

The supplementary report identifies a revised carparking allocation based on Council's DCP and recommends that allocation be addressed by a Plan of Management (PoM), but does not specify any particular breakdown.

A carparking allocation layout schedule is shown on Dwg A.1003 Issue 6 dated 28.09.2020.

The Panel is of the view that the carparking should be allocated in accordance with this layout inclusive of the allocation per building. A condition reflecting this layout, as well as a specific reference to a minimum per use allocation is required, as a minimum per use is not reflected in Dwg A.1003.

The Panel is of the view that a minimum allocation should be conditions as follows:

Warehouse	29 spaces – at least 1 per unit
Offices	29 spaces
Light Industrial	11 spaces – at least 1 per unit
Storage Units	3 spaces – communal space
Childcare	30 spaces inclusive of allocation of 5 spaces for drop off / pick up
Shop	3 spaces
Cafe Restaurant	12 spaces
Vet	9 spaces
Gym	12 spaces

How this allocation is to be managed can be detailed in the PoM.

The applicant sought changes to conditions to the timeframe for engineering work under a separate subdivision consent. Given that this application relies on this subdivision approval and for the reasons contained in the supplementary report, it is considered that the work is required to be finalised before issue of a CC.

The remaining matters raised by the applicant have been addressed in the supplementary report and the Panel is satisfied with the proposed conditions.

The Panel had raised concerns about the potential amenity impacts and the operation of the child care centre from industrial and warehouse use on the site. Additional acoustic conditions have included in the consent as well as a Plan of Management.

The Panel has also required a detailed landscape strategy that consolidates the proposal under this DA and the requirements of the previous subdivision approval and requiring landscape works to be finalised before occupation. The Panel notes that the 10 metre vegetation strip on the western boundary does not need to be managed as an APZ.

The Panel subject to additional conditions is satisfied that the development is an appropriate response to the site.

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 in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

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

1. The range of uses proposed will provide for employment opportunities for the broader area.
2. The impacts of the proposed development can be managed and mitigated.
3. The landscape outcomes resulting from the development are compatible with the desired character of the area.

CONDITIONS

The development application was approved subject to the conditions in Schedule 2 which includes conditions in the council supplementary assessment report with the following additional conditions:

- Additional condition identifying conditions as per the carparking layout schedule plan and identifying a minimum allocation of carparking to specific uses – new condition to read as follows:
“A minimum onsite carparking shall be allocated in accordance with Dwg A.1003 Issue 6 dated 20.09.2020 allocation to each specific uses is required as follows:
 - Warehouses: 29 spaces – at least 1 per unit
 - Offices: 29 spaces
 - Light Industrial: 11 spaces – at least 1 per unit
 - Storage Units: 3 spaces – communal
 - Childcare: 30 spaces including allocation of 5 spaces for drop-off and pick up
 - Shop: 3 spaces
 - Café/Restaurant: 12 spaces
 - Vet: 9 spaces
 - Gym: 12 spacesDetails of the allocation shall be included in the Plan of Management required by condition 2.18.”
- Revised landscape condition – new condition to read as follows:
“Preparation of a landscape plan that includes the requirement for landscape on this site arising from DA 56751/2019. The landscape plan is to remove references to APZ that are inconsistent with the RFS General Terms of Approval. The Plan is to be approved by Council prior to release of any Construction Certificate.”
- Additional condition requiring any future strata subdivision to reflect any approved plan of management – new condition to read as follows:

Any future strata subdivision of the site shall include the allocation of carparking as per the approved Plan of Management required by condition 2.18.






CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Employment generation; and
- Only industrial uses should be permitted.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised.

The Panel notes that specific conditions regarding landscaping, acoustic mitigation and light spill have been included.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Chris Wilson	 Greg Flynn
 Anthony Tuxworth	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-52 – Central Coast – DA58884
2	PROPOSED DEVELOPMENT	Mixed use industrial including warehouses, restaurant, child care and gymnasium
3	STREET ADDRESS	27 Sunny Bank Rd, Lisarow
4	APPLICANT/OWNER	Palladium Property Services Pty Ltd/Trend Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Rural Fires Act 1997 • Biodiversity Conservation Act 2016 • Environment Protection and Biodiversity Conservation Act 1999 • Protection of the Environment Operations Act • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No 19 – Urban Bushland ○ State Environmental Planning Policy (Coastal Management) 2018 ○ State Environmental Planning Policy No 64 – Advertising and Signage ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ State Environmental Planning Policy (Koala Habitat Protection) 2019 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Gosford Local Environmental Plan 2014 ○ Draft Central Coast Local Environmental Plan 2018 ○ Central Coast Regional Plan 2036 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Central Coast Local Environmental Plan 2018 • Development control plans: <ul style="list-style-type: none"> ○ Gosford Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 27 May 2021 • Council addendum assessment memorandum: 17 June 2021 • Written submissions during public exhibition: three (3) • Total number of unique submissions received by way of objection: one (1)

