

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	8 August 2022
<b>DATE OF PANEL DECISION</b>	5 August 2022
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Juliet Grant, John Brockhoff, Greg Flynn and Tony Tuxworth
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Sandra Hutton declared a conflict of interest as the Statement of Environmental Effects (SEE) was prepared by a company she was employed at until recently.

Papers circulated electronically on 13 July 2022.

#### MATTER DETERMINED

PPSHCC-87 – Central Coast - DA/1163/2021 at 2-4 Park Road, The Entrance – redevelopment of club (as described in Schedule 1).

#### PANEL CONSIDERATION AND DECISION

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

The Panel has had the benefit of a number of briefings from Council and the Applicant. The Panel in their review of the assessment report sought additional information regarding the approval / use of No. 10 Warrigal Street for carparking. This information was provided in a further memo from Council dated 20 July 2022 and has been considered by the Panel.

The Applicant in their final briefing provided a written request seeking to amend a number of the draft conditions attached to the assessment report. The request related to the extension of the period to satisfy the deferred commencement condition, retention of the proposed signage and deletion of conditions irrelevant to the proposal and conditions repeated.

The Panel in its deliberation requested further information regarding the brightness/illumination of the proposed signage, whether additional acoustic measures are required for the carpark at No. 10 Warrigal Street and Council's position in respect to the applicant's request. A further memo was received on 2 August 2022 and involved a revised set of conditions.

The development involves a new club premises and improved bowling greens and carparking.

The Panel notes that the application has been amended to include No. 10 Warrigal Street which benefits from a development consent for carparking associated with the previous club. This site notwithstanding the zoning has been continuously used for carparking for the Registered Club and would benefit from existing use rights for this purpose. The previous club had a historical use of No. 10 Warrigal Street and No. 21 Park Road as carparking for the club.

This proposal requires a total of 118 carparking spaces. This is proposed to be satisfied by the provision of 67 spaces on-site and an additional 51 spaces at No. 21 Park Road. The site at No. 21 Park Road is zoned RE2 Private Recreation and benefits from a previous consent for carparking for the club. Registered Clubs and carparking ancillary to the existing club is permitted on site. Conditions have been included requiring restrictions as to use to ensure the site remains available for the requisite number of spaces – given it is not directly part of the application.

The Panel is satisfied with the form and scale of the proposed signage given the height and massing of the surrounding development. The Panel however notes that the site is within a predominantly residential area and not on a major traffic artery or within a commercial area. The Panel considers that the surrounding area is categorised as zone 4 under the Transport Corridor Outdoor Advertising and Signage Guidelines 2017. Illumination levels of the signage will need to meet this criteria and be turned off outside operating hours.

The Panel has requested further information regarding the need for acoustic treatment to No. 10 Warrigal Street and whether an acoustic fence is required. A condition has been included requiring additional acoustic measures. There is also a need to include tree protection conditions for this part of the carpark.

The access from the Warrigal Street carpark for the use of the club relies on the Council footpath which will be required to be upgraded to ensure equitable access.

The Panel was informed that the number of poker machines is capped at 75 machines and is marginally less than the number of the original premises.

The Panel notes that Council has supported the existing encroachments and recommended conditions to regularise these through registration of easements. This has also involved the dedication to Council of part of the footpath currently encroaching on to the land.

The acoustic treatment to the proposed carpark on site will require the construction of a 1.8m acoustic wall along the northern end of the carpark. As viewed from Taylor Park – this will be in the order of 2.5 metres above the level of the park.

The built form is appropriate for the site and surrounding low scale residential area.

The Panel has required changes to a number of conditions to address:

- illumination of signage and restriction on hours;
- carparking requirements and carpark upgrade;
- landscape plan;
- upgrade of footpaths;
- tree protection;
- acoustic measures;
- in addition to the deletion of unnecessary and duplicated conditions.

The Panel considers that the timeframe to satisfy the deferred commencement condition can be extended to 12 months (from 6 months proposed). It does not agree that it should extend to 24 months as requested.

The Panel also notes that the proposal no longer seeks to extend the hours of operation from those of the previous club.

The hours of operation are Monday to Saturday 9am to 12.30am and Sunday 9am to 11pm.

