

**NOTICE TO APPLICANT OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

Issued under the *Environmental Planning and  
Assessment Act 1979* Section 81(1)(a)

<b>APPLICATION No.:</b>	169/03 - Amendment Five
<b>ASSESSMENT No.:</b>	Various
<b>DEVELOPMENT APPLICATION DETAILS</b>	
<b>Applicant Name</b>	Vie De L'eau Investments Pty Ltd as Mortgagee in possession (Hyperbuild Pty Ltd – Tim Wang)
<b>Applicant Address</b>	PO Box 6141 NORTH SYDNEY NSW 2059
<b>Land to be Developed</b>	Lot No: 5, 9, 13, 15, 17, 21 and 23 DP: 285882 (formally Lot 8 DP 270076)
<b>Address of Land</b>	Murray Rivers Edge 1771 Perricoota Road MOAMA NSW 2731
<b>Owners Name</b>	5 - Shane Fredrick Cassar, 9 - Lot 9 Mre P/L, 13 - Lot 13 P/L, 15 - Lot 15 Mre P/L, 17 - Lot 17 Mre P/L, 21 & 23 - TCSH P/L
<b>Proposed Development</b>	53 Lot Community Title Subdivision & Holiday Resort
<b>Amendment Five Details Section 96(2)</b>	Proposed external modifications to the approved units on lots 5 and 9 and the construction of new units on lots 13, 15, 17, 21 and 23 DP 285882 <b>ONLY</b> .
<b>Amendment Four Details Section 96(1A) Approved 12 October 2017</b>	Proposed modifications to the design, internal layout, construction materials and landscaping of Lots 49, 50, 51, 52 & 53 DP 285882 <b>ONLY</b>
<b>Amendment Three Details Approved 20 June 2016</b>	Amendment to setbacks, designs and building materials to approved tourist and visitor accommodation buildings on Lots 3, 5, 7, 9, 11 DP 285882 <b>ONLY</b>
<b>Amendment Two Details</b>	Alter the design and layout of ten of the approved buildings. The modified buildings will be on allotment numbers 3, 5, 7, 9, 11, 49, 50, 51, 52 and 53 of the Community Title Subdivision
<b>Amendment One Details</b>	Withdrawn - 8 November 2013

<b>DETERMINATION</b>	
Consent <b>granted</b> subject to conditions described on the following pages	
<b>Approval Date</b>	1 July 2003
<b>Amendment Five Consent to Operate from (date)</b>	30 October 2017
<b>Consent to Lapse on (date)</b>	1 July 2005 (Physically commenced)
<b>Attachments</b>	Consent Conditions

**THE CONDITIONS OF CONSENT AND THE REASONS FOR THE IMPOSITION OF THE CONDITIONS ARE SET OUT AS FOLLOWS:**

**Prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation 2000 that must be fulfilled**

Clause 98: Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A: Erection of signs

Clause 98B: Notification of *Home Building Act 1989* requirements

Clause 98C: Conditions relating to entertainment venues

Clause 98D: Conditions relating to maximum capacity signage

Clause 98E: Conditions relating to shoring and adequacy of adjoining property

Please refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at <http://www.legislation.nsw.gov.au>.

**General Conditions that must be fulfilled**

aaa) Development in Accordance with Modified Plans

The development of Lots 49, 50, 51, 52 and 53 must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp.

Plan No.	Title	Drawn By	Date
A03	General Site and Roof Plan	Econ Design	April 2017
A04	Floor Plan	Econ Design	April 2017
A05	Elevation 1 – Lots 49, 51 and 53	Econ Design	April 2017
A06	Elevations 2 – Lots 49, 51 and 53	Econ Design	April 2017
A07	Elevations 3 – Lots 50 and 52	Econ Design	April 2017
A08	Elevations 4 – Lots 50 and 52	Econ Design	April 2017
A09	Schedule of Finishes	Econ Design	April 2017

**Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.**

- a) An application for a Construction Certificate must be submitted to, and approved by a nominated Principal Certifying Authority prior to commencement of any work at the site.

**Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.**

- b) Deleted.

