

DA 2021/55 – Recommended Conditions of Consent:**IDENTIFICATION OF APPROVED PLANS****(1) Approved Plans and Supporting Documents**

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.
DA-01	Q	Site Plan	Quantify Consulting	20/12/21
DA-02	I	Floor Plan Building 1	Quantify Consulting	17/12/21
DA-03	H	Floor Plan Building 2	Quantify Consulting	17/12/21
DA-04	E	Elevations Building 1	Quantify Consulting	17/12/21
DA-05	G	Elevations Building 2	Quantify Consulting	17/12/21
DA-06	D	Section Building 1	Quantify Consulting	17/12/21
DA-06.1	B	Section Building 2	Quantify Consulting	17/12/21
DA-07	N	Stormwater Management Plan	Quantify Consulting	17/12/21
DA-07.1	A	Overflow Chanel Long Section	Quantify Consulting	14/12/21
DA-08	D	Stockpile Awning Section	Quantify Consulting	02/04/21
DA-09	D	Site Services Plan	Quantify Consulting	17/12/21
DA-10	C	Fence Type Plan	Quantify Consulting	02/04/21
DA-11	B	Site Setout Plan	Quantify Consulting	17/12/21
DA-12	B	Retaining Wall Plan	Quantify Consulting	24/03/22
DA-13	A	Building Height Compliance	Quantify Consulting	28/10/21
DA-14	A	Bulk Earthworks Heat Map	Quantify Consulting	04/11/21
DA-15	B	Fire Wall Plan	Quantify Consulting	17/12/21
DA-16	C	Landscaping Plan	Quantify Consulting	11/03/23

Document Title.	Version No.	Prepared By.	Dated.
Environmental Impact	NA	EMM Consulting	May 2021

Assessment (Including Attachments)			
Response to NSW EPA RFI	NA	EMM Consulting	22 October 2022
Response to RFI (1.1)	NA	EMM Consulting	29 October 2021
Bushfire Assessment Report	V1.2	Cool Burn Fire and Ecology	3 November 2021
Response to RFI (1.2)	NA	EMM Consulting	10 November 2021
Response to RFI (2)	NA	EMM Consulting	22 December 2021
Response to RFI (3)	NA	EMM Consulting	24 March 2022

- *In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.*
- *In the event of an inconsistency between an approved document and an amendment to the development application or updated document the most recent submitted document or amending information prevails.*
- *In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.*

(2) Development in Accordance with Documentation

The development is to comply strictly with the following operational parameters unless otherwise approved by Council in writing:

- a) In any year period the maximum throughput for the facility is to be a maximum of 98,500 tonnes of general solid waste.
- b) At any time the maximum quantity of waste stored at the facility is to be no more than 10,000 tonnes.

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

(3) Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(4) Access to premises standard

The building shall comply with the requirements of the *Commonwealth Disability (Access to Premise Standard) 2010*.

GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 4.47 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

(5) Compliance with General Terms of Approval

The development is to be carried out in accordance with the General Terms of Approval issued by the following approval bodies and referenced below:

- a) NSW Environmental Protection Authority, General Terms of Approval Notice No 1613767.
- b) NSW Natural Resource Access Regulator, General Terms of Approval Reference No IDAS1138400, dated 26 Julu 2021.

These General Terms of Approval have been stamped with Council's Approval Stamp and form part of this Notice of Determination.

The General Terms of Approval should be referred to throughout the carrying out of development, in particular when preparing detailed designs to support a Construction Certificate or applying for an Occupation Certificate to ensure compliance with any relevant agency requirements.

ANCILLARY MATTERS TO BE COMPLETED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

(6) Construction Certificate Requirement

No works shall commence on site until such time as a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works it must cover the works being undertaken onsite.

(7) Road Maintenance Planning Agreement Requirement

Prior to the issue of a Construction Certificate the person acting with this consent shall submit to the satisfaction of Council a Planning Agreement drafted by an appropriately qualified legal professional to be entered into between Council and the proponent.

The terms of the Planning Agreement related to road maintenance are to be generally in accordance with those put forward in the proponent's offer to enter into a Planning Agreement dated 21 December 2021 and endorsed at Council's 1 February 2022 Meeting for the payment to Council of an annual contribution of \$0.11 per tonne of material delivered to the facility.

The Planning Agreement should be drafted in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021* and the NSW Government Planning Agreement Practice Note, February 2021.

Evidence is to be provided to the Certifying Authority demonstrating compliance with this requirement prior to the issue of a Construction Certificate.