The Panel accepts that the proposed development will provide an improved recreation and food and beverage offering to the surrounding community. The upgrading of the bowling greens and introduction of weather protection is of a broader benefit.

The Panel considers that the proposal subject to the conditions is an appropriate response to the site and that any impacts can be reasonably mitigated and managed.

### **Development application**

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

The decision was unanimous.

### REASONS FOR THE DECISION

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

1. The proposed development provides an improved recreation and food and beverage offering to the local community.
2. The use is consistent with the broader recreation area.
3. The impacts of the development can be mitigated and managed.

### CONDITIONS

The Development Application was approved subject to the conditions at Schedule 2. The conditions were amended from those attached to the Council Assessment Report to address:



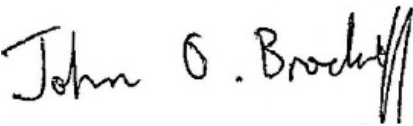


- illumination of signage and restriction on hours;
- deferred commencement timing;
- carparking requirements;
- amended landscape plan;
- upgrade of footpaths;
- tree protection measures;
- acoustic treatments; and
- deletion of duplicated conditions.

### 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:

- Traffic and parking impacts
- Noise impacts
- Local amenity

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 John Brockhoff	 Greg Flynn
 Tony Tuxworth	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-87 – Central Coast - DA/1163/2021
2	PROPOSED DEVELOPMENT	Redevelopment of fire damaged Registered Club and associated parking, landscaping and other works
3	STREET ADDRESS	2-4 Park Road, The Entrance, Lot 1 DP 180642, Lot 1 DP 406038, 10 Warrigal Street, The Entrance, Lot 50 DP 661107
4	APPLICANT OWNER	Mingara Leisure Group C/- ADW Johnson Pty Ltd Central Coast Council (2-4 Park Road) & Mingara Recreation Club Ltd (10 Warrigal Street)
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>Wyong Local Environmental Plan 2013</li> <li>Central Coast Local Environment Plan 2022</li> </ul> </li> <li>Draft environmental planning instruments: <ul style="list-style-type: none"> <li>Draft Remediation of Land SEPP</li> </ul> </li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wyong Development Control Plan 2013</li> <li>Central Coast Development Control Plan 2022</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 6 July 2022</li> <li>Council addendum assessment memorandum: 20 July 2022</li> <li>Written submissions during public exhibition: one (1)</li> <li>Council memo and draft condition received 2 August 2022</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 13 October 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Greg Flynn and Tony Tuxworth</li> <li><u>Applicant representatives</u>: Amanda Hill and Andy Yelds</li> <li><u>Council assessment staff</u>: Salli Pendergast and Emily Goodworth</li> <li><u>Department staff</u>: Alexandra Hafner, Leanne Harris, Lisa Foley and Sharon Edwards</li> </ul> </li> <li>Briefing: 8 December 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff, Greg Flynn and Tony Tuxworth</li> <li><u>Council assessment staff</u>: Salli Pendergast, Emily Goodworth and Eliza Williamson</li> <li><u>Applicant representative</u>: Amanda Hill</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Department staff</u>: Leanne Harris</li> <li>• Briefing: 1 June 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Juliet Grant, John Brockhoff, Greg Flynn and Tony Tuxworth</li> <li>○ <u>Council assessment staff</u>: Salli Pendergast and Emily Goodworth</li> <li>○ <u>Department staff</u>: Leanne Harris and Carolyn Hunt</li> </ul> </li> <li>• Site inspections: <ul style="list-style-type: none"> <li>○ <u>Alison McCabe (Chair)</u>: 29 October 2021</li> <li>○ <u>Juliet Grant</u>: 19 January 2022</li> <li>○ <u>John Brockhoff</u>: 1 December 2021</li> <li>○ <u>Greg Flynn</u>: 15 July 2022</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 20 July 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff, Greg Flynn and Tony Tuxworth</li> <li>○ <u>Council assessment staff</u>: Salli Pendergast and Emily Goodworth</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> </ul> </li> <li>• Applicant Briefing: 20 July 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff, Greg Flynn and Tony Tuxworth</li> <li>○ <u>Council assessment staff</u>: Salli Pendergast and Emily Goodworth</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Andy Yelds, Paul Barnett, Mike Strazds and Chris Smith</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the memo received 2 August 2022