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 18 November 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe and Sandra Hutton ○ <u>Council assessment staff</u>: Robert Eyre ○ <u>Department staff</u>: Leanne Harris • Site inspections: <ul style="list-style-type: none"> ○ <u>Alison McCabe (Chair)</u>: 8 May 2021 ○ <u>Sandra Hutton</u>: 5 January 2021 ○ <u>Greg Flynn</u>: 2 June 2021 ○ <u>Anthony Tuxworth</u>: 8 June 2021 • Final briefing to discuss council's recommendation: 9 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Chris Wilson, Greg Flynn and Anthony Tuxworth ○ <u>Council assessment staff</u>: Robert Eyre, Ailsa Prendergast and Anthony Favetta ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley • Applicant Briefing: 9 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Chris Wilson, Greg Flynn and Anthony Tuxworth ○ <u>Applicant representatives</u>: Phillip Hoare, Steven Hyde, Mark Schofield, Mark Hitchcock, Jeremy Kim, Greg Lyell, Geoff Olson, Russel Kingdom and Matthew Weston ○ <u>Council assessment staff</u>: Robert Eyre, Ailsa Prendergast and Anthony Favetta ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the supplementary council assessment report

SCHEDULE 2

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.

Architectural Plans by: BHI Architects

Landscape Plans by: Xeriscapes

Drawing	Description	Sheets	Issue	Date
A.0001	Cover Sheet	1	07	13/04/2021
A.0301	3D perspective Image A	1	05	24/06/2020
A.0302	3D Perspectives Image B	1	05	24/06/2020
A.0501	Mood Board	1	05	24/06/2020
A.0502	Shadow Analysis Diagrams	1	05	24/06/2020
A.1001	Site Analysis Plan (Site information)	1	05	24/06/2020
A.1002	Site Plan & Development Schedule	1	07	13/04/2021
A.1003	Car Parking Schedule	1	06	28/09/2020
A.2001	Floor Plans (General Industrial Zone)	1	06	28/09/2020
A.2002	Floor Plans (General Industrial Zone)	1	06	28/09/2020
A. 2003	Floor Plans (General Industrial Zone)	1	06	28/09/2020
A.2004	Floor Plans (Building C & D/Warehouse Zone)	1	05	24/06/2020
A.2005	Floor Plans (Building C & D/Warehouse Zone)	1	05	24/06/2020
A.2006	Floor Plans (Building C & D/Warehouse Zone)	1	05	24/06/2020
A.2007	Floor Plans (Building E/Warehouse Zone)	1	05	24/06/2020
A.2008	Floor Plans (Building E/Warehouse Zone)	1	05	24/06/2020
A.2009	Floor Plans (Building E/Warehouse Zone)	1	05	24/06/2020
A.2010	Floor Plans (Building F/Warehouse Zone)	1	05	24/06/2020

A.2011	Floor Plans (Building F/Warehouse Zone)	1	05	24/06/2020
A.2012	Floor Plans (Building G/Warehouse Zone)	1	05	24/06/2020
A.2013	Floor Plans (Building G/Warehouse Zone)	1	05	24/06/2020
A.2014	Floor Plans (Building H/Warehouse Zone)	1	05	24/06/2020
A.2015	Floor Plans (Building H/Warehouse Zone)	1	05	24/06/2020
A.3001	Elevations	1	05	24/06/2020
A.3002	Elevations	1	05	24/06/2020
A.3003	Elevations	1	05	24/06/2020
A.3004	Elevations		05	24/06/2020
A.3005	Elevations	1	05	24/06/2020
A.3006	Elevations	1	05	24/06/2020
A.3101	Site Sections	1	05	24/06/2020
A.3102	Sections	1	05	24/06/2020
A.3103	Sections	1	05	24/06/2020
L401	Landscape South Elevation	1	B	21/05/2021
L402	Landscape West Elevation	1	B	10/09/2020
L403	Landscape East Elevation	1	A	03/09/2020
L000	Cover Sheet	1	H	21/05/2021
L001	Tree Management Plan	1	F	08/04/2021
L101	Overall Landscape Plan	1	H	21/05/2021
L102	Lot 1 Landscape Plan	1	G	21/05/2021
L301	Indicative Plant Schedule	1	C	19/06/2020
L601	Landscape Section Southern Boundary	1	A	21/05/2021
L602	Landscape Section Eastern Boundary	1	A	21/05/2021