- c) An application for Subdivision Certificate with formal subdivision plans must be made to Council. Details relating to easements and rights over sewerage and treated water to serve the Deep Creek Marina must be shown. Please note that a Subdivision Certificate application fee is applicable. The application fee will be charged in accordance with the fee schedule applicable at the time the application for Subdivision Certificate is lodged to Council. A minimum of four (4) copies of the formal subdivision plans, Administration Sheet and 88B Instrument Sheet (if applicable) must be provided to Council. All four (4) copies of the Administration Sheet and 88B Instrument Sheet (if applicable) must contain original signatures. Executed copies will not be accepted.

**Reason: To comply with the *Environmental Planning and Assessment Act 1979*.**

- d) Council's sewer rising main serving the houseboat pump-out station must be relocated in accordance with proposed plans. The existing line disposing of waste to the evaporation ponds must be maintained and an easement provided over this line guaranteeing access and right of way.

**Reason: To ensure that Council's sewer main is relocated away from the development and to ensure that the line to the existing ponds remains in place as a back-up to the approved sewerage treatment system.**

- e) A right of access must be provided to the pump-out station at all times and in favour of Murray River Council. This includes any electricity sub-station connected to the facility.

**Reason: To ensure that legal access is maintained to Council's pump-out facility and associated infrastructure.**

- f) Each tourist and visitor accommodation unit cannot be occupied by the same person or group of persons for more than 8 weeks in any 6 month period. A register must be maintained on site and publicly available at all times indicating occupiers of units and duration of stay.

**Reason: To ensure that the units are not permanently occupied and to comply with Murray LEP 2011.**

- g) All stormwater and run-off from hard surface areas must be directed and retained in the artificial lake system. The lake must provide a freeboard equivalent to a 1 in 10 year storm event.

**Reason: To ensure stormwater does not directly enter the Murray River, and to cater for water inundation events.**

- h) There must be no excavation or commencement of works on, in or under the bed, banks or within 40m of the Murray River.

**Reason: To comply with the *Water Management Act 2000*.**

- i) There must be no clearing of native vegetation other than that approved by Council in accordance with the provisions of the *Biodiversity Conservation Act 2016*.

**Reason: To comply with the *Biodiversity Conservation Act 2016*.**

*ii) Deleted.*

- j) Operations must be conducted in such a manner as not to cause damage or increase erosion of the banks of the Murray River.

**Reason: To ensure that the development does not increase erosion activity on the banks of the Murray River.**

- k) Soil must not be stockpiled within 50m of any natural watercourse.

**Reason: To reduce turbidity or sedimentation of the Murray River.**

- l) All required Section 94 Development Contributions, and Section 64 water and sewer headworks charges must be paid with the Construction Certificate application in accordance with Council's Policy at the time of applying for a Construction Certificate.

**Reason: To comply with the *Environmental Planning and Assessment Act 1979* and Council's Section 94 Development Contributions Plan 2011.**

- m) The plan must provide details of fire fighting facilities for the site such that all buildings are served and protected in the event of a fire.

**Reason: To prevent the spread of fire through the development and to comply with the Building Code of Australia.**

- n) The Applicant must submit working drawings of all water, sewerage and storm water services including details on appropriate measures to combat inundation with floodwaters.

**Reason: To ensure that the development is adequately serviced and infrastructure protected from floodwaters.**

- o) The Applicant must supply details of the capacity of the artificial lake and clearly state the minimum freeboard to be maintained on the lake to allow for storage during storm events.

**Reason: To ensure that the lake's design is adequate for the expected amount of water to be stored during storm events.**

- p) Details of building materials and elements, including colour schemes, must be supplied with the Construction Certificate.

**Reason: To ensure that Council is able to assess and comment on the materials and colours to be used throughout the development and to comply with Murray REP No.2 Riverine Land.**

- q) Glazing to units facing the river must be low reflectivity and tinted to minimise the impact of internal lighting on the riverine environment.

**Reason: To minimise the impact of the development on the riverine environment.**

- r) Working drawings of all roads and hard surfaces must be provided to Council prior to any construction being undertaken.

