



**Land and Environment
Court**
of New South Wales

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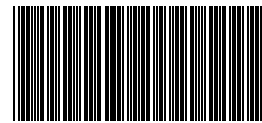
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Your Ref:



D0001F150Y

14 May 2021

NOTICE OF ORDERS MADE

Case number 2020/00329558
Case title Chris Beasley v Shoalhaven City Council

On 14 May 2021 the following orders (and/or directions) were made:

The Court orders that:

- 1) The applicant is granted leave to amend the development application and rely on:
 - a) the drawings and documents referred to in condition 1 of Annexure "A" to this agreement;
 - b) 'Submission under clause 4.6 of Shoalhaven LEP 2014' (19 March 2021) prepared by Cowman Stoddart Pty Ltd;
 - c) 'Clause 4.6 request (clause 4.2H)' (19 April 2021) prepared by Mills Oakley; and
 - d) Amended class 1 application prepared on 9 April 2021.
- 2) The Applicant is to pay the Respondent's costs that have been thrown away as a result of the amendment of the application for development consent under section 8.15(3) of the Environmental Planning and Assessment Act 1979, as agreed or assessed.
- 3) The Applicant's written request under clause 4.6 of the Shoalhaven Local Environmental Plan 2014 (the LEP) seeking a variation of the development control for height of buildings set out in clause 4.3(2A) of the LEP is upheld.
- 4) The Applicant's written request under clause 4.6 of the LEP seeking a contravention of the development standard for the subdivision of land used for the purposes of tourist and visitor accommodation set out under clause 4.2H of the LEP is upheld.
- 5) The appeal is upheld.
- 6) Development Application DA19/2160 for demolition of existing structures and construction of a tourist development with:
 - a) ground floor parking;
 - b) first floor with reception, function space, restaurant and bar;
 - c) second floor containing 'four-star' rooms; and
 - d) subdivisionis determined by the grant of consent subject to the conditions set out in Annexure "A" to this agreement.

7) The Respondent is directed to register the development consent on the NSW planning portal in accordance with section 4.20(1) of the Environmental Planning and Assessment Act 1979 within 14 days of the date of these orders.

For the Registrar

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA19/2160
Development: Demolition of existing structures and construction of a tourist development with ground floor parking, first floor with reception, function space, food and drink premises, second floor containing 'four star' rooms, rooftop terrace, foreshore pathway and subdivision.
Site: 1 Princess Avenue South, Burrill Lake

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 14 May 2021

Date from which consent takes effect: Date of the Court order as a result of the Development Application not being lodged on the planning portal.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site", means the land known as [insert details].

The conditions of consent are as follows:

PART A : GENERAL CONDITIONS

1. General

The consent relates to the and foreshore pathway, and subdivision as documented on the plans/documentation below, 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 plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Plans/documents	Ref/sheet no.	Issue/Revision	Prepared by	Dated
Location Plan	19057/A100	N	Box Architecture	01/04/2021
Site Plan	19057/A101	N	Box Architecture	01/04/2021
Ground Plan	19057/A111	N	Box Architecture	01/04/2021
Level 01	19057/A112	N	Box Architecture	01/04/2021
Level 02	19057/A113	N	Box Architecture	01/04/2021
Roof Plan	19057/A114	N	Box Architecture	01/04/2021
Fire Egress Plans	19057/A115	N	Box Architecture	01/04/2021
Wall Height Limit Diagram	19057/A201	N	Box Architecture	01/04/2021
Elevations	19057/A202	N	Box Architecture	01/04/2021
Elevations	19057/A203	N	Box Architecture	01/04/2021
Sections	19057/A301	N	Box Architecture	01/04/2021
View Line Analysis	19057/A302	N	Box Architecture	01/04/2021
External Views	19057/A501	N	Box Architecture	01/04/2021
External Views	19057/A502	N	Box Architecture	01/04/2021
Ramp Details	19057/A701	N	Box Architecture	01/04/2021
Ramp Details	19057/A702	N	Box Architecture	01/04/2021
Ramp Details	19057/A703	N	Box Architecture	01/04/2021
Landscape Plan	1925/1A	A	Arcadia Sustainable Design	16/03/2021
Traffic Impact Assessment Addendum letter: Response to Shoalhaven Council concerns pertaining angled parking and courtesy bus service	P1858	001	Greys Consulting	09/10/2020
Acid Sulfate Soil Management Plan	TERRA19051.ASSMP Rev 3	3	Terra Insight	23/03/2021
Draft Plan of Subdivision	19057/A002	O	Box Architecture	12/04/2021

Section 88B instrument for Lot 47 in Deposited Plan 1051945			Mills Oakley	
Plan of right of public access over Lot 47 DP1051945	U19355		Peter R Smith	12 January 2021

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 8A, *Environmental Planning and Assessment Regulation 2000*, 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.