Supporting Documentation

Document	Title	Date
City Plan Strategy &	Statement of Environmental Effects Project 19-009	July 2020

Redevelopment Pty Ltd		
Peterson Bushfire	Bushfire Assessment Ref 19050	9 July 2020
Modern Building Certifiers	BCA Capability Report	3 July 2020
JKGeotechnics	Geotechnical Investigation E32481PErpt	25 September 2019
Conacher Consulting	Aboriginal Cultural Heritage Report Ref:9080	June 2019
Transport & Traffic Planning Associates	Traffic & Parking Assessment Ref:19089 Issue E	July 2020
Acor Consultants	Water Sensitive Urban Design Strategy Rev 01Doc No SY190329	18 June 2020
Wasteaudit	Operation & Construction Waste Management Plan	November 2020
Conacher Consulting	Threatened Biodiversity Assessment Report	Ref:21039 April 2021
Acoustic Dynamics	Acoustic Assessment	9 July 2020
Acoustic Dynamics	Acoustic Addendum Project 4835	27 April 2021
Code Consulting Group	Access Report No J-19-16 Rev 02	02/07/2020
Advanced Treescap Consulting	Aboricultural Impact Assessment	06/04/2021
JKEnvironments	Preliminary Site Investigation Ref E32481PHrpt-Rev1	09/09/2019
Engineering Plans	Acor Consultants	26/02/2021

1.2. Carry out all building works in accordance with the Building Code of Australia.

1.3. Comply with the General Terms of Approval / requirements from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
NSW Rural Fire Service	S100B Fire Safety Certificate	DA20200902003164-Original-1	07/09/2020
Ausgrid	Conditions	-	02/12/2020

- 1.4. This consent only applies to the following uses; child- care centre, light industry, neighbourhood shop, recreational facility (indoor), café, signage, storage units, veterinary hospital, warehouse and distribution centre, and ancillary offices.

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 the road verge/footway formation graded at +2% from the top of existing kerb to the property boundary, across the full frontage of the site in Sunny Bank Road. Construction to include transitions to existing formation either side of the site.
- b) Construction of concrete footpath 1.5 metres wide for the full street frontage of the development in Sunny Bank Road.
- c) Construction of two industrial/commercial vehicle access crossing that have widths of 17.8 metres at the road gutter crossing and 12.8 metres at the property boundary including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing.
- d) Removal of all redundant vehicle gutter crossings / laybacks and replacement with kerb.
- e) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.
- f) Installation of roadside furniture and safety devices as required by design e.g. fencing, signage, guide- posts, chevrons, directional arrows, and/or safety barriers in accordance with Austroads Guides, NSW Transport Roads and Maritime Services Supplements and Australian Standards and manufacturers requirements.
- g) Upgrading of the stormwater drainage within the Perratt Close road reserve including both the stormwater drainage crossing the road pavement and within the footways, to connect the stormwater from the site via Lot 32 DP 713715 & Lot 442 DP 720696 (Condula Park – R2127) and Perratt Close, to the watercourse / gully within Lot 46 DP702597 (Perratt Close Bush Reserve – R0007) located on the western side of Perratt Close. The upgraded stormwater pipelines are to be the greater of either minimum twin 600mm diameter pipelines, or that required for the capacity to accommodate the 1%AEP discharges from the site.

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 stormwater drainage within Lot 32 DP 713715 and Lot 442 DP 720696 (Condula Park – R2127) to connect the stormwater from the site to the required upgraded stormwater system within Perratt Close. The upgraded stormwater pipelines are to be the greater of either minimum twin 600mm diameter pipelines, or that required for the capacity to accommodate the 1%AEP discharges from the site. The alignment of the pipelines within Condula Park (R2127) must not impact the use of the playground and/or impact any trees located within this reserve. The drainage shall also ensure that any existing drainage infrastructure within Condula Park (R2127) that connects to Council's drainage system in Perratt Close is not affected by the proposed works.
- b) Construction of stormwater within Lot 59 DP713715 (Perratt Close Reserve – R2217) and Lot 46 DP702597 (Perratt Close Bush Reserve – R0007) to connect stormwater from the required upgraded stormwater system across Perratt Close to the existing watercourse / gully within Lot 46 DP702597 on the western side of Perratt Close. The upgraded stormwater pipelines are to be the greater of either minimum twin 600mm diameter pipelines, or that required for the capacity to accommodate the 1%AEP discharges from the site.

