



Your ref: SSD 10457
File no: MC-20-00003

3 September 2021

NSW Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

Recipient Delivery Thomas.Piovesan@planning.nsw.gov.au

Attention: Thomas Piovesan

Dear Mr Piovesan

SSD 10457- Eastern Creek Retail Outlet- Stage 3

Thank you for your correspondence dated 18 August 2021 requesting our advice comments and recommend conditions of consent for Eastern Creek Retail Outlet- Stage 3 which is a State Significant Development proposal under section 4.36 of the *Environmental Planning and Assessment Act 1979*.

The amended plans have been reviewed by our officers and the recommended conditions are attached to this letter. Please ensure that these conditions are included in any development consent issued by the Department.

If you would like to discuss this matter further, please contact Judith Portelli, our Manager Development Assessment, on 9839 6228.

Yours faithfully

Peter Conroy
Director Planning and Development

Connect - Create - Celebrate

Council Chambers - 62 Flushcombe Road - Blacktown NSW 2148

Telephone: (02) 9839 6000 - DX 8117 Blacktown

Email: council@blacktown.nsw.gov.au - Website: www.blacktown.nsw.gov.au

All correspondence to: The Chief Executive Officer - PO Box 63 - Blacktown NSW 2148

Blacktown Council's submission to SSD 10457- Eastern Creek Retail Outlet- Stage 3

Attachment A

1. Planning conditions

Conditions to be included in the Notice of Determination:

Prior to Occupation Certificate

- Any freestanding signage and on the façade of the building shall display for the purpose of this use only as a direct factory outlet.

Operational

- The use of the approved development shall, at all times, be conducted in a manner consistent with the following definition:

Direct Factory Outlet means a retail premises which is primarily used for the purpose of selling discounted, factory seconds, direct to outlet, out-of-season, samples or surplus stock. An outlet retail premises does not include a supermarket, food and drink premises or business premises.

Each lessor is to ensure that future tenancies are operated in accordance with the following conditions;

- a. A minimum of 70% of stock for sale in the outlet is discounted from its ordinary retail price or recommended retail price (for reasons including but not limited to being out-of-stock, seconds, samples, discontinued or surplus stock); or
- b. Highly visible signage must be displayed distinguishing the tenancy as a discount outlet.

2. Drainage conditions

Conditions to be included in the Notice of Determination:

General

- Each year the registered proprietor/lessee is to provide to Council's Water Sensitive Urban Design Compliance Officer at WSUD@blacktown.nsw.gov.au a report outlining all non-potable water used annually and the percentage of non-potable reuse.
- The registered proprietor/lessee is to provide to Council's Water Sensitive Urban Design Compliance Officer a report outlining all maintenance undertaken on the Gross Pollutant Trap in accordance with the approved maintenance schedule. All material removed are to be disposed of in an approved manner. Copies are to be provided of all contractor's cleaning reports or certificates to Council's Water Sensitive Urban Design Compliance Officer WSUD@blacktown.nsw.gov.au

