

# CENTRAL COAST COUNCIL

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |                                     |
|---|-------------------------------------|
| Application Number                        | DA58214/2020                        |
| Delegation level                          | Delegated                           |
| Property Lot & DP                         | LOT: 9 DP: 803648                   |
| Property Address                          | 2 Warringah Close SOMERSBY NSW 2250 |
| Site Area                                 | 5,117 m <sup>2</sup>                |
| Zoning                                    | IN1 GENERAL INDUSTRIAL              |
| Proposal                                  | Use As Vehicle Body Repair Station  |
| Application Type                          | Development Application - Local     |
| Application Lodged                        | 16/04/2020                          |
| Applicant                                 | Fragar Planning & Development       |
| Estimated Cost of Works                   | \$ 136,439                          |
| Advertised                                | Not Advertised or Notified          |
| Submissions                               | Nil                                 |
| Disclosure of Political Donations & Gifts | No                                  |
| Site Inspection                           | 08 September 2020                   |
| Recommendation                            | Approval, subject to conditions     |

### Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans.

### Summary of Non Compliance

| Policy           | Clause / Description   | % Variance |
|------------------|------------------------|------------|
| Gosford DCP 2013 | Chapter 7.1 Carparking | 6.7%       |

### Background

Council's records show the following applications have been lodged on this site:

- [DA21181/1995](#) (003.1995.00021181.001)  
Development Application - FACTORY UNITS  
Lodged: 13/12/1995 ( **Approved under Delegation** : 07/05/1997 )
- [DA21181/1995.2](#) (003.1995.00021181.002)  
Development Application: FACTORY UNITS  
Lodged: 27/03/1997 ( **Approved under Delegation** : 07/05/1997 )
- [BA83160/1995](#) (004.1995.00083160.001)  
Building Application - OFFICES  
Lodged: 13/12/1995 ( **Approved** : 16/08/1996 )

- [DA14237/2001](#) (011.2001.00014237.001)  
Development Application - Establishment of Use-water bottling manufacturing business  
Lodged: 30/11/2001 ( **Approved under Delegation** : 15/01/2002 )

## Site & Surrounds

The site is located on the corner of Warringah Close and Pile Road, Somersby. Adjoining development comprises Industrial development. The topography is generally sloping, however the proposed use is within an existing building, on a levelled site.

The site contains an existing industrial warehouse building with associated carparking and landscaping.

A small portion site is identified as "bushfire prone land" on Council's bushfire maps. However, as the proposed use of the premises for a vehicle body repair workshop (industrial), a bushfire report is not warranted in this instance, as per '*Planning for Bushfire Protection 2019*'.



## The Proposal

The Development Application is for both the establishment of use and internal fit-out of vehicle body repair workshop. However, as the works, in conjunction with the fit out have already been completed, no approval can be granted for these works under this development application.

As such the proposal has been amended to " on-going use as a vehicle body repair station".

### Signage

The signage consists of one (1) small customer parking sign, and three (3) advertising signs flush to the building (flush wall signs);

- Customer parking signs is 1.1m
- The "Aussie Hail" and "Aussie RV" flush wall signs are each 0.85m<sup>2</sup>
- The "Aussie Auto Group" sign is 16.5m<sup>2</sup>

This signage has already been installed/erected, and as such, is not part of this development application.

### Operational Details

- The hours of operation will be 7:30am - 5pm Monday to Friday, and 9am to 12:30pm Saturday
- There will be approximately eighteen (18) employees on site at any one time.
- The building will house a wash bay, two prop bays, three (3) spray booths, inspection bay, and work bays.
- Machinery used on site includes a Mig welder, air compressor, PDR tools for pushing out dents, and dustless sanding extractor.

## **Applicable Planning Controls**

The following planning policies and control documents are relevant to the development and were considered as part of the assessment

- Environmental Planning & Assessment Act 1979 - Section 4.15
- Local Government Act 1993 - Section 89
- State Environmental Planning Policy (Coastal Management) 2018
- Gosford  
Gosford Development Control Plan 2013 Local Environmental Plan 2014
- Somersby Industrial Estate Plan of Management

## **Permissibility**

The subject site is zoned IN1 GENERAL INDUSTRIAL The proposed development is defined as **vehicle body repair workshop** which is **permissible** in the zone with consent of Council.

*vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.*

## **State Environmental Planning Policies**

### **Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997)**

The site is affected by Sydney Regional Environmental Plan (SREP) No 20 - Hawkesbury Nepean River (No 2 - 1997). This planning instrument requires Council to consider the general planning considerations outlined in Clause 5 and specific planning policies and recommended strategies of Clause 6 prior to granting consent to a development application.