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) Construction of a stormwater detention system. Design shall be generally in accordance with the 'Water Sensitive Urban Design Strategy Report' prepared by ACOR Consultants Pty Ltd (Ref: Document No SY190329 Issue No: Rev 2 dated 18/06/2020), and in accordance with Chapter 6.7 - *Water Cycle Management* of the Gosford Development Control Plan 2013 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. A runoff routing model/method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention is not permitted within drainage easements.

- c) Construction of nutrient and pollution control measures. Design shall be generally in accordance with the 'Water Sensitive Urban Design Strategy Report' prepared by ACOR Consultants Pty Ltd (Ref: Document No SY190329 Issue No: Rev 2 dated 18/06/2020), and in accordance with Chapter 6.7 - *Water Cycle Management* of the Gosford Development Control Plan 2013. A nutrient and pollution control report including an operation and maintenance plan must accompany the design.
- d) Construction of on-site stormwater retention measures. Design shall be generally in accordance with the 'Water Sensitive Urban Design Strategy Report' prepared by ACOR Consultants Pty Ltd (Ref: Document No SY190329 Issue No: Rev 2 dated 18/06/2020), and in accordance with Chapter 6.7 - *Water Cycle Management* of the Gosford Development Control Plan 2013. 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 of stormwater drainage collection and piping of all stormwater runoff from areas within the site via an on-site stormwater detention facility to the required stormwater drainage upgrade within Lot 32 DP 713715 and Lot 442 DP 720696 (Condula Park – R2127). The design of the stormwater drainage from the on-site detention system to the required stormwater drainage within Condula Park shall be that required for the capacity to accommodate the 1%AEP discharges from the site.
- 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) The location of the northern pylon sign shall not be located within the 2.5m wide interallotment drainage easement created under DA56751/2019.

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

- 2.6. Submit to Council a dilapidation report detailing the condition of all Council assets within Lot 32 DP 713715 and Lot 442 DP 720696 (Condula Park (R2127)) within the vicinity of the proposed drainage works. The report must document and provide photographs that clearly depict the condition of any playground areas, furniture, footpaths, signs, lights, drainage, and/or any other Council assets in the area. The dilapidation report will be required to be submitted to Council prior to the issue of the Section 68 Local Government Act Works approval and/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 the condition of existing assets within the reserve to ensure that any disturbance associated with the proposed works is restored to reflect as a minimum the existing condition of these assets within the reserve.
- 2.7. Prior to the issue of a Construction Certificate for the fitout of food premises submit to Council's Environmental Health Officer (Food) and have approved the detailed plans and specifications for the food handling areas. The fit-out of the food premises is to comply with the NSW Food Act 2003, NSW Food Regulation 2015, Australia New Zealand Food Standards Code, and Australian Standard AS 4674-2004: Design, Construction and Fit-out of Food Premises.
- 2.8. Prior to the issue of a Construction Certificate for the fitout of food premises submit to Council's Environmental Health Officer details of any proposed mechanical ventilation system. The design of the mechanical ventilation system is to comply with Australian Standard AS1668.2-2012: The use of Ventilation and Airconditioning in Buildings Part 2: Mechanical Ventilation in Buildings.

2.9. Prior to the issue of a Construction Certificate for the fitout of food premises submit to Council's Environmental Health Officer (Food) for approval the proposed method of construction of all walls bounding and within food handling, storage and liquor areas.

2.10. Identify 'No Go Area'

Identify trees and native vegetation proposed for retention and those approved for removal must be clearly marked on all final engineering and landscaping plans. All fenced tree protection areas and vegetation filter strips must be clearly marked as "No Go Area" on all plans.

2.11. Nest-box Replacement Strategy

Submit a Tree Hollow Relocation/Replacement Strategy to Council's Environment Officer for approval. The strategy must be approved by Council. Installation of salvaged hollows is to be prioritised over the use of pre-fabricated nest boxes. Nest boxes/salvaged hollows must be installed at a density that does not exceed the density of naturally occurring tree hollows. The strategy must include:

- Information on hollow bearing trees (location, number, size, aspect of hollow and height of hollow above natural ground).
- The number (3:1 replacement ratio), type, thermal insulation, thickness (minimum 19mm) and size of nest boxes including targeted species.
- Details of hollow reuse and relocation (method of removal, wildlife protection).
- A plan showing location of proposed nest boxes/hollows including the corresponding tree numbers and aspect / height above natural ground level.
- Details of the timing for nest box/hollow installation to facilitate uptake by fauna that will move independently and fauna that will be actively relocated during tree clearing works.
- Details on installation and maintenance techniques.
- Details of ongoing monitoring i.e. camera observation, stag watching, duration.