**SCHEDULE 2**

**Deferred Commencement**

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

- 1 Registration with the NSW Land Registry of the following encumbrances, easements, covenants, caveats, and road widening.
  - Caveat, Easement (or equivalent) over Lot 50 DP 661107 No10 Warrigal Street and Lots 53,54 &55 in DP.10294 (known as 21 Park Road) restricting usage of the land to carparking associated with the proposed development.
  - Road widening over Lot 1 DP180642 No2-4 Park Rd The Entrance.
  - Easement for encroachment of structure over Warrigal Street
  - Easement for Overhang over Warrigal Street
  - Positive Covenant for maintenance and repair over Warrigal Street
  - Easement for encroachment of structure over Lot 50 DP 661107 No.10 Warrigal Street.
- 2 A plan showing the approved parking spaces to be reserved on Lots 53, 54 & 55 DP10294 (at 21 Park Road) and 10 Warrigal Street for the new proposed club operations. A caveat or easement (or equivalent) for the use of the land for parking purposes related to the new club is required over the following land:
  - Lot 50 DP.661107 - 10 Warrigal Street, The Entrance
  - Lots 53,54 &55 in DP.10294 (known as 21 Park Road) (the lots that include the existing car parking), The Entrance for at least 51 spaces.

Note: Central Coast Council is to be the sole authority to vary, release or modify the caveat, easement or equivalent.

- 3 A revised Landscape plan is to be submitted showing on Plan 100-D the location for the landscape species nominated on plan 000-D and the pedestrian access and upgrades required from the access crossing at 10 Warrigal Street extending to the existing concrete footpath located in Warrigal Street along the frontage of Lot 1 DP 180642 and Lot 1 DP 406038, 2-4 Park Road. The revised plan is also to include mainly planting of locally indigenous species to the area and is to include planting at 10 Warrigal Street.

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

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

**1. PARAMETERS OF THIS CONSENT**

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

**Architectural Plans:**

Description/Title	Drawing No	Rev	Date	Author
Location Plan	DA-0.00	B	22.01.17	graphitearchitects
Site Plan	DA-1.00	B	22.01.17	graphitearchitects
Site Plan showing Original building footprint overlaid	DA-1.01	A	22.01.17	graphitearchitects
Ground Floor General Arrangement	DA-2.00	B	22.01.17	graphitearchitects
Roof Plan	DA-3.00	B	22.01.17	graphitearchitects
Elevations	DA-4.00	B	22.01.17	graphitearchitects
Key Sections	WD-5.00	B	22.01.17	graphitearchitects
3D Sketch views	DA-6.00	A	21.08.18	graphitearchitects
3D Sketch views -Warrigal Street Elevation	DA-6.01	A	22.01.17	graphitearchitects
External Finishes Pages 1-5 of 5	DA-S01	A	19.08.21	graphitearchitects
Comparison views elevation	DA-7.03	A	21.01.22	graphitearchitects
Comparison views	DA-7.05	A	21.01.22	graphitearchitects
Comparison views	DA-7.06	A	21.01.22	graphitearchitects
Comparison views	DA-7.07	A	21.01.22	graphitearchitects
Comparison views	DA-7.08	A	21.01.22	graphitearchitects
Landscape Coversheet	000	D	24.01.22	Site Image Landscape Architects
Landscape Plan	100	D	24.01.22	Site Image Landscape Architects
Landscape Plan Specification	100	A	18.08.21	Site Image Landscape Architects
Food Design Plan Cover page	-	-	-	UFD
Key Plan	0736	3	01.12.21	UFD
Kitchen Floor Plan	K-101	3	01.12.21	UFD
Kitchen Floor plan	K-102	3	01.12.21	UFD
Main Bar Floor Plan	B-103	3	01.12.21	UFD
Keg Room Plan	KR-104	3	01.12.21	UFD
Gaming Bar Floor Plan	GB105	3	01.12.21	UFD

**Supporting Documentation**

Document	Title	Date
D14822696 & D15020422	Statement of Environmental Effects prepared by ADW Johnson and Correspondence dated 24 January 2022 titled 'Response to Request for Additional Information' prepared by ADW Johnson.	30 August 2021
D15015489	DA Acoustic Report (amended) prepared by PKA Acoustic Consulting (ID:12050- R01v4)	24 January 2022
D15015441	Traffic and Parking Assessment prepared by Intersect Traffic (21/050) Version F	20 January 2022