PART B : INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

5. **Department of Primary Industries (Fisheries)**

The General Terms of Approval issued by the Department of Primary Industries Fisheries, Reference No: C20/418, dated 3 July 2020 are included as conditions of this consent and must be complied with.

6. **Natural Resources Access Regulator (NRAR)**

The conditions of the General Terms of Approval issued by the NRAR, Reference No: IDAS1121500, dated 17 June 2020, are included as conditions of this consent and must be complied with.

7. **NSW Rural Fire Service**

The conditions of the General Terms of Approval issued by the NSW Rural Fire Service, Reference No: DA20191217001540-Original-1, dated 20 January 2020, are included as conditions of this consent and must be complied with.

PART C : PRIOR TO THE COMMENCEMENT OF WORKS

8. **Appointment of Principal Certifier**

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

9. **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’](#)

10. **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*.

11. **Engineering Design Approval – works in Road Reserve**

- a) Engineering design plans for civil works within the road reserve must be submitted to Council for approval **prior to the issue of a Construction Certificate for building works**. All work must be carried out in accordance with the approved plans.
- b) Plan checking and inspection fees will be required to be paid for the works required within the road reserve as per councils standard fees and charges.
- c) A signs and line marking plan will need to be submitted for acceptance by councils traffic committee.
- d) Section 138 approval for proposed footpath connection from RMS land to the immediate west of the site.

12. **Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent
- b) Evidence of the contractor’s Public Liability Insurance to an amount of \$20 million
- c) Name and contact information of the person responsible for all relevant work
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a ‘Application for Speed Zone Authorisation’ must be obtained from the relevant road authority.

13. **Runoff and Erosion Controls**

Prior to the commencement of site works, runoff 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 runoff 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.

14. Design Standards

Engineering design plans and specifications for the work referred to in this consent are to be submitted for approval.

- a) Details of internal civil works must be submitted to nominated accredited certifier (Private Certifier or Council) for approval.
- b) Details of all proposed works in the road reserve must be submitted and approved by Council.
- c) All civil works are to be in accordance with Council's Engineering Design Specifications and Development Construction Specifications current at the time of construction unless otherwise specified in this consent.

15. Road Design Standards

- a) Concrete vee drain with either a minimum 30mm thick 10mm asphaltic concrete on a primer seal or 2 coat bitumen seal with 14mm & 7mm aggregate surfaced shoulder (to match the existing seal) and associated drainage must be designed across the frontage of the development.
 - i. The alignment must match the existing adjacent kerb and gutter alignment.
 - ii. The shoulder crossfall to the lip of the gutter must be no less than 2% and no greater than 5%.
A minimum width of 1m is to be constructed adjacent to the lip of the gutter to facilitate compaction of the new pavement.
 - iii. The shoulder seal is to overlap the existing pavement by a minimum of 300mm with the existing seal to be saw cut and the exposed pavement is to have a tack coat or prime seal if finished with AC.
 - iv. The kerb and gutter must have a minimum grade of 0.5% and the longitudinal design must extend a minimum of 30 metres each end of the development and at least 60m if the grade is <0.5% or ≥ 0.3%. This is to ensure the proposed works will be compatible with the existing longitudinal pavement grade and allow future extension of the kerb without unnecessary modification of existing works.
 - v. The road shoulder pavement must be designed in accordance with Council's Engineering Design Specifications section D2.04.
 - vi. The road table drain either side of the proposed development is to be reconstructed as required to match the K&G and to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.
 - vii. Subsoil drainage is to be provided behind the kerb line where an outlet to existing underground drainage (or other alternative suitable to Council) is available. Subsoil drainage is to be placed on the high side of the road or both sides if the cross-fall is neutral.
 - viii. Where roadway widening (shoulder construction) is not required, the thickness of the pavement for the new kerb and gutter may be designed using an adopted CBR of 3.0. If a higher CBR value is used, it must be determined by geotechnical testing in accordance with Council's Engineering Design Specification.
- b) A standard concrete footpath crossing must be designed at the driveway entrance in accordance with Council's Standard Drawings Plan Nos. 5104-07, 2026-05 and 2026-09 or 10.
- c) A 1.2m metres wide concrete footpath must be designed for the full frontage of the development. Details are to be shown on the engineering design plans and must incorporate the following:

- i. A cross section from the centre of the road to the car park/garage floor level at each entry point to the development;
 - ii. Footpath levels must comply with a 3% cross fall from the boundary to top of kerb;
 - iii. The level of the footpath must match existing footpath levels of adjoining property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed;
- e) The pedestrian connection to the Princes Highway must not travel through private land, as such the section of footpath that sits within the development site on the Princess Avenue South frontage is to be dedicated as road reserve to Council.
 - f) A pedestrian footpath connection along Princess Avenue is to be provided across the front of the site and connecting to the existing footpath to the north east as shown in approved Drawing A101, Revision N.
 - g) Layback kerb and gutter in accordance with Council's Standard Drawings must be provided for the entire cul-de-sac head, the Princess Avenue South frontage of the site and designed for 30m to the north on both sides of Princess Avenue South.

16. **Internal Structural Design**

Detailed design 'where required' of the following works must be certified by an NPER-III registered practising engineer and submitted for approval by the PCA.

- a) Bridges and other major drainage structures, including pre-cast concrete culverts, headwalls, wing walls and stormwater pits / structures that require steel reinforcement.
- b) Retaining walls greater than 0.6 metre in height
- c) Other structural design (e.g. safety barrier/fencing for culverts over 1 metre to invert).
- d) Proposed footpath to link to the west to TfNSW land below bridge.

Note:

A NPER-III registered practising engineer will be required to certify that construction of the above structures has been completed in accordance with the approved plans prior to the release of the occupation certificate.

17. **Carpark Design**

- a) The car park must be designed in accordance with A.S. 2890 Parking typically as per BOX Architecture Drawing No 19057/A111 rev N dated 01-04-21.
- b) The internal driveway and car parking areas must be designed for Light and or Heavy vehicular loadings depending on the usage. The pavement construction minimum standard as per below:
 - i. with a flexible compacted pavement minimum thickness of 200mm, surfaced with 30mm of AC10 asphaltic concrete on a primer seal or two coat bitumen seal using 14mm and 7mm aggregate. And or
 - ii. to a coloured concrete standard;
 - iii. Access in and out of the development main car park will be required in a forward direction generally in accordance with the turning movements as per A.S. 2890.1 for the 99th% vehicle or in accordance with A.S. 2890.2 for the largest vehicle requiring access to the development.
- c) The internal driveway and car park must be bordered:
 - i. by concrete kerbing, except where surface run-off is concentrated, in which case concrete integral kerb and gutter must be constructed. The work must comply with Council's Plan No. SC 2637-10 and SC 2637-09

18. **Bicycle Parking**

No fewer than twelve (12) bicycle spaces must be provided on the land for the use and development in accord with AS2890.3:2015 Parking Facilities – Part 3 Bicycle Parking.

19. Stormwater Drainage Design

Major and minor drainage systems must be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications section D5 (Stormwater Drainage Design) and DCP 2014 – Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control. The minor and major systems must be designed for 10% AEP for commercial areas and have consideration for the 1% AEP rainfall events respectively.