2.12. Pay to Council a contribution amount of **\$350,660.00**, that may require adjustment at time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contribution Plan 2019.

The total amount to be paid 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 contribution plan.

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

The contribution must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates, except as provided below.

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.

Any Construction Certificate or Occupation Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies the contributions have been paid. A copy of this receipt must accompany the documents submitted by the principal certifier 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 offices of Central Coast Council, 49 Mann Street Gosford, or 2 Hely Street Wyong or on Council's website:

Development Contributions - former Gosford LGA

- 2.13. Submit an application to Council under Section 305 of the *Water Management Act 2000* to obtain a Section 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.au. Early application is recommended.
- A Section 307 Certificate must be obtained prior to the issue of any Construction Certificate.
- 2.14. Registration of the plan of subdivision approved under DA56751/2019 prior to the issue of any Construction Certificate.
- 2.15. Engage an Association of Australian Acoustical Consultants member acoustic consultant to provide advice on the detailed design of the loading docks and waste control areas and any required noise management measures.
- 2.16. Provide to the PCA an acoustic report prepared by an Association of Australian Acoustical Consultants member acoustic consultant that provides advice on the detailed design of the childcare centre and any recommended noise mitigation measures to ensure that the requirements of Section 7.0 of the *Guide for Child Care Centre Acoustic Assessment*, V2, Association of Australasian Acoustical Consultants, October 2013 can be met.
- 2.17. On site carparking shall be allocated in accordance with Dwg A A.1003 Issue 6 dated 28.09.2020. A minimum allocation to each specific use is required as follows:
- Warehouses: 29 spaces – at least 1 per unit
 - Offices: 29 spaces
 - Light Industrial: 11 spaces – at least 1 per unit
 - Storage Units: 3 spaces – communal
 - Childcare: 30 spaces including allocation of 5 spaces for drop-off and pick up
 - Shop: 3 spaces
 - Café/Restaurant: 12 spaces
 - Vet: 9 spaces
 - Gym: 12 spaces

Details of the allocation shall be included in the Plan of Management required by condition 2.18.

- 2.18. The preparation and approval of a Plan of Management (POM) by the Council. The POM shall provide for; allocation of car parking (including parking and drop off spaces for the child care centre); noise mitigation near the western boundary and the child- care centre; maintenance of landscaping; times of operation; waste collection and truck/heavy vehicle movements; control of outdoor lighting; emergency evacuation; designate 18 spaces for use by the child care centre with four allocated for drop off and pick up; segment car parks for specific uses at designated times to match parking demand ; require signage to communicate when specific car parking spaces are designated to specific businesses; set parking limits on spaces to increase parking supply during certain hours ;establish a reporting and compliance process to allow business owners to report malpractice; in accordance with the conditions of this consent.
- 2.19. The preparation of an Emergency Evacuation Plan for the child- care centre and approval by the Principle Certifying Authority in accordance with the requirements of the NSW Rural Fire Service and condition 1.3 of this consent.
- 2.20. Preparation of a landscape plan that includes the requirement for landscape on this site arising from DA 56751/2019. The landscape plan is to remove references to APZ that are inconsistent with the

RFS General Terms of Approval. The Plan is to be approved by Council prior to release of any 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. No activity is to be carried out on-site until the Construction Certificate has been issued, other than;
- a) Site investigation for the preparation of the construction, and / or
 - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - c) Demolition approved by this consent.
- 3.3. Appoint a Principal Certifying Authority for the building work:
- a) The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - b) Submit to Council a *Notice of Commencement of Building Works* or *Notice of Commencement of Subdivision Works* form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website www.centralcoast.nsw.gov.au
- 3.4. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.
 - d) Remove the sign when the work has been completed.
- 3.5. 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.
- 3.6. Prepare a Construction Traffic and Pedestrian Management Plan (CTPMP) for all activities related to works within the site. Multiple plans may be prepared that reflect the staging of the delivery of works, being:
- Stage 1: Early works and excavation; and
- Stage 2: Construction works.
- The plans 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.

- 3.7. Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* form with supporting documentation prior to the commencement of any Roads Act Works Approval works, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.
- 3.8. Payment of a bond to Council's Open Space & Recreation Section prior to the commencement of drainage works within Condula Park (R2127).
- 3.9. Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.10. Tree protection is to be as per the recommendations of the Arboricultural Impact Assessment, prepared by Advanced Treescape Consulting 06/04/2021.

3.11. Install temporary fencing

Install a temporary fence around Tree Protection Zones and Vegetation Filter Strip as identified on the corresponding Landscape Plan (Xeriscapes, 19/06/2020).

