

**NOTICE TO APPLICANT OF DETERMINATION OF MODIFICATION
APPLICATION BY THE SOUTHERN REGIONAL PLANNING PANEL
BY WAY OF CONSOLIDATED DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979

RA21/1002

(Incorporating DS23/1276)

TO:

PDC Lawyers & Town Planners
PO Box 214
WOLLONGONG NSW 2500

being the applicant(s) for RA21/1002 relating to:

Flatrock Road, MUNDAMIA - Lot 436 DP 808415

APPROVED USE AND OR DEVELOPMENT:

Integrated development to construct and operate a Materials Recycling Facility (MRF) with a processing capacity of up to 24,000 tonnes per annum of waste materials

DETERMINATION DATE:

22 December 2022

S4.55 DETERMINATION DATE:

24

Pursuant to Clause 118 of the Environmental Planning and Assessment Regulation 2021, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

22 December 2022

CONSENT TO LAPSE ON:

22 December 2027

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS

The conditions of consent and reasons for such conditions are set out as follows:

NATURE OF DETERMINATION

This is a s4.55 modification determination. It does not constitute a new development consent. Its form incorporates the modified conditions into the original development consent for ease of interpretation.

PART A: GENERAL CONDITIONS

1. *(modified by DS23/1276)*

General

The consent relates to **Integrated development to construct and operate a Materials Recycling Facility (MRF) with a processing capacity of up to 24,000 tonnes per annum of waste materials** and as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Site Plan	Project No. 8983 Drawing No. A.1002	BHI Architects	23/10/2023 Issue C
Stormwater Plan	Project No DN200244 Drawing No. C200	MI Engineers	26/10/2023 Revision E
Ground Floor Plan	Project No.8983 Drawing No. A.1003	BHI Architects	23/10/2023 Issue C
Roof Plan	Project No. 8983 Drawing No. A.1004	BHI Architects	23/10/2023 Issue C
Elevations	Project No.8983 Drawing No. A.1005	BHI Architects	23/10/2023 Issue C
Sections	Project No. 8983 Drawing No. A.1006	BHI Architects	23/10/2023 Issue C
Linemarking & Signage Plan	Project No. DN200244 Drawing No. C260	MI Engineers	23/10/2023 Issue C
Statement of Environmental Effects	Reference No. P20-143	PDC Lawyers & Town Planners	5/11/2021
Integrated Water Cycle Management Strategy	Report No. DN200244.R01	MI Engineers	10/03/2021
Bushfire Risk Assessment Report	BRA-S021424	SET Consultants Pty Ltd Version 6	29/11/2023

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. **Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 2, Subdivision 1, *Environmental Planning and Assessment Regulation 2021*, as applicable.

3. **Occupation / Use**

The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. **Shoalhaven Water – Certificate of Compliance**

A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of an Occupation Certificate, Subdivision Certificate or Caravan Park Approval, as the case may be.

An application for a Certificate of Compliance is to be made once the Development Consent has been granted.

5. **Habitat Modification, Removal and Management**

This consent does not permit removal or disturbance of native vegetation on the property, including but not limited to, canopy trees, understorey and groundcover vegetation.

6. **Air Quality Discharges**

The Applicant must ensure the development does not cause or permit the emission of any offensive odour (as defined in the *Protection of the Environment Operations Act 1997* (POEO Act)).

The Applicant must install and operate equipment in line with best practice as specified in the environment protection licence applicable to the site.

7. **(modified by DS23/1276)**

Bushfire Risk Assessment

The development is to be undertaken in accordance with the recommendations outlined in the Bushfire Risk Assessment Report by SET Consultants Pty Ltd (Reference No. S021424, Version 6 dated 29/11/2023) and in accordance with the following additional conditions:

Bush Fire Emergency Management and Evacuation Plan

a) A Bush Fire Emergency Management and Evacuation Plan must be prepared in accordance with Table 6.8d of *Planning for Bush Fire Protection 2019* and be consistent with the NSW RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*. The plan must include:

- (i) Planning for the early relocation of occupants,
- (ii) Contact details for the local Rural Fire Service, and

- (iii) Procedures for coordinated evacuation of the site (prepared in consultation with local emergency services).

A copy of the Bush Fire Emergency Management and Evacuation Plan must be provided to the Local Emergency Management Committee for its information prior to the occupation of the development.

Asset Protection Zones

- b) From the commencement of building works and in perpetuity, the site must be managed as an inner protection area in accordance with Appendix 4.1.1 of *Planning for Bush Fire Protection 2019*.