Prior to Construction Certificate

- Revised flood modelling is required to determine the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) flow extents from Cawarra Street across Rooty Hill Road South, along the new channel and within the site to establish finalised design flood levels including adjacent to stage 3. Determine whether Rooty Hill Road South is cut in a 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF). Based on other preliminary information including contours and pipe capacity it is likely that the whole intersection at Goldsbro Glade and Cable Place may be subject to flooding which will affect evacuation. Determine whether the internal access bridge across the channel to stage 2 is cut in a large storm. Determine hazards in various storms throughout. Consider the backwater effect from current downstream flooding.
- A revised flood evacuation strategy is required. Visitors to the site will come predominately by car but the current strategy requires them to leave their car and walk through the rain downhill to a potentially flood affected intersection. Consider evacuation primarily by car along safe routes, preferable uphill. Based on the revised modelling above determine whether visitors/staff can remain safely in some or all of the buildings in a Probable Maximum Flood (PMF). If the bridge to stage 2 is cut by floodwaters determine when to evacuate. Consider whether flood warning signs are required at the intersection of Rooty Hill Road South and Goldsbro Glade. Where Goldsbro Glade is now cut the evacuation strategy for stages 1 and 2 may be either stay within the buildings, or for travel through the basement of Stage 3 out to Church Street then north, or west via Evans/Beaconsfield Roads. Detail how all this various flood information will be communicated to patrons, visitors and staff.
- A Gross Pollutant Trap (GPT) with oil baffle is to be designed to treat all flow off the development site prior to discharge to the downstream channel, with a minimum treatable flow rate of the 2EY (6 month) flow. The Gross Pollutant Trap is to comprise either a Rocla Continuous Deflective Separation (CDS), an Ocean Protect OceanSave or a SPEL Vortceptor.
- For commercial development a minimum of 80% of the non-potable water uses on site is to be met through rainwater. This is to be assessed using the node water balance in Model for Urban Stormwater Improvement Conceptualisation (MUSIC). Allow for an internal rainwater reuse of 0.1 kL/day per toilet/urinal and a 10% loss in rainwater tank size volume in Model for Urban Stormwater Improvement Conceptualisation (MUSIC) to that shown on the design plans below the overflow invert to allow for anaerobic zones, mains water top up levels and overflow levels. Where the 80% reuse cannot be achieved waterless urinals must be used and deduct these from the non-potable water demand.
- An experienced chartered hydraulic engineer is to prepare and certify a detailed Non-Potable Water Supply and Irrigation Plan for non-potable water uses on the site including all toilet/urinal flushing and landscape watering and that all Sydney Water requirements have been satisfied. The plan is to show the rainwater pipe and tank arrangement including:

- i) a first flush or pre-treatment system (typically 0.2 litres / m² of roof area going to the tank for a first flush),
 - ii) a pump with isolation valves;
 - iii) a solenoid controlled mains water bypass;
 - iv) flow meters on the solenoid controlled mains water bypass line and the pump outflow line, to determine non-potable usage and actual percentage reuse;
 - v) an inline filter and preferably an automatic backwash inline filter;
 - vi) a control panel with warning light to indicate pump failure;
 - vii) a timer and control box for landscape watering and
 - viii) an irrigation watering plan allowing for a minimum of 0.4 kL/yr/m² of landscape beds (excluding turf) and accounting for seasonal variations.
- An Engineer registered on the National Engineering Register is to certify that the site is filled to a minimum of 0.3 m above the adjacent 1% Annual Exceedance Probability (AEP) flood level in the channel, detention basin and mainstream flooding.

During Construction

- A plumber, licensed with NSW Fair Trading, is to undertake flow testing of the non-potable water reuse system to certify that all the toilets are capable of being supplied by rainwater and that there is no cross mixing, or cross contamination with the potable water supply

Prior to Occupation

- Provide a Restriction to User and Positive Covenant over the Stormwater Quality Improvement Devices in accordance with the requirements of Council's Engineering Guide for Development 2005. The Restriction to User and Positive Covenant must be registered with NSW Land Registry Services prior to the final occupation certificate.
- An engineer registered with the National Engineering Register is to certify that the gross pollutant traps have been installed in accordance with the manufacturer recommendations.
- A plumber licensed with NSW Fair Trading, or experienced hydraulic engineer, is to certify that:
 - a. All the non-potable water uses are being supplied by rainwater;
 - b. All the requirements of the detailed Non-Potable Water Supply & Irrigation Plan have been installed to the required locations.
 - c. The flow meters have been installed on the pump outflow and the solenoid controlled mains water bypass to determine non-potable usage and actual percentage of reuse;
 - d. The initial flow meter readings are detailed in the certificate;
 - e. The pumps, alarms and all other systems are working correctly; and

- f. The water from at least two landscape watering access points and four toilets are tested to ensure no chlorine residual.
- g. All external accessible reuse taps are lockable or have removable handles
- h. Rainwater warning signs are fitted to all external taps using rainwater.
- i. A signed, works-as-executed Non-Potable Water Supply & Irrigation Plan is to be provided to Council's Water Sensitive Urban Design Compliance Officer at WSUD@blacktown.nsw.gov.au

3. Engineering conditions

Conditions to be included in the Notice of Determination:

Advisory

- Payment of Engineering Fees

If the applicant wishes for Council to issue the Construction Certificate or Subdivision Works Certificate as nominated in the 'Prior to Construction Certificate/Subdivision Works Certificate please:

- Complete application form
- Submit all relevant plans produced by a suitably qualified person and in accordance with Councils Standards.