	Additional Traffic Information (Ref 20/050) dated 5 Dec 2021	
D14822722	CPTED Report 'The Greens: Redevelopment of Club Facility' prepared by James Marshal & Co	July 2021
D14822693	Geotechnical Investigation Report prepared by RCA Australia (Ref 10948b-304/0)	1 June 2021
D14822683	Quantity Surveyors cost estimate prepared by Rider Levitt Bucknall	3 Feb 2022
D14822653	Access Report prepared by Purely Access (Ref.10051) -Version 2	20 August 2021
D14822670	BCA Report prepared by BCA Logic (Ref 113495-BCA-r2)	30 August 2021
D14822746 & D15020247	Social Impact Assessment Report prepared by Aigis Group and additional correspondence dated 7 Dec 2021	July 2021
D15015443	Waste Management Plan signed by signed by Mingara Leisure Group	6 December 2021
D15015450	Operation Security Plan of Management (20211207) as amended V.2	Undated
D15015486	Section J Report prepared by BCA Energy (Ref: 113495-Section J DTS-r1)	17 December 2021
D15015475	Assessment of LED Advertising Sign report prepared by Webb Australia (NSW P/L (Ref P471B REP001) Rev. A	21 January 2022

- 1.2. Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3. Comply with the correspondence from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
NSW Police Force	Correspondence from Licensing Unit - Tuggerah Lakes Police District	D14883518	23 September 2021

- 1.4 Submit, and have approved, an application for a Subdivision Certificate to Council / Certifying Authority. The Subdivision Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*
- 1.5 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 1.6 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.



- 1.7 Where conditions of this consent require approval from Council under Section 138 of the *Roads Act 1993*, Section 68 of the *Local Government Act 1993* or Section 305 of the *Water Management Act 2000*, a completed Works application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.
- 1.8 The existing club parking on Lots 53, 54 & 55 DP10294 (at 21 Park Road) be retained and used for the new proposed club operations under this consent.
- 1.9 All existing trees on 10 Warrigal Street are to be retained and protected.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
  - a) Site investigation for the preparation of the construction, and / or
  - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - c) Demolition.
- 2.3 Pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* pay to Council a total contribution amount of **\$105,930** that may require adjustment at the time of payment, in accordance with the Central Coast Regional Section 7.12 Development Contributions Plan

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

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

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

A copy of the Contribution Plan may be inspected at the offices of Central Coast Council, 2 Hely Street Wyong or 49 Mann Street Gosford or on Council's website: [Development Contributions](#)

- 2.4. Submit to the Registered Certifier, responsible for issuing a construction certificate for works within the development properties, lighting design drawings approved by an accredited electrical designer for both the car parks (at 2-4 Park Rd and No10 Warrigal St) and public

places. The design must be prepared in accordance with the requirements of the current editions of Australian Standard AS/NZS 1158: Lighting for roads and public spaces and AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The design is to include the provision of current best practice energy efficient lighting.

- 2.5. Submit an application to Council under section 305 of the Water Management Act 2000 for a section 307 certificate of compliance. The Application form can be found on Council's website [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au). Early application is recommended.

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

- 2.6. Obtain a Roads Act Works Approval by submitting an application to Council for a section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works form.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's Civil Works Specifications.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) Construction of an industrial/commercial vehicle access crossings at (one entry and one exit on the western carpark at 2-4 Park Rd and one combined entry and exit at 10 Warrigal Street) that have a maximum width of 5.5 metres at the road gutter crossing and 5.5 metres at the property boundary including construction of a heavy-duty gutter crossing and road pavement adjacent to the gutter crossing
- b) Removal of all redundant vehicle gutter crossings / pedestrian laybacks and replacement with kerb.
- c) Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.
- d) Upgrades where required of road signage and pavement marking in accordance with Austroads guides, Transport for NSW Roads and Maritime Services Supplements and Australian Standards for the existing loading bay / dock area.
- e) Construction of concrete footpath 1.5 metres wide from the access crossing at 10 Warrigal Street extending to the existing concrete footpath located in Warrigal Street along the frontage of Lot 1 DP 180642 and Lot 1 DP 406038, 2-4 Park Road.