**Reason: To ensure that roads and hard surfaces are adequately designed and serviced.**

- s) The entrance road serving Deep Creek Marina and intersecting with Perricoota Road must be upgraded and expanded. The Applicant must supply a design of the intersection indicating turning bays, deceleration lanes and line markings for approval by Council's Engineering Department.

**Reason: To ensure that the intersection is able to accommodate the expected increase in traffic entering and leaving the marina development.**

- t) Access roads serving the development site through the Deep Creek development must be upgraded and resurfaced. Line markings must be provided to the road surface from the Perricoota Road and into the site.

**Reason: To ensure that internal roads are constructed to a suitable standard and to comply with development consent 048/93.**

- u) The sewerage system must be maintained and operated in accordance with the manufacturer's recommendations and requirements. Test results must be provided to Council at 6 monthly intervals.

**Reason: To ensure that the sewerage treatment system remains in good order and complies with minimum environmental standards.**

- v) Water quality must be maintained at all times. Monitoring as required by manufacturer and service agents must be undertaken regularly and test results are to be supplied to Council at 6 monthly intervals.

**Reason: To ensure that the water treatment system remains in good order and complies with minimum health standards.**

- w) A minimum 5 metre firebreak must be provided and maintained around the development.

**Reason: To reduce the potential of bush fires to affect the safety of resort users and buildings.**

- (x) If any Aboriginal sites/relics/remains are discovered on site the proponent must;
- o not further harm the Aboriginal object
  - o immediately cease work at the particular location
  - o secure the area so as to avoid further harm to the Aboriginal object
  - o notify NSW OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
  - o not recommence works at the particular location unless authorised in writing by the NSW OEH.

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and NSW OEH contacted.

All reasonable precautions must be taken to prevent damage to Aboriginal objects.

For more information please refer to the NSW Department of Environment, Climate Change and Water (NSW OEH) document entitled: *Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, available <http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>.

**Reason: To protect Aboriginal heritage.**

- (y) Works must not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works must cease by 8pm on any day.

**Reason: To comply with the *Protection of the Environment Operations Act 1997* and Regulations.**

- (z) All necessary precautions must be taken to ensure that pollution of the waterways does not occur during construction. No materials may be used that could pollute the adjacent waterway.

**Reason: To ensure that the development does not pollute the river, to protect the riverine environment and to comply with the *Protection of the Environment Operations Act 1997*.**

- (aa) The construction site must be maintained in an environmentally sound manner during building works. Designated waste containment areas must be provided on site, and maintained so as to prevent any windblown litter escaping from the site.

**Reason: To comply with the *Protection of the Environment Operations Act 1997*, and to preserve the environmental health and amenity of the adjoining area.**

- (bb) Potable water must be provided to all proposed buildings. The water quality must meet NSW Health Drinking Water Standards.

**Reason: To ensure that potable water required to service the development complies with minimum health standards.**

- (cc) Sewerage generated by the development must be delivered to an approved waste water treatment facility for treatment and disposal.

**Reason: To ensure that the development is appropriately serviced.**

**(dd) Development in Accordance with Modified Plans**

The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp.

<b>Plan No.</b>	<b>Title</b>	<b>Drawn By</b>	<b>Date</b>
C03	Site & Roof Plan Lot 5, 13, 17 and 23	Econ Design	April 2017
C04	Site & Roof Plan Lot 9, 15 and 21	Econ Design	April 2017
C05	Typical Ground Floor Plan	Econ Design	April 2017
C06	Typical Upper Floor Plan	Econ Design	April 2017
C07	Elevations – Lot 5, 13, 17 and 23 – NW & SW	Econ Design	April 2017
C08	Elevations – Lot 5, 13, 17 and 23 – SE & NE	Econ Design	April 2017
C09	Elevations – Lot 9, 15 and 21 – NW & SW	Econ Design	April 2017
C10	Elevations – Lot 9, 15 and 21 – SE & NE	Econ Design	April 2017
C11	Finishes Schedule Lots 5, 13, 17 and 23	Econ Design	April 2017
C12	Finishes Schedule Lots 9, 15 and 21	Econ Design	April 2017

BASIX Certificates (811181S, 811192S, 811196S, 811198S, 811200S, 811203S and 811204S)

**Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.**

**(ee) Development to be Contained Wholly within the Subject Site**

Development on each allotment is to be contained wholly within its subject site.