All fenced conservation areas are to be clearly marked as a "No Go Area" on the fencing itself. No clearing of vegetation, storage of vehicles or machinery, stockpiling, materials storage or unauthorised access is to occur within the fenced conservation area.

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 & 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 established 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*.
- 4.7. Undertake the removal of trees as per Arboricultural Impact Assessment 06/04/2021 in a manner so as to prevent damage to those trees that are to be retained.
- 4.8. 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 WASTEAUDIT, dated November 2020.
- 4.9. Store all waste generated on the premises in a manner so that it does not pollute the environment.
- 4.10. Transport all waste generated on the premises to a facility which is licensed to receive that material.
- 4.11. No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs, etc.
- 4.12. Comply with all commitments as detailed in the Waste Management Plan signed by WASTEAUDIT, dated November 2020.
- 4.13. Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 4.14. **Maintain temporary fence**

Maintain the temporary fence around the conservation area. The fence must be maintained for the duration of construction works.

4.15. Undertake clearing in accordance with survey plan

Undertake clearing in accordance with the approved survey plan. Trees must be removed in such a manner so as to prevent damage to surrounding trees to be retained.

4.16. Implement fauna welfare measures

Implement the following fauna welfare measures during clearing:

- **Supervision by Ecologist**
Removal of hollow bearing trees and log habitat on the ground must be undertaken under the supervision and guidance of a suitably qualified Ecologist or licensed wildlife handler.
- **Pre Clearing Inspection**
The Ecologist is to inspect all potential habitat trees prior to removal and identify evidence of fauna use.
- **Staged Clearing**
Staged removal is to include clearing of understorey vegetation and non-hollow-bearing trees in Phase 1 and removal of hollow-bearing trees in Phase 2. There is to be a minimum of 24 to 48 hours between Phase 1 and Phase 2.
- **Fauna Welfare**
Prior to the felling of hollow bearing trees, hollows are to be visually inspected. Should a threatened species be positively identified, all clearing works are to cease and the advice of Council or the Office of Department of Planning, Industry and Environment must be sought. When fauna are present, the animals are to be removed and suitably relocated by the Ecologist prior to felling, or the hollows are to be blocked with rags or similar material and the hollows sectionally dismantled and lowered carefully to the ground. The Ecologist is to work in conjunction with the machinery operator to identify the most benign method of dislodging fauna and for felling trees. 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. Any fauna rescued during vegetation clearance is to be assessed for injuries and,

if unharmed, subsequently released into suitable nearby habitat. Captured fauna may be held until dusk prior to release in accordance with relevant animal ethics licensing and standards. If any fauna are injured during vegetation clearing they are to be taken promptly for treatment to a nearby veterinarian or wildlife carer.
- **Nest Boxes**
A salvaged hollow or nesting box will replace any hollows that will be destroyed at a ratio of 3:1. Prior to commencing tree removal, the salvaged hollow/nesting boxes must be installed in trees as close as possible to those trees that will be removed. The final number of nest boxes to be installed will need to be calculated once the number of salvaged hollows is determined. Hollows/boxes must be installed across a sufficient area so as not to exceed natural hollow densities for target species.
- **Reporting**
Following the removal of hollow bearing trees, the Ecologist must notify Council's Ecologist/Environment Officer in writing of compliance with this condition within fourteen (14) days. Information provided must include fauna observations, number, size and location of nest boxes installed.

4.17. **Landscape using local plant stock**

Supply any plant stock used in landscaping of the 10m vegetation filter strip along the northern boundary and replacement canopy plantings fronting Sunnybank Road from provenance specific seed/material collected from locally endemic species to maintain genetic diversity.

4.18. **Felled native trees to be used in landscaping**

Utilise timber from felled native trees by:

- Re-instating logs as ground habitat in areas of retained vegetation, and/or
- Wood chip or tub grind into mulch for landscaping, soil stabilisation or bush regeneration, and/or
- Using for firewood (but not piled burned on-site); and/or
- Recycling for use in construction materials, furniture or fencing.

4.19. **Implement Nest Box Replacement Strategy**

Implement the approved Nest Box Replacement Strategy and provide documentary evidence of compliance to Council and Principal Certifying Authority for its records.

4.20. **Stockpiling**

Stockpiling will be undertaken within the approved works foot-print.

Stockpiling will not be undertaken in locations that impact on adjacent areas of retained native, estuarine or aquatic vegetation or within a tidal zone or that has the potential to cause water pollution.

Stockpiles are to be managed to suppress dust, prevent erosion and reduce the impact of sediment and other contaminants on the environment. This may require compaction and the installation of adequate sediment and erosion control measures around the stockpiles in accordance with the Blue Book and Best Practice Erosion and Sediment Control (IECA) guidelines.