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.

- 2.7 The trees required to be retained on 10 Warrigal Street must be clearly marked on all final engineering and landscaping plans. All fenced tree protection areas must be clearly marked as "No Go Area" on all plans.
- 2.8 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.
- 2.9 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 the connection of all piped and collected stormwater runoff from within the development site to Council's stormwater system located in Lot 1 Dp 406038.

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.

- 2.10 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 the car parking area on 2-4 park Rd and the upgrade of the carparking area at 10 Warrigal St in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: Parking Facilities and other applicable Australian Standards. The design of the carparking area at 2-4 Park Rd shall generally be in accordance with plans by graphitectarchitects Site Plan No12134 DA 1 B.

Both Carparking areas shall include:-

- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
  - Pavement design able to withstand anticipated vehicle loading for a minimum 20 year life.
  - Wheel stops for all parking spaces.
  - Minimum surfacing of concrete or asphaltic concrete.
- b) Construction of a stormwater detention system. Design in accordance with 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 private courtyards, drainage easements, and / or secondary flow paths.
- c) Construction of stormwater drainage collection and piping of all stormwater runoff from areas within the development site at 2-4 Park Rd to the approved connection to Council's storm water drainage system located in Lot 1 DP. 406038. The design shall generally be in accordance with the plans by NORTHROP No NL202346 C3.1 E Dated 21.1.22

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

- 2.11 Prepare a Tree Protection Plan to the satisfaction of the Consent Authority. The Plan must be prepared by a qualified Arborist (AQF 5), providing details of Tree Protection Zones and Tree Protection Measures to be taken during demolition and construction.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 All conditions under this section must be met prior to the commencement of any works.
- 3.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- a) Site investigation for the preparation of the construction, and / or
  - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - c) Demolition approved by this consent.
- 3.3 Appoint a Principal Certifying Authority for the building work:
- a) The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
  - b) Submit to Council a Notice of Commencement of Building Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

- 3.4 Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- The name, address and telephone number of the Principal Certifying Authority for the work; and
  - The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
  - That unauthorised entry to the work site is prohibited.
  - Remove the sign when the work has been completed.
- 3.5 Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
  - diverting uncontaminated run-off around cleared or disturbed areas, and
  - preventing the tracking of sediment by vehicles onto roads, and
  - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- 3.6 Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - could cause damage to adjoining lands by falling objects, or
  - involve the enclosure of a public place or part of a public place.

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

**Note 2:** The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.7 Prior to commencement of construction or site works, a Soil and Water Management Plan (SWMP) prepared in accordance with the latest edition of the Landcom Publication "Managing Urban Stormwater: Soils and Construction – Volume 1" (the Blue Book). Sediment control fencing must remain in place until such time as the site is landscaped or turf is established.

**Note:** 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.

- 3.8 Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.  
Each toilet must:

- be a standard flushing toilet connected to a public sewer, or
- have an on-site effluent disposal system approved under the *Local Government Act 1993*, or

c) be a temporary chemical closet approved under the *Local Government Act 1993*.

- 3.9 Submit to Council a completed *Notice of Intention to Commence Subdivision, Roads and Stormwater Drainage Works* Form with supporting documentation prior to the commencement of any Subdivision Works Certificate works, Roads Act Works Approval works, or Section 68 Local Government Act Stormwater Drainage Works Approval works. These works are not to commence until a pre-commencement site meeting has been held with Council.
- 3.10 Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.

Establish Tree Protection Zones (TPZ) around trees identified to be retained. The distance from retained trees to the boundary of the tree protection zones can be determined by the following extract from AS4970-2009: Protection of trees on development sites:

**"DETERMINING THE TPZ**

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

TPZ = DBH x 12

DBH = trunk diameter measured at 1.4m above ground

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

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

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

OR

Erect a barrier fence around Tree Protection Zones consisting of star pickets connected by two strands of tensioned wire to support webbing or mesh that must remain intact until construction is completed.

Sign-post fences around Tree Protection Zones to warn of its purpose.