Note: Council Officers have no objection to a single Planning Agreement being prepared to encompass the payment of contributions related to both the road maintenance and intersection upgrade.

(8) Thomas Mitchell/Glen Munro Intersection improvement Planning Agreement

Requirement

Prior to the issue of a Construction Certificate the person acting with this consent shall submit to the satisfaction of Council a Planning Agreement drafted by an appropriately qualified legal professional to be entered into between Council and the proponent.

The terms of the Planning Agreement related to road maintenance are to be generally in accordance with those put forward in the proponent's offer dated 20 July 2022 to pay Council a voluntary contribution to the value of \$135,000 +GST to be used by Council for the upgrade of the Thomas Mitchell Drive /Glen Munro Road intersection to a Basic Right Turn Treatment (BAR) and ancillary works in line with the recommendations of the SMEC Road Safety Review commissioned by Council and dated 23 June 2022.

The Planning Agreement should be drafted in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021* and the NSW Government Planning Agreement Practice Note, February 2021.

This Planning Agreement is to be entered into prior to the issue of a Construction Certificate, unless otherwise directed by Council. Evidence is to be provided to the Certifying Authority demonstrating compliance with this requirement prior to the issue of a Construction Certificate.

Note: Council Officers have no objection to a single Planning Agreement being prepared to encompass the payment of contributions related to both the road maintenance and intersection upgrade.

(9) Site Waste Minimisation Management Plan

Prior to the issue of a Construction Certificate a Site Waste Minimisation Management Plan is to be prepared, submitted to and approved by Council in relation to the operation of the site.

Prior to the issue of a Construction Certificate a Site Waste Minimisation Management Plan is to be prepared in relation to the construction and operation of the development in accordance with the requirements of Section 24.4.5 of the Muswellbrook Development Control Plan. The site waste minimisation management plan must have regard to the objectives of this Section of the Development Control Plan and should achieve the requirements of the controls expressed by this part wherever possible.

(10) Dilapidation Report

Prior to the issue of a Construction Certificate a dilapidation/route assessment 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 or any other Council assets in the vicinity of the development. This report should focus on the road pavement and dilapidation along Glen Munro Road given the heavy volume of traffic and road users of Thomas Mitchell Drive. The dilapidation report will be required to be submitted to Council prior to the Certifying Authority and Council prior to the issue of any Construction Certificate.

The report will be used by Council to establish damage to Council's assets resulting from the development works.

(11) **Section 68 Permit & Requirements for Work to Council's Stormwater Infrastructure**

Prior to the issue of a Construction Certificate the person acting with this consent is to obtain a Section 68 permit for all stormwater works related to the development including the re-alignment of Council's over land stormwater infrastructure within the site. The information accompanying any Section 68 application involving work to Council's stormwater should include:

- a) Detailed civil design plans for the new re-enforced Council concrete drain channel and headwall.
- b) Details of erosion and sediment controls related to alterations to Council's stormwater infrastructure.
- c) Stormwater drainage design plans for the internal stormwater works. Design plans are to be in accordance with the approved plans, stormwater modelling and include stormwater quality improvement device systems.

Documentary evidence is to be provided to the Certifying Authority demonstrating that a Section 68 permit has been obtained for all stormwater work prior to the issue of a Construction Certificate.

(12) **Landscaping to be Shown on Construction Certificate Drawings**

The landscape plan submitted to the Certifying Authority with any Construction Certificate application shall include all landscaping shown on the approved plans unless otherwise approved by Council in writing.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT
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(13) **Section 138 Permit Requirements**

Prior to the carrying out of any works within a Council Road Reserve the person acting with this consent is to obtain a Section 138 *Roads Act 1993* permit from Council in relation to those works.

Any Section 138 application is to be accompanied by all construction documentation required by Council's Community Infrastructure Department.

(14) **Vehicle Entry**

Prior to commencing construction of the driveway/vehicle crossing/layback, within the road reserve, a permit for the work must be obtained from Council, under Section 138 of the Roads Act 1993.

(15) **Water Meter**

A water meter as issued and installed by Muswellbrook Water & Waste Department must be connected to the town's reticulated water supply prior to any commencement.

(16) **Sediment and Erosion Control**

Prior to the commencement of works Sediment and erosion controls are to be installed at the site in accordance with the approved Erosion and Sediment Control Plan.

All required erosion and sedimentation techniques are to be maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

(17) Site Sign

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

(18) Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, of any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damaged infrastructure at their expense.