The proposed development does not raise any significant issues in relation to Clauses 5 and 6 of SREP No 20.

## **Gosford Local Environmental Plan 2014**

The Gosford LEP 2014 was considered during assessment of this application. There are no variations in relation to the proposed development.

## **Zone IN1 General Industrial**

The objectives of the IN1 zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To promote ecologically, socially and economically sustainable development.
- To ensure that retail, commercial or service land uses in industrial areas are of an ancillary nature.
- To ensure that development is compatible with the desired future character of the zone.

In this instance, it is considered that the proposal is **consistent** with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the Local Government Act 1993.

### **7.1 Acid sulfate soils**

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Clause 7.1 of Gosford Local Environmental Plan 2014 have been considered. The site contains Class 5 Acid Sulfate Soils. In this instance, as no works are proposed, the proposal is not considered to impact on Acid Sulfate Soils.

### **7.4 Development in Somersby Business Park**

The subject site is located within Somersby Business Park. The proposed development is consistent with the objectives of this clause, as well as being consistent with the Somersby Industrial Estate Plan of Management. An assessment against the Somersby Industrial Estate Plan of Management is provided further in this report. The site does not contain any ecological, riparian habitat or aboriginal heritage management sites, as identified under the Somersby Industrial Estate Plan of Management. The proposal generally meets the objectives of this Clause and the Somersby Industrial Estate Plan of the Management. The proposal is for change of use only, and therefore does not include any removal of vegetation. The proposal will not disturb the ground (with the possible exception of the installation of Liquid Trade Waste measures. Therefore the proposal is not likely to disturb any aboriginal items.

## **Gosford Development Control Plan 2013**

| Development Standard | Description | Required | Proposed | Compliance with Controls | Compliance with Objectives |
|----------------------|-------------|----------|----------|--------------------------|----------------------------|
|----------------------|-------------|----------|----------|--------------------------|----------------------------|

### **Somersby 2: Employment Estate - Desired**

#### **Desired Character**

This area will remain a master-planned estate for medium- and higher-impact employment activities, where development conserves the scenic value of surrounding bushland backdrops, protects Aboriginal cultural values, maintains the amenity of nearby residential properties, and achieves high standards of streetscape quality.

Future development will conform to detailed planning controls that have been prepared and adopted for this area.

### **Chapter 2.2 Scenic Quality**

The visual and scenic impact has been assessed and the development is considered to be consistent with the objectives of scenic quality. The proposed development does not unreasonably contribute to the loss of characteristics of the natural or built environment, nor does it unreasonably dominate the local area.

#### **3.11.3 Objectives**

The general objectives of this chapter are as follows:

- a. To encourage good design solutions for industrial development.
- b. To ensure that new industrial development represents a high level of urban design with recognition of the form and character of the existing man-made and natural context.
- c. To ensure the efficient use of urban land by maximising development potential of new and existing land and infrastructure.

## 7.1 Car Parking

| Development Type  | Description    | Required   | Proposed | Compliance with Controls       | Compliance with Objectives |
|---|----------------|--|----------|--------------------------------|----------------------------|
| Vehicle Repair Station and Vehicle Body Repair Workshop | Min car spaces | 3 spaces per 100m <sup>2</sup> ; or 3 spaces per work bay whichever is greater = <b>74</b> | 69       | <b>No - see comments below</b> | <b>Yes</b>                 |

The car parking rate for vehicle body repair and vehicle repair is 3 spaces per 100m<sup>2</sup>, or 3 spaces per workbay – whichever is the greater amount.

The industrial unit is 2450m<sup>2</sup> requiring 74 car parking spaces.

When the development application was originally lodged 24 car parking spaces were proposed, which is the equivalent to 1 space per 98m<sup>2</sup>, being a 69% variation. Amended plans were then requested to provide additional car parking spaces. The amended plans include additional parking within the building, including stacked parking, and parking at the front of the building. A total of 69 parking spaces are now proposed (32 external parking spaces and 37 internal parking spaces). This is now a shortfall of five (5) carparking spaces which is a **6.7% variation**

This variation is considered minor and therefore acceptable for the following reasons;

- The operations are vastly different from a vehicle repair station, which would typically offer quicker services, such as tyre change, rego check and other “while you wait services”
- The majority of the workshop is open plan with space to park vehicles inside
- There’s only two spray booths proposed;
- The site is a corner block with large street frontages, and therefore plenty of unrestricted on-street car parking in the vicinity of the site;
- The Assessing Officer undertook a site inspection at 3pm on Wednesday 09 September 2020 and observed several vacant carparking spaces;

It is considered that the variation to the car parking rate is minor. There are adequate car parking spaces to meet the needs of the business, and refusal is not warranted in this instance.