20. Waste Management

- a) In relation to any waste generated by site preparation, the developer/builder is to ensure:
 - i. The disposal of waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997.
 - ii. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the Protection of Environment Operations Act 1997.
 - iii. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
 - iv. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
 - v. Records are retained regarding the details and location of the disposal of all demolition and construction waste (including excavated material) and are to be kept on site as evidence of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal and confirmation of the waste disposal facility
 - vi. All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the Protection of Environment Operations Act 1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
 - vii. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works
- b) On-Site Collection Point – The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is to be kept clear of obstructions at all times so not to restrict the collection of waste and recycling bins.
- c) Management – Contracts (or agreements) with cleaners, building managers and clients must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
 - i. Responsibility for cleaning and maintaining waste storage bins and containers
 - ii. Responsibility for cleaning and maintaining waste storage room
 - iii. Responsibility for the transfer of bins to the nominated collection point
 - iv. Method of communication to new staff and clients concerning the developments waste management system.
 - v. Cleaning up and management of bulky waste
 - vi. Responsibility for maintaining the compost bin or wormfarm.
- d) Licenced Waste Contractor – All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.

21. **Dilapidation Report**

Prior to the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises (7-13 Princess Ave) and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. All repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

However, if the occupier or owner of any neighbouring dwelling does not permit reasonable access for the purposes for the preparation of the dilapidation report, written evidence of the efforts taken to secure access may be submitted to the *Principal Certifier* and the *Principal Certifier* may waive the requirement in relation to the relevant property.

22. **Public Safety and Protection of Public Property – Hoarding**

Prior to the commencement of works a temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

23. **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.

24. **Demolition**

Demolition work 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.

25. **Demolition – Completion of Works**

Demolition work, once commenced, must be completed within three (3) months.

26. **Demolition – Decommissioning of Services**

Prior to the commencement of demolition work:

- a) all existing internal sewer drainage pipework must be flushed, disconnected from the existing sewer junction and the sewer junction must be temporarily capped off.
- b) internal water lines must be disconnected from the water meter currently servicing the property.
- c) the capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3547.
- d) the developer must provide the Certifier with evidence of compliance with the above requirements.

PART D : PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

27. **Stormwater-Treatment, Retention and Reuse**

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must prepare drainage plans and associated MUSIC modelling that consider the following items and submit these to Council for approval under s68 of the Local Government Act 1993.

- a) The drainage design shall comprise a proprietary stormwater treatment device that has been demonstrated to be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 65% of Total Phosphorus (TP) by a MUSIC model. Documentation must also be provided from the supplier that provides evidence that the selected proprietary GPT device has been appropriately sized for the contributing site/catchment area and is capable of removing the above TSS, TN and TP pollutants.
- b) The drainage design shall comprise rainwater tanks that have been sized for site reuse and also to provide a stormwater retention volume that is based on an 8mm storage depth for all increases in impervious surfaces when compared to the pre-development scenario.
- c) A detailed MUSIC model shall be submitted to Council for approval that demonstrates the proposed stormwater system is able to remove 80% of Total Suspended Solids, 45% of Total Nitrogen and 65% of Total Phosphorus.
- d) The drainage design shall not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.
- e) An operations and maintenance manual shall be submitted to Council that demonstrates how the proposed stormwater treatment device will be maintained.
- f) The stormwater outlet from the site shall be constructed above the mean high water springs (MHWS) level.

28. **Design Changes: Amended plans required**

Modified design plans and specifications incorporating the following design changes must be submitted to and approved by council before the issue of a Construction Certificate:

Design Amendment	Reason for Amendment
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Loading Bay- Acoustic Fence The details of the design and acoustic qualities of the barrier must be provided to the Principle Certifying Authority prior to release of the Construction Certificate.	To minimise acoustic and odour impact of delivery vehicle movements on the adjoining residence.
Courtesy Bus-Plan of Management Prior to the issue of a Construction Certificate a Courtesy Bus Plan of Management consistent with the courtesy bus service as set out in a Traffic Impact Assessment Addendum letter: Response to Shoalhaven Council concerns pertaining angled parking and courtesy bus service dated 9 October 2020 (ref P1858, version 001) must be submitted to and approved by Council.	To reduce parking demand for the development
Concept Stormwater Plan The concept stormwater tank and sand filtration system is to be revised to locate the infrastructure clear of the existing mature feature tree surrounded by the spiral stair.	To protect the integrity of the existing mature tree

29. **Flooding – Construction Certificate Requirements within Flood Prone Land**

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must certify that the following items have been detailed on the construction drawings:

- a) All habitable floor levels must be constructed at or above the Flood Planning Level (FPL) **RL3.2m AHD** which includes the 1% Annual Exceedance Probability (AEP) flood level plus 500mm freeboard + allowance for climate change as documented on a Flood Certificate obtained from Council that is based on the latest flooding information held.
- b) The building has been designed on piers with the underside of the floor slab above the 1% AEP flood level (**RL 2.3m AHD**) and no habitable infill development beneath the building.
- c) All building fences must be designed with openings below the Flood Planning Level to allow free flow of floodwater.
- d) The proposed fencing is adequately constructed so as to withstand the forces of floodwaters and debris (e.g. vehicles) to prevent the undesirable impediment of flood waters
- e) Restraints or vehicle barriers to be provided to prevent floating vehicles leaving the site during a 1% AEP flood event;
- f) Any proportion of the structure below the Flood Planning Level must be built from flood compatible materials.
- g) All electrical installations must be constructed above the Flood Planning Level or be able to be isolated prior to a flood event.
- h) The location of all hazardous substances are located at or above the 1% Annual Exceedance Probability (AEP) Flood Level.
- i) A flood evacuation plan must be prepared to ensure permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure that the timely, orderly and safe evacuation of people is possible from the area and that it will not add significant cost and disruption to the community or the SES. This plan is to consider for pre-flood event planning the use of Flood Warning Products offered for the Bureau of Meteorology (BoM).

30. **Flooding – Construction Certificate Structural Soundness Requirements within Flood Prone Land**

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must certify that the building and associated structure(s):

- a) Can withstand forces of floodwaters including debris and buoyancy forces up to a 0.2% Annual Exceedance Probability (AEP) flood event.
- b) Will not become floating debris during a 1% Annual Exceedance Probability (AEP) flood event.

31. **Traffic Engineering Design**

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must prepare the following items and submit these to Council for approval:

- a) Details of any line markings, regulatory signs, traffic facilities or speed controls/speed controlling devices (internal or external) shall be submitted to Council for referral to the Shoalhaven Traffic Committee and subsequent recommendation to Council. Six to eight weeks should be allowed for this process, plus additional time if amendments to the plans are required.
- b) Details of a pedestrian link along Princess Avenue to the existing footpath are to be provided to Council
- c) A footpath is to be provided linking the site to the existing footpath on Princess Avenue
- d) A footpath is to be provided linking from the RMS footpath to the west of the subject site along the south-western frontage of the subject site and to link to the east to Princess Avenue South generally in accordance with the site plan prepared by Box Architecture ref: drawing 19057/A101 , A111, A701 and A702 dated 1/04/2021 .
- e) RMS have provided landowner consent for the footpath connection works within lot 368 DP15648 subject to the following conditions:
 - i. All work is carried out to comply with relevant council standards and Australian Standards with the council to certify/verify and stipulate their requirements in any correspondence/Construction/Occupation certificates relating to the works;
 - ii. All environmental matters/studies that are required to be dealt with under relevant legislation, standards and guidelines are also part of requirements to be set and verified by the council;
 - iii. The pathway works are to be undertaken at no cost to Transport for NSW; and
 - iv. If dedication/declaration functions have not been completed prior to construction commencing, the applicant/developer will need to contact the Senior Manager Land and Information Corridors (Skye Hennessy – Ph: 9549 9658 and Email: Skye.HENNESSY@transport.nsw.gov.au) to obtain a 'Permit to Enter' to carry out any work on Lot 368 DP 15648.

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.

33. **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: Tourist Accommodation

Project	Description	Rate	Qty	Total	GST	GST Incl
05 AREC 0005	Planning Area 5 - Active recreation facility upgrades various locations	\$1,045.12	5	\$5,225.60	\$0.00	\$5,225.60
CW AREC 0005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$929.11	5	\$4,645.55	\$0.00	\$4,645.55
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	5	\$690.65	\$0.00	\$690.65

CW	FIRE	2002	Shoalhaven Fire Control Centre	\$202.07	5	\$1,010.35	\$0.00	\$1,010.35
CW	MGMT	3001	Contributions Management & Administration	\$574.39	5	\$1,157.22	\$0.00	\$1,157.22
							Sub Total:	\$12,729.37
							GST Total:	\$0.00
							Estimate Total:	\$12,729.37

Hotel/restaurant

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	6.02	\$831.54	\$0.00	\$831.54
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	6.02	\$1,216.46	\$0.00	\$1,216.46
CWMGMT3001	Contributions Management & Administration	\$574.39	6.02	\$204.80	\$0.00	\$204.80
					Sub Total:	\$2,252.80
					GST Total:	\$0.00
					Estimate Total:	\$2,252.80

The total contribution, identified in each of the above tables or as indexed in future years, must be paid to Council prior to the issue of the first occupation certificate in respect of any building to which this consent relates except as provided below.