General

- Design and Works Specification

All engineering works required by this consent must be designed and undertaken in accordance with the relevant aspects of the following documents except as otherwise authorised by this consent:

- (a) Blacktown City Council's Works Specification - Civil (Current Version)
- (b) Blacktown City Council's Engineering Guide for Development (Current Version)
- (c) Blacktown City Council Development Control Plan (Current Version) including Part J – Water Sensitive Urban Design and Integrated Water Cycle Management
- (d) Blacktown City Council Growth Centre Precincts – Western Sydney Park Lands SEPP
- (e) Blacktown City Council On Site Detention General Guidelines, S3QM online tool and standard drawing A(BS)175M

Design plans, calculations and other supporting documentations prepared in accordance with the above requirements MUST be submitted to Council with any application for Construction Certificate, Road Act 1993 or Local Government Act 1993 approval.

Any Construction Certificates issued by Private Certifiers must also be accompanied by the above documents.

NOTE: Any variations from these design requirements must be separately approved by Council.

- Other Necessary Approvals:

A separate application will be required for the following approvals, under the Local Government Act 1993 and/or the Roads Act 1993.

- Vehicular Crossing
- Works on or occupation of existing public roads (Not including works covered by a Roads Act Approval)

Other Matters:

No construction preparatory work (such as, excavation, filling, and the like) shall be undertaken on the land prior to a valid Construction Certificate being issued.

Prior to Construction Certificate

- Development Application Plan Consistency

A Construction Certificate or Subdivision Works Certificate for the proposed development shall only be issued when the accompanying plans, specifications and/or details are consistent with the approved Development Application design plans.

Prior to Construction/Subdivision Works Certificate (Engineering)

- All relevant conditions within the 'Prior to Construction Certificate' section of this consent shall be satisfied before any Construction Certificate or Subdivision Works Certificate can be issued.
- Where this consent requires both subdivision and building works to be undertaken, no construction certificate for building works is to be issued until all subdivision works have been completed to the satisfaction of Council, and the Subdivision Certificate issued. This includes future public infrastructure such as roads and road drainage systems as well as any engineering infrastructure required to serve the road and road drainage system, including onsite stormwater detention (OSD) and Water sensitive Urban Design (WSUD) located on privately owned land.
- The engineering drawings referred to below are not for construction. The Construction Certificate/Subdivision Works Certificate drawings shall be generally in accordance with the approved drawings and conditions of consent. Any significant variation to the design shall require a section 4.55 application
- Construction Certificate/Subdivision Works Certificate plans shall be generally in accordance with the following drawings and relevant Consent conditions:

Prepared By	Project No.	Drawing No.	Sheet No.	Revision	Dated
Henry & H Consulting Pty Ltd	Intersection	20543_DA_C100	1	2	17.06.21
	Upgrades	20543_DA_C101	2	1	10.06.21
		20543_DA_C102	3	3	22.06.21

		20543_DA_C111	1	2	18.06.21
		20543_DA_C112	2	2	18.06.21
		20543_DA_C113	3	3	21.06.21
		20543_DA_C115	1	2	18.06.21
		20543_DA_C120	1	2	18.06.21
		20543_DA_C125	1	1	18.06.21
		20543_SK_900	1	2	23.06.21
		20543_SK_901	2	2	23.06.21
		20543_SK_902	3	2	23.06.21
		SY073106.004.7.5	1	1	22.06.21

The following items are required to be addressed on the Construction Certificate plans:

- Stage 3 (Direct Factory Outlet) Eastern Creek Quarter Proposed Church Street Traffic Signals approved and stamped by Transport for New South Wales for Traffic Committees approval.