**Reason: To ensure that structures constructed on common boundaries do not encroach onto adjoining allotments.**

**NSW RFS Conditions that must be fulfilled**

- (1) At the commencement of building works and in perpetuity the property to the north of Lot 49, Lot 50, Lot 51, Lot 52 and Lot 53 DP 285882 building envelopes to the lot boundary must be managed as Asset Protection Zones as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Reason: To comply with NSW RFS requirements.**

- (2) New construction must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' as proposed in the letter regarding the Murray River Edge Development from Australian Bushfire Protection Planners Pty Ltd dated 13 August 2013.

**Reason: To comply with NSW RFS requirements.**



- (3) Water, electricity and gas must comply with Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Reason: To comply with NSW RFS requirements.**

- (4) An updated emergency/evacuation plan must be prepared consistent with the NSW Rural Fire Service 2014 document 'Development Planning: A guide to developing a Bush Fire Emergency Management and Evacuation Plan'.

**Reason: To comply with NSW RFS requirements.**

**NSW EPA Condition that must be fulfilled**

- (4A) The proponent must take all necessary precautions and implement measures to prevent pollution of waterways during the proposed works.

**Reason: To comply with NSW EPA requirements.**

**Conditions that must be fulfilled prior to the release of the Occupation Certificate**

- (5) **Prior to the issue of the Occupation Certificate for each approved structure**, Council must be provided evidence that both an appropriate sewerage treatment plant (and / or an alternate approved sewerage treatment process), and an appropriate water supply to service the development, are operating to all required guidelines and conditions. Details of the effluent disposal system and water supply must be submitted to and approved by Council prior to the release of any Occupation Certificate.

**Reason: To ensure the proposed development can be appropriately serviced and to ensure the development does not compromise the environmental health of the subject site and surrounding area.**

- (6) **Occupation** - The Applicant must not allow or permit any building (or part of any building, in the case of alteration or additions) to be occupied or used, until :
- a. All conditions of this consent have been completed in full;
  - b. An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
  - c. The Principal Certifying Authority has issued an Occupation Certificate.

**Reason: To comply with the requirements of the *Environmental Planning and Assessment Act 1979* and to ensure compliance with conditions of consent.**

- (7) A final Occupation Certificate will not be issued for any structure until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.

**Reason: To comply with the provisions of the *Environmental Planning and Assessment Regulation 2000*.**

- (8) An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.

**Reason: To comply with the provisions of the Environmental Planning and Assessment Regulation 2000.**

**Advice to Applicant**

The land subject to this consent may have restrictive covenants applying to it. It is the responsibility of the owner and developer to ensure that covenants are adhered to. Council does not enforce or regulate covenants and therefore accepts no responsibility for checking the compliance of development with such covenants.

**Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.**

It is noted that it is the responsibility of the Applicant to ensure that the development is consistent with the NSW Department of Environment, Climate Change and Water (NSW OEH) document entitled: *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, available:

<http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>.

**Reason: To ensure compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects*.**

Underground assets may exist in the area that is subject to the 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. 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 on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

**Reason: To protect underground assets.**

It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact Murray River Council on 1300 087 004 if there is any difficulty in understanding or complying with any of the above conditions

**Reason: To ensure the Applicant is aware of their obligations.**

The development must be in accordance with the relevant provisions and Regulations of the *Biodiversity Conservation Act 2016*, the *Fisheries Management Act 1994*, the *National Parks and Wildlife Act 1974*, the *Protection of the Environment Operations Act 1997*, and all other applicable legislation.

**Reason: To comply with relevant legislation.**

The proponent should be aware that under Section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.

**Reason: To comply with NSW EPA requirements.**

**OTHER APPROVALS**

Approvals granted under Section 68 of the Local Government Act 1993:


- N/A

**RIGHT OF APPEAL**

If you are dissatisfied with this decision Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

**Review of Determination**

An applicant may request a review of determination under section 82A of the *Environmental Planning and Assessment Act 1979*.



**Glenn Bulmer**

**Manager Development Services (east)**

COB/kt