(19) Site Facilities

- (a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.
- (c) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) Toilet facilities must be provided on the work site at the rate of one toilet for

- every 20 persons or part of 20 persons employed at the work site.
- (f) Each toilet provided must:
 - be a standard flushing toilet, connected to a public sewer, or
 - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
 - an approved temporary chemical closet.
 - (g) The provision of toilet facilities must be completed before any other work is commenced.
 - (h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
 - protect and support the building from damage, and
 - If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.
 - (i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.
 - (j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

(20) **Section 68 Local Government Act Approval**

Prior to the commencement of works the applicant to obtain a Section 68 Local Government Act 1993 approval for the carrying out of stormwater works and any sewer or water works requiring approval under this legislation.

Any application for the carrying out of stormwater works must be lodged with Council and full design details of the stormwater management system provided. The stormwater management system installed at the site should include pollution control measures in accordance with the requirements of Council's Development Control Plan.

Full details of the stormwater infrastructure proposed including pollution controls are to be submitted to Council for approval with any Section 68 application.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK
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(21) **Materials**

In accordance with the provisions of the Muswellbrook Development Control Plan the external cladding of the building shall be constructed from non-reflective metal cladding. Zinalume or reflective white sheet metal cladding is not be used without the prior written approval from Council.

(22) **Prohibition on Use of Pavements**

Building materials and equipment must be stored wholly within the work site, unless prior written approval has been obtained from council. Equipment must not be operated on the footpath or roadway, unless prior written approval has been obtained from council.

(23) **Dust Emission and Air Quality**

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in addition odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(24) **Restriction on the import of fill**

The only fill material that may be received at the development site is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*; or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*; or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Any fill, soil, mulch and plant brought onto the site must be certified as free of weeds and weed seeds.

(25) **Discovery of Aboriginal Heritage**

If Aboriginal objects are uncovered during work, excavation or disturbance of the area, work must stop immediately. The Environmental Protection and Regulation Group of the OEH is to be contacted. Aboriginal archaeological excavation must be co-ordinated with any proposed investigation of non-indigenous material.

(26) **Mandatory Council inspections**

During the carrying out of building works the person acting with this consent shall ensure that all mandatory stage inspections specified by any approvals issued under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993 are carried out by Council at the relevant stage of works specified by these approvals.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE
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(27) **Occupation**

The building is not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

(28) **Council Stormwater Infrastructure Construction**

Prior to the issue of an Occupation Certificate all work related to the realignment of Council's stormwater infrastructure is to be completed in accordance with the requirements of this consent and the Section 68 permit issued by Council for the works.

(29) Vehicle Layback Construction

Prior to the issue of an Occupation Certificate a sealed vehicle crossover is to be constructed between Glen Munro Road and the property boundary in accordance with Council's Footpaths and kerb and guttering Policy (F10/1), the approved plans and Council Section 138 Permit requirements.

A permit for the work must be obtained from Council, under Section 138 of the Roads Act 1993 prior to the construction of the vehicle crossover or the carrying out of work in the Glen Munro Road reserve.

(30) Connection to Sewer

The premises shall be connected to the sewer system in accordance with the Australian Standard 3500.

A works as executed plan on Council's approved form is to be submitted to Council within seven (7) days following the final drainage inspection and prior to any Occupation Certificate being issued.

(31) Construction of Parking Areas

Prior to the issue of any Occupation Certificate all required parking areas, loading bays, driveways, internal access ways used for visitor and staff parking shall fully constructed, sealed, line marked, sign posted in accordance with the approved car parking plans and AS.2890.1 2004 Parking Facilities and the relevant provisions of AS1428.1 and AS1428.4.

(32) Private Stormwater Infrastructure

Prior to the issue of an Occupation Certificate all stormwater management infrastructure is to be installed in accordance the stormwater management plan approved by Council, AS 3500.3, the provisions of the relevant Section 68 Approval and industry best practice.

(33) Installation of landscaping

Prior to the issue of any Occupation Certificate landscaping is to be installed at the site in accordance with the approved Landscape Plan, the requirements of this consent or as otherwise directed by Council in writing.

(34) Construction of bunded storage areas

Prior to the issue of any Occupation Certificate involving elements of the approved development where chemicals or dangerous goods would be stored, or used impervious bunded areas are to be constructed to ensure the safe storage of those materials and manage the risk of any chemical spill.