Construction Standards

- c) New construction of walls, roof and eaves, must comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

Fences and gates

- d) New fences and gates must be made of either hardwood or non-combustible material, and where in areas of BAL-29 or greater, must be made of non-combustible material only, in accordance with Section 7.6 of *Planning for Bush Fire Protection 2019*.

Site Access

- e) Site access roads must comply with the following requirements of Table 7.4a of *Planning for Bush Fire Protection 2019*:
 - (i) Site access roads are two-wheel drive, all-weather roads,
 - (ii) The capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges and causeways clearly, indicate load rating.
 - (iii) There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available: minimum 4m carriageway width.

Water and Utility Services

- f) The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of *Planning for Bush Fire Protection 2019*:
 - (i) Reticulated water is to be provided to the development,
 - (ii) All above-ground water service pipes external to the building are metal, including and up to any taps,
 - (iii) Where practicable, electrical transmission lines are underground,
 - (iv) Where overhead electrical transmission lines are proposed as follows:
 - a. lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas, and
 - b. no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
 - (v) Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used,
 - (vi) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and

shielded on the hazard side,

- (vii) Connections to and from gas cylinders are metal,
- (viii) Polymer sheathed flexible gas supply-lines are not used, and
- (ix) Above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

- g) Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:
 - (i) Provide a minimum 1 metre wide area suitable for pedestrian traffic around the immediate curtilage of the building,
 - (ii) Ensure planting will not provide a continuous path or canopy to the building (i.e., isolate trees/shrubs or locate in small clusters),
 - (iii) Choose low flammability vegetation species and avoid climbing species.
 - (iv) Choose species to ensure tree canopy cover is less than 15% in the APZs (IPA) at maturity and ensure trees will not touch or overhang buildings,
 - (v) Avoid species with rough fibrous bark, which retain/shed bark in long strips or retain dead material in their canopies,
 - (vi) Choose smooth bark species of trees species which generally do not carry a fire up the bark into the crown,
 - (vii) Avoid deciduous species that may increase fuel at surface/ ground level (such as leaf litter),
 - (viii) Do not locate combustible materials such as woodchips/mulch, outdoor structures or furniture near the building.

The intent of these measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

8. NSW Environment Protection Authority

The conditions of the General Terms of Approval issued by the NSW Environment Protection Authority, Notice No: 1621579, dated 14 September 2022, as defining the Environmental Protection Licence 5877 (and its revisions), are included as conditions of this consent (as attached) and must be complied with.

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

9. Construction Certificate

A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

10. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

11. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form 'Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'.

12. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) 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.

13. Run-off and Erosion Controls

Prior to the commencement of site works, run-off and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated run-off around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

Note: all implemented measures must not cause water pollution as defined by the Protection of the Environment Operations Act (POEO Act).

14. Tree and Vegetation Protection

Prior to the commencement of any clearing works the following requirements must be met to the satisfaction of the Certifier:

- a) The developer must identify the extent of earthworks as shown on the approved plans. Where works occur adjacent to native vegetation or restoration areas, a temporary protective barrier or similar visible material must be installed and retained until all works are complete.
- b) The dripline of trees to be retained must be clearly identified and protected with temporary barrier fencing in accordance with *AS 4970: Protection of trees on development sites*.

15. Meteorological Monitoring

Prior to the commencement of any works, and for the life of the development, the applicant must ensure that there is a suitable meteorological station operating in close proximity to the site that:

- a) complies with the requirements in the latest version of the NSW Environment Protection Authority's *Approved Methods for Sampling of Air Pollutants in New South Wales* (DEC, 2007) (as may be updated or replaced from time to time); and
- b) is capable of continuous real-time measurement of atmospheric stability category determined by the sigma theta method in accordance with the *NSW Industrial Noise Policy* (EPA, 2000) (as may be updated or replaced from time to time).

The applicant must maintain the meteorological station to the satisfaction of the NSW Environment Protection Authority for the life of the development.

16. Air Quality Management Plan

Prior to the commencement of any works, the Applicant must prepare an Air Quality Management Plan (AQMP) with consideration of both particulate emissions and odour impacts. The Plan must:

- a) Be prepared by a suitably qualified and experienced person(s).
- b) Include contingencies strategies to reduce odour impacts.
- c) Establish a communications strategy so that affected neighbours are kept informed about the operation of the facility and are consulted about aspects of the operation likely to result in particulate emissions and odour.