No contaminated material is permitted to be stockpiled onsite.

4.21. **Weeds and pathogens**

Vehicles and other equipment to be used on site must be free of soil, seeds and plant material before entering/leaving the site to prevent the spread of exotic plant species and pathogens. Standard hygiene protocols will be used to clean tools and other equipment. All vehicles and machinery must be inspected prior to site entry and those failing inspection are to be sent away for cleaning. Appropriate records of inspections shall be maintained.

4.22. 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 site clearing works. Refer to recommendations of the Stage 1 *Preliminary Site Investigation*, 9 September 2019, JK Environments, report reference, E32481PHrpt-Rev 1.

4.23. 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.

4.24. Undertake works in accordance with the approved Unexpected Finds Protocol recommended in the Stage 1 *Preliminary Site Investigation*, 9 September 2019, JK Environments, report reference, E32481PHrpt-Rev 1.

4.25. 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.

4.26. Classify all excavated material removed from the site in accordance with NSW EPA (November 2014) *Waste Classification Guidelines* and/or the Resource Recovery Orders under Part 9, Clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014*.

4.27. Ensure all excavated material removed from the site is transported to a site that is a lawful waste facility and/or a site that meets the requirements of the Resource recovery Exemptions under Part 9, Clause 91 and 92 *Protection of the Environment Operations (Waste) Regulation 2014*.

4.28. Implement all soil and water management control measures and undertake works in accordance with the approved Soil and Water Management Plan *Soil erosion and sediment control plan* Drawing number c5.01, Issue B and *Cover sheet and legends*, Drawing number c1.01 Issue C and *Details Sheet* 7, Drawing number C1.10, Issue B prepared by ACOR Consultants Pty Ltd dated May 2020. 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).

4.29. Implement any recommended noise control measures to the satisfaction of an Association of Australian Acoustical Consultants member acoustic consultant and the recommendations of the *Acoustic Addendum Letter 01*, Acoustic Dynamics, 27 April 2021.

4.30. Implement all acoustic building design elements and noise control measures at the childcare centre recommended in the acoustic report.

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. Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the *Plumbing and Drainage Act 2011*.

5.3. 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.

5.4. 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.

5.5. 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.

5.6. 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.

- 5.7. Complete construction of all works approved in the Local Government Act Section 68 Stormwater Drainage Works Approval. Completion include the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance/defects bond to Council in accordance with Council's adopted fees and charges.
- 5.8. 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. 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. 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. Any disturbance within Lot 32 DP 713715 and Lot 442 DP 720696 (Condula Park (R2127)) must be restored to original condition or better, to the satisfaction of Council's Open space and Recreation Section.
- 5.12. No food handling, as defined by the NSW Food Act 2003, is permitted within a food premises prior to the issue of the Occupation Certificate.
- 5.13. Prior to the issue of an Occupation Certificate for a food premises the fit-out of the food premises is to comply with the NSW Food Act 2003, NSW Food Regulation 2015, Australia New Zealand Food Standards Code and Australian Standard AS 4674-2004: Design, Construction and Fit-out of Food Premises for all food handling and storage areas, including liquor areas.

5.14. Any disturbance within Lot 32 DP 713715 and Lot 442 DP 720696 (Condula Park Environmental Health Officer certification from a mechanical engineer that the construction, installation and operation of the mechanical ventilation system meets the requirements of the Standard. The mechanical ventilation system is to comply with Australian Standard AS1668.2-2012: The use of Ventilation and Airconditioning in Buildings Part 2: Mechanical Ventilation in Buildings.

5.15. Prior to the issue of an Occupation Certificate for a food premises submit to Council the Food Premises Registration Form. The Form is available on Council's website
<https://www.centralcoast.nsw.gov.au/council/forms/registration-food-premises-online-form>

5.16. **Delineate edge of IPA and OPA**

Permanently delineate the edge of the Inner Protection Area and Outer Protection Area using fencing, posts, bollards or similar in order to prevent future encroachment into areas of retained native vegetation. Felled logs may be used to delineate the edge as per condition 4.18. Evidence of compliance to this condition is to be provided to Council.