- Subdivision Works/Construction Certificate Requirements

Under the *Environmental Planning and Assessment Act 1979* a Subdivision Works/Construction Certificate is required. These works include but are not limited to the following:

- Road and drainage construction
- On-site stormwater detention
- Water quality treatment
- Earthworks
- Inter-allotment drainage (created within the subject lot)
- Path Paving (within a subdivision)

The above requirements are further outlined in this section of the consent

- Requirements Local Government Act Requirements

Under *Section 68 of the Local Government Act 1993* an approval for engineering work is required. These works include but are not limited to the following:

- Any works within a Council Reserve
- Any works on adjoining land (outside the subject site boundaries)
- Inter-allotment drainage on adjoining land

The above requirements are further outlined in this section of the consent.

- Other Engineering Requirements

- If the estimated cost is \$25,000 or greater proof of long service levy payment is required.
 - Any ancillary works undertaken shall be at no cost to Council.
 - Submit written permission from the affected property owner for any works proposed on adjoining land.
 - Submit written evidence from the Roads and Maritime Services indicating compliance with all necessary requirements.
 - Submit written evidence from Sydney Water indicating compliance with all necessary requirements.
 - All street name poles, light poles and bus shelters shall be black powder coated in accordance with Blacktown City Council's Engineering Guide for Development. Ensure this is noted on the construction plans.
 - Submit a Public Utilities Plan demonstrating adequate clearance between services to stormwater pits, pipes, driveways, light poles, etc.
- Roads
- Submit a pavement report prepared and designed by a professional civil engineer with soil tests carried out by a registered National Association of Testing Authorities soils laboratory. The pavement design shall withstand the traffic loadings listed in this consent. Note: The design California Bearing Ratio (CBR) is to be confirmed on site prior to placement of any pavement. If actual California Bearing Ratio (CBR) is less than design California Bearing Ratio (CBR), revised pavement design will be required.
 - Submit a traffic management plan (TMP) including but not limited to a Traffic Control Plan (TCP) and Pedestrian Management Plan, for any works within public road reserves. The TCP shall be approved, signed and dated by a person who holds a current Roads and Maritime Services (RMS) Work Zone Traffic Management Plan accreditation and photo card.
 - Any approved design drawings must show an 8m x 8m splay for industrial allotments at each street intersection.
 - Splays are to be adjusted to meet site specific intersection designs in accordance with Council's Engineering Guide for Development.
 - Road shoulder for the full road frontage of the development is required. These construction works include drainage, kerb and gutter, footway turfing, service adjustments and any other ancillary work necessary to make this construction effective.
 - Existing roads shall be designed and re-constructed as follows:

Name	Width (m)	Length (m)	Formation (m)	Traffic Loading N(E.S.A)
Church St	20.5m	Approx. 300m	3.5m-13.5m-3.5m	1 x 10 ⁷

- Road shoulder for the full road frontage of the development is required. These construction works include drainage, kerb and gutter, footway turfing, service adjustments and any other ancillary work necessary to make this construction effective. Indicate the replacement the redundant layback and footway crossing with Council's standard kerb and gutter. The footway area shall be restored with turf in accordance with Council's specifications.
- Staging of road construction will be permitted where suitable traffic circulation or temporary turning areas in dead end roads are evident in accordance with Council's Engineering Guide for Development.
- Drainage
 - Drainage from the site must be connected into Council's existing drainage system

During Construction

- Notification of works
 - A written notification of works must be submitted to Council's Engineering Approvals Team prior to the commencement of any engineering works required by this consent. This must be submitted a minimum 5 business days prior to commencement of engineering works.
 - A notification of works flyer (letter drop) is to be provided to all residential housing, businesses and organisations adjacent to any engineering works approved by this consent. This is for works undertaken on Council controlled lands such as roads, drainage reserves and parks. The notification of works flyer must contain details of the proposed works, locality map of works, contact details and the anticipated time period. A signed copy of the notice is to be provided to Council's Engineering Approvals Team and is to show the date of the letter drop as well as highlight the area that received the notification.
- Insurances
 - Current copies of relevant insurance Certificates of Currency are to be submitted to Council's Engineering Approvals Team. This shall be submitted prior to commencement of engineering works required by this consent that are carried out on Council controlled lands such as roads, drainage reserves and parks. This includes Public Liability Insurance with a minimum of \$20,000,000 Indemnity and Workers Compensation.
- Service Authority Approvals
 - Prior to the commencement for construction of footway crossings and driveways a clearance shall be obtained from the relevant telecommunications carriers and Endeavour Energy. The clearance shall notify that all necessary ducts have been provided under the proposed crossing
- Soil Erosion and Sediment Control Measures
 - Soil erosion and sediment control measures onsite shall be implemented, maintained and monitored in accordance with Council's Soil Erosion and