## 7.2 Waste Management

Waste Management Plan submitted. A condition has been included in the development consent.

## Other Matters for Consideration

### Somersby Industrial Estate Plan of Management

The site is within the Somersby Industrial Estate and subject to the Somersby Industrial Estate Plan of Management. As this development application is for the use of an existing approved industrial building, there are no specific requirements under the Somersby Industrial Estate Plan of Management.

### Unauthorised Works

The development application was originally lodged seeking approval for the use and fit out of the building. However the fit out has already been completed, and signage has already been erected/installed? Therefore this development application is only for the use of the premise and not the fit out. The Applicant has indicated that they will submit a building information certificate after the approval for the use.

## Development Contribution Plan

The site is not subject to the provisions of any section 7.11 developer contribution plan. Therefore, no contributions are applicable.

This Development Application was lodged on 16 April 2020 and therefore not subject to the Central Coast Council Section 7.11 and Section 7.12 Contribution Plans formally adopted on 22 May 2020.

## Referrals

| Internal Referral Body     | Comments                         |
|----------------------------|----------------------------------|
| Engineering                | Supported, without conditions    |
| Environmental Health       | Supported, subject to conditions |
| Liquid Trade Waste         | Supported, subject to conditions |
| Waste Service (Garbage)    | Supported, subject to conditions |
| Water and Sewer Assessment | Supported, subject to conditions |

## Political Donations

During assessment of the application there were no political donations declared by the applicant, applicant's consultant, owner, objectors and/or residents.

## Public Submissions

The proposed development did not require notification in accordance with the provisions of Gosford Development Control Plan 2013.

## Conclusion

This application has been assessed against the heads of consideration of Section 4.15 of the Environmental Planning & Assessment Act 1979 and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the application is recommended for **approval** pursuant to Section 4.16 of the Environmental Planning and Assessment Act.

## Plans for Stamping

Amended Plans, CM9 Doc 14098107

## Supporting Documents for Binding with consent

Waste Management Plan, CM9 Doc No 14098107

## Recommendation

- A. Council as consent authority grant consent to the development application as detailed in the body of this report, subject to the conditions attached.
- B. In accordance with Section 4.53(1) of the Environmental Planning & Assessment Act 1979, this consent shall be

valid for a period of five (5) years.

- C. Notify Council's Environment and Health Team of the unauthorised internal fit out to the premise

|                                    |   |
|------------------------------------|---|
| <b>Recommendation:</b>             | Approval, subject to conditions                 |
| <b>Assessing Officer:</b>          | Katrina Maxwell<br>Town Planner                 |
| <b>Recommendation Reviewed by:</b> | Robert Eyre<br>Peer Review Complete - Principal |

# Conditions

## 1. PARAMETERS OF THIS CONSENT

### 1.1 Approved Plans and Supporting Documents

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

#### Architectural Plans by: Peninsula Design Solutions

| Drawing    | Description                  | Sheets | Issue | Date     |
|------------|------------------------------|--------|-------|----------|
| 2019/32-A1 | Existing Site Plan           | 1 of 3 | B     | 17/06/20 |
| 2019/32-A2 | Existing/proposed Floor Plan | 2 of 3 | B     | 17/06/20 |
| 2019/32-A3 | Existing Elevations          | 3 of 3 | B     |          |

#### Supporting Documentation:

| Title                 | Prepared by    | Date     |
|-----------------------|----------------|----------|
| Waste Management Plan | Sonia McMurray | 26/06/20 |

- 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 all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

## 2. ONGOING OPERATION

- 2.1 Do not, park, store or otherwise stand vehicles in a public street that are awaiting repair, under repair or awaiting delivery.
- 2.2 Carry out all painting and chemical treatment of vehicles wholly within the approved spray booth facility. No painting is to be carried out in any other location on the premises.
- 2.3 Do not store goods, equipment, packaging material or machinery exposed outside the building so as to be visible from any public road or thoroughfare.
- 2.4 Do not sell goods at the subject site unless the sale of those goods is ancillary to the industrial use.
- 2.5 Do not erect advertising sign(s) on or in conjunction with the use and / or development without development consent unless the advertisement is exempt development or otherwise permitted without development consent.
- 2.6 Do not give to offensive noise as defined in the *Protection of the Environment Operations Act 1997*.