5.17. **Replacement trees**

Plant a minimum of sixteen (16) replacement tree(s) (advanced specimens min 25lt pot size). Replacement trees must be native species representative of those removed, as per the corresponding Arboricultural Impact Assessment (Advanced Treescape Consulting, 30/06/2020). New trees should be replaced within the 10m vegetation filter strip to be implemented along the western boundary of the subject property. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

5.18. Implement the following Crime Prevention through Environmental Design (CPTED) principles and strategies to minimise the opportunity for crime:

- a) provide adequate lighting to common areas as required under Australian Standard AS 1158: *Lighting for roads and public spaces*
- b) paint the ceiling of the car park white
- c) design of landscaping, adjacent to mailboxes and footpaths, must not provide concealment opportunities for criminal activity
- d) design the development to avoid foot holes or natural ladders so as to minimise unlawful access to the premises
- e) provide signage within the development to identify all facilities, entry / exit points and direct movement within the development

5.19. Provide certification to the accredited certifier prior to the occupation of the child care centre is constructed in accordance with the requirements of the Child Care Planning Guideline of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and Education and Care Services National Regulations.

5.20. Comply with the licensing/approval requirements of the NSW Regulatory Authority for early childhood education.

5.21. Complete the landscaping works as required by condition 2.20.

5.22. Engage an Association of Australian Acoustical Consultants member acoustic consultant to confirm that any recommended noise management measures specified by the acoustic consultant have been implemented.

5.23. Engage an Association of Australian Acoustical Consultants member acoustic consultant to confirm that the development and childcare centre has implemented the recommendations of the acoustic report to meet the requirements of Section 7.0 of the *Guide for Child Care Centre Acoustic Assessment*, V2, Association of Australasian Acoustical Consultants, October 2013.

6. ONGOING OPERATION

- 6.1. Maintain all works associated with the approved Landscape Plans for a period of twelve (12) months from the date of the issue of any Occupation Certificate to ensure the survival and establishment of the landscaping.
- 6.2. Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.3. All mixed, recyclables and clinical waste bin presentation locations and waste truck servicing area/s to be constructed at a maximum 3 % gradient to facilitate roll out of bins to the waste vehicle for servicing.
- 6.4. Height clearances must be maintained in waste vehicle manoeuvring areas consistent with the commercial waste contractor vehicles servicing the development.
- 6.5. Waste storage areas and servicing locations to be strictly in accordance with details within the Waste Management Plan dated November 2020 by WASTEAUDIT.
- 6.6. All mixed, recyclables and clinical waste bins to be serviced onsite.
- 6.7. Food Premises must Comply with the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and Australia New Zealand Food Standards Code.
- 6.8. **Minimise external lighting**
Use external lighting that minimises overspill into retained vegetated areas and adjoining properties and road- way. Outdoor lighting shall comply with AS 4282:1997 Control of the obtrusive effects of outdoor lighting.
- 6.9. Ensure that all vehicles used at the site only use broadband reversing alarms.
- 6.10. Hours of operation are restricted to:
Monday to Sunday: 7:00am to 6:00pm;
Excluding the following:
Warehouse/ Storage facility: Hours of operation are 24 hours/7 days.
Vet Hospital/ Convenience Store/ Restaurant/ Childcare centre:
Hours of operation are restricted to:
Monday to Sunday: 7:00am to 10:00pm.
Gymnasium: Hours of operation are 24 hours/7 days.
- 6.11. Submit to Council an acoustic assessment undertaken by an acoustic consultant, three (3) months after operative consent of DA58884 Part 1. The acoustic consultant must have a current membership to the Association of Australasian Acoustical Consultants. The acoustic assessment must compare operational noise levels to the predicted noise levels, during peak usage periods, loading, delivery and dispatch, and identify any areas where further noise mitigation measures **will be required**. The acoustic assessment must also include the childcare centre to ensure that it meets the requirements of Section 7.0 of the *Guide for Child Care Centre Acoustic Assessment*, V2, Association of Australasian Acoustical Consultants, October 2013. A copy of the Report shall be submitted to Council's Environment and Public Health team. All recommendations must be implemented within 60 days.

- 6.12. Restrict the maximum number of children attending the child-care facility to ninety-four (94). Any increase in the number of children will require separate application.
- 6.13. Restrict waste collection to between the following times only:
Monday to Friday: 7:00am and 6:00 pm.
- 6.14. Restrict deliveries, heavy vehicle movements and forklift use to between the following times only:
Monday to Saturday: 7:00am to 6:00pm,
Sunday (and public holidays): 8:00am to 6:00pm.
- 6.15. Operate in accordance with the *Acoustic Addendum Letter 01*, Acoustic Dynamics, 27 April 2021 and the *Proposed Mixed Use Light Industrial Park Acoustic Assessment*, 27 Sunnybank Road Lisarow NSW, Acoustic Dynamics, 9 July 2020.
- 6.16 Any future strata subdivision of the site shall include the allocation of carparking as per the approved Plan of Management required by condition 2.18.

7. 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.
- 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 at: www.centralcoast.nsw.gov.au