## **4. DURING WORKS**

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

- 7.00am and 5.00pm Monday to Saturday

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

- 4.3 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately in that area, and
- b) The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

- 4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*. This condition only applies if no installation / alteration of plumbing and / or drainage works are proposed (excludes stormwater drainage).
- 4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application. (BU026)
- 4.9 Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, communications provider) for the supply of services concurrently with the engineering work approved by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services.
- 4.10 During construction works, all cut or fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.
- 4.11. 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 signed by Mingara Leisure Group dated 6 December 2021.
- 4.12. Store all waste generated on the premises in a manner so that it does not pollute the environment. Transport all waste generated on the premises to a facility which is licensed to receive that material.

## 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 The submission of a plan of management for the usage of the loading dock / bay area for the development that impact on existing external road related areas or areas used by the public / customers / staff. The plan is to include a Traffic Control Plan and/or a Work Method Statement for any works or deliveries that impact the normal travel paths of vehicles, pedestrians or where any materials are lifted over areas used by the public. The safety of the public, customers and staff shall be specifically addressed. This plan must be certified by an appropriately accredited/qualified engineering professional and approved by the Registered Certifier prior to issue of the occupation certificate.
- 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 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.
- 5.5 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.
- 5.6 Complete the civil engineering works within the development site in accordance with the detailed design drawings and design reports plans within the construction certificate.
- 5.7 Complete Construction of the car parking areas and associated lighting 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.
- 5.8 Obtain the Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate.

All water supply and sewer works for the development must be completed and all other conditions of the Section 306 letter satisfied. 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 adopted fees and charges.

- 5.9 Prior to the issue of any Occupation Certificate all the recommended actions specified in the acoustic report by PKA Acoustic Consulting (CCC ref: D15015489) must be implemented.
- 5.10 Prior to the issue of any Occupation Certificate an independent a suitably qualified acoustic consultant who is currently practising and is a current member of the Association of Australasian Acoustical Consultants must provide the Principal Certifying Authority a "Compliance Certificate", which certifies that all attenuation measures have been constructed



in accordance with recommended actions specified by PKA Acoustic Consulting (CCC ref: D15015489).

- 5.11 A copy of the "Compliance Certificate" must be provided to Council with the Occupation Certificate.
- 5.12 The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 12:00midnight at the boundary of any affected residence.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.
- 5.13 Prior to the issue of any Occupation Certificate permanent signage must be provided in the carpark area advising patrons to be quiet when entering or leaving the premises.
- 5.14 An acoustic fence must be constructed at a minimum height of 1.8m along the adjoining property of 12 Warrigal Street, 1 Benelong Street & 3 Benelong Street The Entrance. The acoustic fence must be of solid timber construction that has double lapped boards, of 15mm thickness and a continuous thickness of 30mm along the entirety of the fence.
- Care is to be taken to ensure no damage occurs to the health of any existing trees in the vicinity of the works for the fence and a qualified arborist is to oversee these works when in the vicinity of the existing trees.
- 5.15 Prior to issue of any OC, the recommendations in the CPTED report and Access Report are to be adopted.
- 5.16 At least 51 spaces of the existing approved club parking on Lots 53, 54 & 55 DP10294 (at 21 Park Road) is to be line marked and identified for the club use.
- 5.17 Install designated hand wash facilities with minimum dimensions of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).
- 5.18 Provide certification to the Principal Certifier to confirm the fit-out of the food premises complies 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*.
- 5.19 No food handling, as defined by the *NSW Food Act 2003*, is permitted in the food premises prior to the issue of the Occupation Certificate.
- 5.20 Provide certification from a mechanical engineer to the Principal Certifier that the construction, installation and operation of any mechanical ventilation system complies with the requirements of:
- Australian Standard AS1668.1:2015: *The Use of Ventilation and Air Conditioning in Buildings: Fire and Smoke Control in Buildings*

- Australian Standard AS1668.2:2012: *The Use of Ventilation and Air Conditioning in Buildings: Mechanical Ventilation in Buildings*.