17. Operational Management Plan

Prior to the commencement of works, an Operational Management Plan (OMP) prepared in accordance with the Statement of Environmental Effects by PDC Lawyers & Town Planners (Reference No. P20-143, dated 05/11/2021) must be submitted to Council for approval and include reference to the monitoring requirements under the existing Environmental Protection Licence for the subject site.

A report must be provided to Council annually to demonstrate compliance with the approved OMP to ensure adequate management and monitoring.

18. Amended Waste Management Plan

An amended Waste Management Plan (WMP), to address both construction and operational waste, must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by Council or the Certifier prior to the commencement of works.

The amended plan must be consistent with EPA Standards for managing construction waste in NSW and must ensure all waste is contained within the site during construction and then recycled in accordance with the plan required by this condition or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

19. Soil and Water Management Plans (SWMP)

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier.

All implemented measures must:

- a) not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO),
- b) be maintained at all times, and
- c) not be decommissioned until at least 70% revegetation cover has been established.

20. **Car Parking and Access Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and access design must comply with the following:

- a) Concept MRF building civil works plans by MI Engineers, as approved under this development consent.
- b) A minimum number of 25 passenger vehicle parking spaces must be provided onsite, including at least one (1) accessible space, compliant with AS2890.1 and AS2890.6.
- c) The passenger vehicle parking area is to be constructed in accordance with the following or as per d) below:
 - i) for light vehicular loading
 - ii) with a flexible pavement, surfaced with 30mm of AC10 asphaltic concrete or two coat bitumen seal using 14mm and 7mm aggregate.
- d) The heavy vehicle access and manoeuvring area is to be constructed in accordance with the following:
 - i) with a concrete pavement designed and constructed for a minimum traffic loading of 1×10^6 ESA, or
 - ii) with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1×10^6 ESA. Where asphaltic concrete surfaced pavements are likely to be subject to bogie-axle vehicles turning tightly, the asphaltic concrete is to include a rubber base to improve durability and manufacturer's product details.
- e) Bordered in accordance with Council's Standard Drawings by:
 - i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed, or
 - ii) a concrete edge strip (min. 150mm wide and 300mm deep).
- f) Signs and linemarking in accordance with the concept linemarking & signage plan by MI Engineers (Project No. DN200244, Drawing No. C260, Revision A, dated 15/03/2022) and additionally include linemarking to separate the passenger vehicle parking area from the heavy vehicle manoeuvring area.
- g) Heavy vehicle turning paths for the largest vehicle to expected enter/exit the site in accordance with AS2890.

21. **Stormwater Drainage Design Standards (Urban)**

Prior to the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 10% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with the concept stormwater drainage plan by MI Engineers (Project No. DN200244, Drawing No. C200, Revision C, dated 04/06/2021).
- d) The existing stormwater drainage system is to be upgraded or adjusted to suit the new works.
- e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

22. Water Sensitive Urban Design (WSUD) Devices – Private Property

Prior to the issue of a Construction Certificate, detailed design of permanent stormwater quality improvement devices must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's website.

23. WSUD Measures – Water Quality, Retention and Reuse

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by the Certifier. Specifications can be found on Council's website.

The stormwater treatment, retention and reuse design must comply with the following:

- a) The concept stormwater drainage plan by MI Engineers (Project No. DN200244, Drawing No. C200, Revision C, dated 04/06/2021) and concept Integrated Water Cycle Management Strategy by MI Engineers (dated 10/03/2021).
- b) The WSUD strategy must be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 45% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- c) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than 6mm for increases in all impervious surfaces compared to the pre-development condition.

24. Water Sensitive Urban Design Operation and Maintenance Manual

Adopted WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to Council's Development Manager prior to issue of the Construction Certificate. The manuals must be prepared by a suitably qualified

professional in accordance with the objectives and criteria identified in the approved Integrated Water Cycle Management Plan.

25. Water Sensitive Urban Design Checklists

Compliance checklists are to be prepared by the WSUD Designers and submitted to Council's Development Manager prior to issue of the relevant Construction Certificate. The checklists must incorporate all checks and certifications that are required to be carried out during the civil construction phase, asset protection phase, landscape practical completion phase and final compliance inspection prior to final handover.