(35) Preparation and Implementation of a traffic Management Plan

Prior to any Occupation Certificate or commencement of operations at the site, the consent-holder shall prepare a Traffic Management Plan (TMP), implement, and maintain the plan as current for the life of the development for Council's review and acceptance. The TMP is to include appropriate measures such as (but not limited to):

- a) A Driver Code of Conduct for light vehicles (including commuters) and haulage operators, to be signed onto by both staff and contractors at the site.
- b) Dust, mud and other debris suppression and mitigation measures on public roads and within the site boundaries, with at-risk loads to also be covered at all times.
- c) Management of truck dispatch and receiving rates, and designated haulage routes, to minimise traffic impacts during peak periods on State classified roads.
- d) Safety initiatives for haulage if required through residential areas, school zones, and along rural school bus routes.
- e) An induction process for vehicle operators and regular toolbox meetings.
- f) Measures to ensure responsible fatigue management, driving to the conditions, adherence to posted speed limits, and to discourage driving while using mobile phones or under the influence of alcohol and/or drugs.
- g) A public complaint resolution and disciplinary procedure.

(36) Planning Agreement Requirement

Prior to the issue of an Occupation Certificate the proponent is to enter into Planning Agreement's generally in accordance with the written offers that have informed Council's assessment of the development application and the related conditions of consent contained in this Notice of Determination.

Documentary evidence is to be provided to the Certifying Authority demonstrating compliance with this requirement prior to the issue of any Occupation Certificate.

(37) Restoration of any Council Infrastructure Damaged During Construction

Any damage to a public road or associated structures caused as a consequence of the construction works shall be made good to the satisfaction of Council.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards.

These works shall be undertaken prior to the issue of the Final Occupation Certificate.

(38) Repair of any Damaged Infrastructure

Prior to the issue of any Occupation Certificate the person acting with this consent is to repair any infrastructure damaged through the carrying out of the development. Evidence is to be provided to the Principle Certifying Authority to demonstrate compliance with that any damage to infrastructure beyond that observed in the dilapidation report prepared at the commencement of works has been rectified.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

(39) Operational Parameters

At all times the operation of the premises is to remain generally in accordance with

the scope of proposed operations set-out in the Statement of Environmental Impact Statement and the additional information provided and endorsed as part of this determination.

Where there is any intention for the scope of the operation of the premises to be reviewed and expanded it is recommended that the person consult with Council to determine what approvals may be required and the information required to support any application to change the operating parameters of the premises

(40) Stormwater Disposal

All stormwater from the development including all hardstand areas and overflows from rainwater tanks is to be collected and disposed of in accordance with the proposed stormwater management plan and the requirements of any Section 68 application approved by Council.

The person operating with this consent shall maintain all stormwater infrastructure in an operational condition at all times and shall replace any defective drainage and removal silt from any open swale drains as required.

(41) Hours of Operation

In accordance with the particulars set-out in the Environmental Impact Statement the premises may have the following hours of operation, unless otherwise approved by Council in writing:

24 hours 6 days a week (Monday through to Saturday)

During late night and early morning operational periods (10:00pm – 6:00am) reasonable care shall be taken to limit noise and light emissions from the premises. Where the operator of the premises or Council receives or is made aware of complaints about noise or light emissions from the premises during these periods the reasonable steps must be taken to investigate and address the cause of any noise or light pollution.

(42) Site Waste Minimisation Management Plan

Unless otherwise specified by Council in writing at the operation of the premises shall be carried out in accordance with the particulars of the site waste minimisation management plan prepared in relation to the development.

(43) Vehicles to Leave Site in a Forward Direction

At all times vehicles leaving the site shall do so in a forward direction.

(44) Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all heavy vehicles to stop before proceeding onto the public way.

(45) Landscaping

At all times landscaping at the site is to be maintained in accordance with the

approved Landscape Plan or as otherwise agreed by Council in writing.

(46) **Fences**

Access gates must be hung so that they do not encroach on a footpath or roadway.

(47) **Trade Waste Requirement**

At no time is any trade waste related to the commercial processes carried out at the premises to be discharged into Council's sewerage system without the prior approval from Council through a Liquid Trade Waste Agreement.

(48) **Chemical Spill Kit Requirement**

At all times the person acting with this consent shall ensure that spill kits are made available at the premises. These Spill kits should be kept in a readily available location in close proximity to all chemical stores and all staff should be trained in their use.

(49) **On-site Weighbridge**

At all times the person acting with this consent shall maintain an onsite weighbridge, or weighing scales on all loading plant, and ensure the date, time, load mass and other details of all inbound and outbound truck and/or trailer loads are logged. The log shall be made available electronically for inspection by Council or Transport for NSW upon request.

(50) **Advertisement Signage Approval Requirements**

This development application does not grant development consent to the installation of any advertisement signage at the premises.

Development consent must be obtained from council through a separate development application for the installation of any advertisement signage (excluding exempt development) prior to its installation at the site.