5.21 Submit to Council a Food Premises Registration Form. The Form is available on Council's website [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

## 6. ONGOING

- 6.1 The LED sign is to be maintained in a proper and safe condition at all times and is to comply with the following:
- No sign approved on the structure, including the LED screen, should incorporate:
    - o Flashing lights or messages;
    - o Animated display, moving parts or simulated movement. Note, video and animated electronic signs are prohibited.
    - o Complex displays that hold a driver's attention beyond "glance appreciation".
    - o Displays resembling traffic signs or signals, or giving instruction to traffic by using words including, but not limited to, words such as 'halt' or 'stop'.
    - o A method of illumination that distracts or dazzles.
  - Electronically changeable messages displayed on the sign must meet the 'Digital Sign Criteria' outlined within the Section 2.5.8 of the Department Planning's *Transport Corridor Outdoor Advertising and Signage Guidelines (November 2017)*. The following key criteria must be met:
    - o Each advertisement must be displayed in a completely static manner, without any motion, for a dwell time of not less than 10 seconds.
    - o Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
    - o The transition time between messages must be no longer than 0.1 seconds, and in the event of image failure, the default image must be a black screen.
    - o An electronic log of a sign's operational activity must be maintained by the operator for the duration of the development consent and be available to the consent authority and/or Roads and Maritime Services to allow a review of the sign's activity in case of a complaint.
  - The sign is not to interfere with the amenity of residential dwellings through the emission of light. Where the Council is of the opinion that the operation of the sign is having a detrimental impact on the amenity of a residential dwelling(s) the Council may direct the owner of the sign to fit illuminated advertising signs with an automatic timing device to extinguish the illumination between certain hours and/or an automatic dimming system.
  - The approved LED sign must operate on an automatic timing device so that it is switched off at 12:30am Monday to Saturday and 11:00pm on Sunday and remains off until 9.00am.
- 6.2 The approved LED sign must be programmed to meet the requirements of the *Transport Corridor Outdoor Advertising and Signage Guidelines* prepared by the Department as follows:

Lighting condition	Zone 4 (cd/sqm)
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Full sun on face of signage	No limit
Daytime luminance	6000
Morning and evening twilight and inclement weather	500
Night time (up to close of business 12:30am Monday to Saturday and 11:00pm Sunday)	200

6.3 Restrict the hours of operation of the use to those times listed below:

- Monday to Saturday – 9.00am to 12.30am
- Sunday – 9.00am to 11.00pm.

Deliveries and waste servicing are only to be carried out between 7am to 3pm Monday to Friday.

Any variation to these hours is subject to the prior consent of Council.

6.4 At least 51 spaces of the existing club parking on Lots 53, 54 & 55 DP10294 (at 21 Park Road) be retained and used for the new proposed club operations to address the parking shortfall.

6.5 The provision of 118 spaces associated with the development comprising:

- 67 spaces on site:
  - 37 spaces 2-4 Park Road, Lot 1 DP 180642 and Lot 1 DP 406038;
  - 30 spaces 10 Warrigal Street, Lot 50 DP 661107; and
- At least 51 spaces at 21 Park Road Lots 53, 54 & 55 DP10294

6.6 The car parking for this development relies on the car parking approved under development consents 74/(105) and 77/(274) for 21 Park Road and 10 Warrigal Street.

6.7 All car park lighting must be operated and managed in a manner that does not unreasonably impact the amenity of the surrounding neighbourhood and all lighting must be directed away from all residential properties and towards the ground. **(This is Merged former conditions 6.9 and 6.10)**

6.8 Maintain internal pavement and pavement marking.

6.9 Implement and comply with the Council approved Plan of Management at all times during operation of the premises

6.10 Manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if they occur. The owner / operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.

6.11 The development is to be carried out in accordance with the adopted Operation Security Plan of Management and the recommendations in the adopted CPTED report.

6.12 All waste generated on the premises must be stored in a manner so that it does not pollute the environment. All waste generated on the premises must be transported to a facility which is licensed to receive that material.

6.13 All waste collection services must not be undertaken before 7am any day of the week.

- 6.14 Ensure the garbage / recycling bins do not obstruct or encroach upon the public footpath areas.
- 6.15 Mixed and recyclables waste bins being wheeled/rolled out on the arrival of the private waste contractor for servicing and immediately returned to the approved waste storage enclosure/area after servicing.
- 6.16 Mixed and recyclables waste bins being serviced at a determined frequency to ensure waste storage availability at all times.
- 6.17 Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 6.18. No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs, etc.

## 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](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### Telecommunications Act 1997 (Commonwealth)

- Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.