26. On-Site Detention

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The on-site stormwater detention (OSD) design must comply with the following:

- a) Provided wholly above the 18.13% AEP storm event inundation level of any natural watercourse or water body.
- b) Designed such that stormwater runoff from the development for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.
- c) All flow discharging from on-site detention is to be via gravity flow to an approved discharge location. Automatic pump out systems from on-site detention will not be permitted.
- d) Adequate scour protection at the outlet of the on-site detention basin, in accordance with Council's Engineering Design Specification.

27. Site Filling Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The site filling design must comply with the following:

- a) The site must be regraded in accordance with the concept MRF building civil works plans by MI Engineers, as approved under this development consent, graded to have an absolute minimum grade of 0.5%.
- b) The filling specification must be approved by the Certifier and require all allotment filling to be placed in accordance with AS 3798 Guidelines on earthworks for commercial and residential developments and compacted at least to the minimum relative compaction listed in the standard applicable to the type of development / subdivision.

28. Evidence

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

29. Local Infrastructure Contributions

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Calculation	Amount
CWFIRE2001	Citywide Fire & Emergency services	\$145.50 * 74.6	\$10,854.30
CWFIRE2002	Shoalhaven Fire Control Centre	\$212.86 * 74.6	\$15,879.36
CWMGMT3001	Contributions Management & Administration	\$605.06 * 74.6	\$2,673.37
			\$29,407.03

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

30. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

31. Hydraulic Engineering Details for Water, Sewer & Drainage

Prior to the issue of a Construction Certificate, an approval to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the *Local Government Act 1993*. The application is to include hydraulic designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and stormwater drainage for the development. The hydraulic detail must reference, without limitation, the following:

- The relevant National Construction Code such as - NCC 2019 Volume 1, 2 & 3 (as relevant) Amendment 1.
- Relevant Australian Standard/s and correct standard years.
- Must also reference the relevant AS 1170 suit of standards.
- List Signatory Qualification and Accreditation details.
- Must be National Engineers Register (NER) or NSW Fair Trading Registered Engineer.
- The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm discharge pit connected to an approval disposal point to enable the line to be flushed. This is to prevent the line becoming blocked.

32. Shoalhaven Water – Prior to the Issue of a Construction Certificate

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading “Prior to the Issue of a Construction Certificate” must be

complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

33. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved soil water management measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

34. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

35. Earthworks and Excavation

- a) Approved earthworks (including any structural support or other related structure for the purposes of the development):
 - i) Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
 - ii) Must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
 - iii) That is fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.

- iv) That is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- b) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-78544-2) published by Safe Work Australia in October 2018

36. **Lot Filling**

Prior to completion of works, the developer must ensure that the following requirements are met in relation to lot filling:

- a) The site supervisor must ensure that all fill is completed in accordance with the approved filling specification.
- b) Performed under Level 1 supervision by a professional engineer, (as defined in the National Construction Code) (as required).
- c) A Level 1 Supervision Report is to be approved by Council prior to the release of the Occupation Certificate (where required).
- d) Any fill must:
 - i) have a maximum batter of 25% (1v:4h) at any location.
 - ii) not encroach onto adjoining land.
 - iii) not cause the diversion or concentration of natural overland stormwater runoff onto adjoining property.
 - iv) be protected against erosion, with measures incorporated in the erosion and sediment control plan.

37. **Timing of works**

To protect adjoining bushland and riparian habitats, works involving soil disturbance must not take place during heavy rainfall periods, other than work necessary to stabilise the site.

38. **Wildlife Protection-During Works**

- a) If any wildlife enters the construction site during works, works must stop until the animal has safely vacated the site.
- b) If any wildlife is disoriented or is injured during construction works, works must stop immediately, and a consultant ecologist experienced in wildlife handling and rescue is to advise and responsibly rescue and relocate the animal(s).
- c) All trenches must be inspected for wildlife prior to backfilling.
- d) All vehicles and mechanical plant must be inspected for wildlife prior to operation.

39. **Noise**

The noise from all construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change

Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

40. Aboriginal Objects Discovered During Excavation

If an 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.
- b) Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing the affected area(s) based on the nature of the discovery.
- c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#)

41. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area.
- b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

42. Asbestos Removal

Asbestos removal must be carried out in accordance with AS2601-2 SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-78415-5] and SafeWork NSW – Code of Practice, How to Safely Remove Asbestos [ISBN 978-0-642-33317-9] as applicable, by a person holding the relevant licence issued by SafeWork NSW.

A licence is not required to remove less than 10m² of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m².

Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.