- 2.7** Comply with the *Environmental Action Plan for Smash Repairers* published by the NSW Environmental Protection Authority (2008) for all activities and operations on the premises. The spray booth must comply with Australian Standards:
- AS 4114.1 -2003: *Spray painting booths, designated spray painting areas and paint mixing rooms – design, construction and testing*
  - AS 4114.2 – 2003: *Spray painting booths, designated spray painting areas and paint mixing rooms – installation and maintenance*
  - AS 1668.2 – 2012: *The use of ventilation and air conditioning in buildings- mechanical ventilation for buildings*
- 2.8** Keep a sufficient supply of appropriate spill control equipment on the premises at all times. Materials used in the clean-up of a spill must be disposed of to an appropriately licensed waste facility.
- 2.9** Lodge a new Liquid Trade Waste application when there is a change of ownership / occupancy or change to the activities licenced under this approval. As part of this process, Council will re-assess the Liquid Trade Waste requirements for the site and update the Liquid Trade Waste approval document as appropriate. This form can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 2.10** Submit a Building Information Certificate (BIC) Application for the unauthorised fit out of the building
- 2.11** Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 2.12** Submit an application to Council under section 305 of the *Water Management Act 2000* to obtain a section 307 Certificate of Compliance. The *Application for a 307 Certificate under section 305 Water Management Act 2000* form can be found on Council's website [www.centralcoast.nsw.gov](http://www.centralcoast.nsw.gov). Early application is recommended.
- 2.13** Store all waste generated on the premises in a manner so that it does not pollute the environment.
- 2.14** Transport all waste generated on the premises to a facility which is licensed to receive that material.
- 2.15** No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs, etc.
- 2.16** Comply with all commitments as detailed in the Waste Management Plan signed by S. McMurray dated 26 June 2020 .
- 2.17** Locate the approved waste storage enclosure / area as indicated on Project No.2019/32-A2, Revision B dated 17 June 2020 prepared by Peninsula Design Solutions
- 2.18** Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 2.19** Mixed and Recyclables bulk waste bins to be serviced at a determined frequency to ensure waste storage capability at all times.
- 2.20** Lodge a new Liquid Trade Waste application when there is a change of ownership / occupancy or change to the activities licenced under this approval. As part of this process, Council will re-assess the Liquid Trade Waste requirements for the site and update the Liquid Trade Waste approval document as appropriate. This form can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 2.21** Submit a trade waste application for approval to Council as the Water and Sewer Authority in order to discharge liquid trade waste into the sewerage system. This form can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

- 2.22** Grade & drain the floor of the vehicle wash bay to a solids settlement pit, connected to a level controlled collection pit and Oil/Water Separator, appropriately sized to inlet flow rate.  
use only non-emulsifying type pumps upstream of the Oil/Waster Separator.  
use only Quick Break type cleaning products in association with the vehicle wash bay.
- 2.23** Store all Dangerous Goods in accordance with: AS 1940-2017: *The Storage and Handling of Flammable and Combustible Liquids*; and / or *The Protection of the Environment Operations Act 1997*.
- 2.24** Bund all above ground storage of hazardous materials, oils, chemicals or fertilisers. The bund is to be made from an impervious material and must be covered and large enough to hold the contents of the largest container plus 10%.
- 2.25** Keep a sufficient supply of appropriate spill control equipment on the premises at all times. Materials used in the clean-up of a spill must be disposed of to an appropriately licensed waste facility.
- 2.26** Wash bay wastewater is NOT permitted to be discharged into the stormwater system.
- 2.27** Hours of operation are restricted to the following:
- |                               |                   |
|-------------------------------|-------------------|
| Monday to Friday:             | 7:30am to 5:00pm  |
| Saturday:                     | 8:00am to 12:30pm |
| Sunday (and public holidays): | Closed            |
- 2.28** Provide independent certification that spray booths, spray painting areas and paint mixing rooms comply with AS/NZS 4114:2020.
- 2.29** Maintenance of spray booths, spray painting areas and paint mixing rooms must be carried out by a competent person in accordance with the manufacturers instructions and AS/NZS 4114:2020.
- 2.30** All dust generating activities must be carried out indoors using dust extraction and collection systems.
- 2.31** Operate in accordance with a site specific Environmental Management Plan that has been prepared in accordance with the requirements of the *Environmental Action Plan for Smash Repairers* published by the NSW Environmental Protection Authority (2008) for all activities and operations on the premises.

### 3. PENALTIES

- 3.1** 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.

- 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.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).