Sediment Control Policy.

- Re-vegetation and restoration of all disturbed areas as a result of the development works shall be completed as soon as practicable after the completion of earthworks and before the commencement of any other works on-site. The revegetated/restored areas must be established prior to the release of maintenance security/bonds. Note: All open drains must be turfed.
- All required soil erosion and sedimentation control measures are to be maintained throughout the entire construction period and until all disturbed areas are restored to the satisfaction of Council in accordance with the design and construction specification. Infringement Notices incurring a monetary penalty may be issued by Council where the maintenance of measures is deemed inadequate.
- Public Safety
 - The applicant is advised that all works undertaken are to be maintained in a safe condition at all times. Council may at any time and without prior notification make safe any such works Council considers to be unsafe and recover all reasonable costs incurred from the applicant
- Site Security
 - Chain wire gates and security fencing must be provided around the site in order to prevent unauthorised access and dumping of rubbish.
- Traffic Control
 - Any "Traffic Control Plan" utilised for engineering works required by this consent must be prepared by a person who holds a current Roads and Maritime Services (RMS) Work Zone Traffic Management Plan accreditation and photo card for all works that are carried out in or adjacent to a public road. This Plan must satisfy all the requirements of Australian Standard 1742.3 - 2009.
 - Traffic control devices/facilities (i.e. barricades, signs, lights, etc.) required by the certified Traffic Control Plan must be setup, installed, monitored and maintained and by a person who holds a current Roads and Maritime Services (RMS) accreditation and photo card to implement Traffic Control Plans.
 - Persons undertaking the control of traffic through or around work sites on Council controlled roads must hold a current Roads and Maritime Services (RMS) Traffic Controller accreditation and photo card and carry it with them.
 - The applicant is advised that prior to implementation of any traffic control system and during the entire course of construction suitably qualified Roads and Maritime Services (RMS) accredited work site traffic controllers will ensure a smooth transition with other nearby traffic control setups. The coordination, communication and cohesion between adjacent traffic control systems shall be addressed by the applicant and must satisfy all the requirements of Australian Standard 1742.3 - 2009.
 - Where the Traffic Control Plan may change during the course of construction to facilitate new works, a revised traffic control plan shall be prepared and certified

by a person who holds a current Roads and Maritime Services (RMS) accreditation to prepare a Work Zone Traffic Management Plan. This Plan must satisfy all the requirements of AS 1742.3 – 2009 and the current version of the Roads and Maritime Service Traffic Control at Work Sites manual and shall be submitted to Council prior to implementation.

Prior to Occupation Certificate

- Road Damage
 - The cost of repairing any damage caused to Council's assets in the vicinity of the land as a result of the development works shall be met in full by the applicant/developer
- Compliance with Conditions
 - An Occupation Certificate shall not be issued until such time as all conditions of this consent, other than “Operational” conditions, have been satisfied. The use or occupation of the development prior to compliance with all conditions of consent, other than “Operational” conditions, may render the applicant/developer liable to legal proceedings.
 - Prior to occupation/use of a new building, it is necessary to obtain an Occupation Certificate from the Principal Certifying Authority in accordance with the provisions of Section 109H of the Environmental Planning & Assessment Act 1979.
- Temporary Facilities Removal
 - Any hoarding or similar barrier erected to protect a public place shall be removed from the land and/or public place.
 - Any temporary toilet facilities provided during construction works shall be appropriately dismantled, disconnected and removed from the land.
 - Any temporary soil erosion control measure installed during development works shall be removed and other permanent measures required by Council's Soil Erosion Control Policy shall be provided.
 - Any temporary builder's sign or other site information sign shall be removed from the land.
 - Any temporary site access provided for the purpose of development works shall be removed and the kerb and gutter and/or previous roadworks reinstated in a manner satisfactory to Council. Should the reinstatement involve the provision of a new vehicular crossing, layback, kerb and gutter or road shoulder works the separate approval of Council's Maintenance Section shall be obtained (and any appropriate fees paid) prior to such works commencing.
- Fee Payment
 - Any fee payable to Council as part of a Construction, Subdivision Works, Compliance or Occupation Certificate or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.