Post asbestos removal and prior to further work on the site, the following must be submitted to the Certifier:

- a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the Work, Health and Safety Regulation 2017 for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.
- b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.

Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

43. Contamination – Unexpected Finds

- a) If unexpected, contaminated soil and/or groundwater is encountered during any works:
 - i) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant.
 - ii) the contaminated soil and/or groundwater must be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) Guidelines.
- b) If unexpected, contaminated soil or groundwater is treated and/or managed on-site; an appropriately qualified environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines prior to recommencement of works. The verification documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council prior to the recommencement of any works.
- c) If contaminated soil or groundwater is to be removed from the site, it must be transported to an appropriately licensed waste facility by an NSW EPA licensed waste contractor in accordance with relevant NSW EPA guidelines including the Waste Classification Guidelines (2014).

Note: An appropriately qualified environmental consultant will have qualifications equivalent to CEnvP "Site Contamination" (SC) Specialist - by Certified Environmental Practitioner or 'Certified Professional Soil Scientist' (CPSS CSAM) by Soil Science Australia (SSA).

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

44. Compliance

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with Council (i.e. a security).

All conditions under Section 68 of the *Local Government Act 1993* will be required to be complied with.

45. Fire Safety

Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire & Rescue NSW by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates—

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

46. Works as Executed Plans

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works
- c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
- d) Show the extent, depth and final levels of filling.
- e) Show any retaining walls including footings and agricultural drainage lines.
- f) Show the location of all underground service conduits.
- g) Include all deviations from the approved Civil Engineering Plans.

47. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

48. Evidence of Compliance with Bushfire Measures

Prior to the issue of Occupation Certificate, certification must be provided by a BPAD Level 3 accredited consultant to the satisfaction of the Certifier, that the bushfire measures referenced in the approved Bushfire Report (Condition 1) are satisfied.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

49. Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater

All excavation, backfilling and landscaping works must not result in:

- a) Any change to the overland stormwater flow path on the property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff must be collected and directed to a legal point of discharge.
- b) The redirection and/or concentration of stormwater flows onto neighbouring properties.

50. Heavy Vehicles

Heavy vehicle traffic generated by the development is not to use the road network during peak traffic hours as defined by the following:

- a) 8am – 10am, and
- b) 3:30pm – 5:30pm.

51. Grasses when adjoining bushland

In order to maintain the interface between disturbed areas and the remaining native vegetation, the area within the Asset Protection Zone/ development site must be managed for the life of the development as follows:

- a) No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process *Invasion of native plant communities by exotic perennial grasses*, must be sown.
- b) Where grass is required to be sown it must be native grasses.

52. Lighting

For the life of the development lighting should be designed in accordance with the principles from the National Light Pollution Guidelines for Wildlife (Australian Government 2020) including:

- a) only light the object or area intended,
- b) be close to the ground where possible,
- c) be directed downward away from tree canopies and shielded to avoid light spill into vegetation,
- d) have the lowest intensity lighting appropriate for the task.

53. Fire Safety – Annual Statement

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has:

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building
- b) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.

54. Pollution Incident Response Management Plan

The proponent must review the existing Pollution Incident Response Management Plan (PIRMP) for the premises and update it as required, by the NSW Environment Protection Authority and/or Council.

55. Operational Management Plan

Activities on the subject property must be in accordance with the approved Operational Management Plan (OMP). The owner and occupier must comply with the actions and requirements

of the approved OMP. The annual report required by Condition 17, will be referred to in order to ascertain compliance with the OMP.

56. **Complaints Handling Protocol**

Throughout the life of the development, the operator shall ensure that:

- a) contact details are publicly available outlining the mechanism for community complaints to be made; and
- b) a procedure is in place for the register and public availability of any complaints.

Procedures, including contact details as to how a complaint may be made, must be publicly available on any website associated with the operation of the facility and must be provided on a sign erected at the site entrance.

Details of all complaints (including date/time, means by which complaint is made, nature of the complaint, action taken.) are to be recorded in a Complaints Register which must be made available for public inspection.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Scheduled Waste Facility

The proponent should also be aware that, as this development application seeks to undertake scheduled waste activities other than composting, a waste levy liability and additional responsibilities may be applicable to the premises in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* (Waste Regulation). Prior to the licence being varied to permit the proposed changes to the facility, the proponent will need to negotiate an authorised amount with the NSW Environment Protection Authority to be included on the licence.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*.

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

SIGNED on behalf of Shoalhaven City Council:

Name

Position

City Development