- Engineering Inspections
 - Any additional Council inspections beyond the scope of any Compliance Certificate package and needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

Prior to Subdivision Certificate

- Fee Payment
 - Any fee payable to Council as part of any Construction, Compliance or Subdivision Certificate or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.
- Road Damage
 - The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of the development works be met in full by the applicant/developer.
- Final Plans
 - The submission of a final plan of subdivision, together with 7 exact copies and the appropriate fee. The final plan of subdivision will not be released until all conditions of this determination have been complied with.
 - Where any permanent control marks are placed in accordance with the Survey Practice Regulation 1990 in the preparation of the plan, 2 copies of the locality sketch plans of the marks placed are to be forwarded to Council with the final plan of subdivision.
- Engineering Surveys/Certificates/Works As Executed plans
 - A Work-as-Executed (WAE) plan signed by a Registered Engineer (National Engineering Register) or a Registered Surveyor must be submitted to Council when the engineering works are completed, in a colour softcopy format (.PDF). All engineering Work-as-Executed plans MUST be prepared on a copy of the original, stamped Construction Certificate plans for engineering works (including works under the Roads Act 1993 and the Local Government Act 1993 covered by this Development Application).
 - A Certificate shall be submitted by a Registered Surveyor indicating that all pipelines and associated structures lie wholly within any easements required by this consent.
- Easements/Restrictions/Positive Covenants
 - Any easement or restriction created as a result of this consent must be in accordance with the following:
 - (a) Blacktown City Council's standard recitals for Terms of Easements and Restrictions (Current Version).
 - (b) The standard format for easements and restrictions as accepted by NSW Land Registry Services (LRS).

- Each of the proposed lots serviced by the existing inter-allotment drainage easements shall have this burden and benefit created pursuant to Section 88B of the Conveyancing Act 1919.
- Inspections
 - Any additional Council inspections beyond the scope of any Compliance Certificate package and needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

4. Open Space conditions

Conditions to be included in the Notice of Determination:

Prior to Construction Certificate

- The Applicant is to pay a tree preservation bond per tree, as per Council's Goods and Services Pricing Schedule, to ensure the retention and protection as per AS:4970-2009 "Protection of Trees on Development Sites" for the trees nominated for retention in section 3.3 of the Arboricultural Impact Assessment (AIA) by Eco Logical Australia Version 5, 12 July 2021 for Eastern Creek Business Hub Stage 3. The bond amount will be returned 12 months following the issue of the final occupation certificate following the submission of the final report by the Applicant's project Arborist indicating the trees are in good health, and this is confirmed following an inspection by an authorised officer from Council's tree management section.
- Two inspection fees as per Council's Goods and Services Pricing Schedule will be applicable for the authorised officer to inspect the tree protection measures implemented before construction commencing and following a request to return the tree preservation bond as noted above.
- An Australian Qualifications Framework (AQF) Level 5 Consulting Arborist needs to be engaged to supervise work within the Tree Protection Zone (TPZ), provide advice regarding tree protection and monitor compliance. The Consulting Arborist must be appointed before the demolition of any existing structures or earthworks. They are to register with the Developer before any works commence so that the builder can be inducted as to essential times when the Arborist will be required on-site. Hold points, inspections and certification are carried out by the Arborist in line with Section 5 of the Arboricultural Impact Assessment (AIA). The tree protection measures are to be installed before construction commences.