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.

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.

34. 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.

35. Waste Management Plan

Further details are to be provided regarding the waste management of the development and ongoing waste collection. These details are to form an addendum and must be submitted prior to the issue of the Construction Certificate.

These details are to include:

- (a) A formal detailed Waste Management Plan to be submitted, the council recommends using the following template.

<http://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=FM19/26>

Requirements of the submitted Waste Management Plan shall be complied with during all site preparation works, demolition, construction works and throughout the ongoing use of the development.

36. Erosion and Sediment Control Plan (ESCP)

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) must be prepared by a Professional Engineer, (as defined in the National Construction Code) in accordance with the Landcom Manual – Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition March 2004 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.
- c) not be decommissioned until at least 70% revegetation cover has been established.

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

NIL

PART F : DURING WORKS

37. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

NOTE: Covid-19 Construction Work Days have now extended work hours to include Sunday and public holidays subject to compliance with matters to ensure protection of existing neighbourhood amenity. Work or operation that is carried out on a Saturday, Sunday or public holiday must:

- i. comply with the conditions of consent that restrict the hours of work or operation on any other day;
- ii. not involve rock breaking, rock hammering, sheet piling, pile driving or similar activities during hours of work or operation that would not otherwise be permitted;
- iii. and take feasible and reasonable measures to minimise noise.

38. 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).

The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

39. 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).

In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

40. **Acid Sulfate Soil Management Plan**

All disturbance of soils associated with the development must be managed strictly in accordance with the Acid Sulfate Soil Management Plan (TERRA19051.ASSMP rev 3) prepared by Terra Insight, dated 23 March 2021.

41. **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.

Note:

“Waste” is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

42. **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.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.

The developer must maintain the approved erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.

During construction:

all vehicles entering or leaving the site must have their loads covered, and all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris.

PART G : PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

43. **Car park management plan**

Prior to the issue of an occupation certificate, a Car Park Management Plan must be submitted to and approved by Council. When approved, the Car Park Management Plan will be endorsed and will form part of this consent. The Car Park Management Plan must address, but not be limited to, the following:

- a) the number and location of car parking spaces allocated to each room and for use as public parking
- b) Numbering of car parking spaces;
- c) details of how staff stacked-parking will operate;
- d) details of how loading and deliveries will operate
- e) details regarding the management of loading and unloading of goods and materials

- f) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, etc.

44. The provisions, recommendations and requirements of the Car Park Management Plan must be implemented and complied with at all times.

45. **Restrictions – Easements and Restrictions on Use of Land**

Prior to the issue of an Occupation Certificate, an Instrument must be prepared under section 88B of the *Conveyancing Act 1919* which will provide for the following Restrictions on the land:

- a) The Owner must provide unfettered public access over that part of the land to be used for public footpaths and pedestrian footpath to the south (Burrill Lake interface) between the hours of 5.00am-1.00am 7 days a week;
- b) The owner is responsible for maintaining the public footpath at all times on the land described at 45(a) at the cost of the owners of the site and to the reasonable satisfaction of Council;
- c) The owner(s) must obtain and maintain reasonable insurance, for the public liability and indemnify Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 45(a).
- d) The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.

The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by Council.

46. **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).

47. **Works in the Road Reserve - Evidence of completion**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.

48. **Verification of Works**

‘Work As Executed’ (WAE) plans certified by a consulting engineer or registered surveyor must be submitted to Council for review and records upon completion of the works. The certification must state the information shown on the plans is a true and accurate representation of the constructed works. The WAE information is to be marked in red and be provided on a copy of the Council approved plans in an electronic format. Where works are not within the tolerances specified in Council’s Development Construction Specifications, the certifying engineer / height or must confirm, in writing, the works still comply with the intent of the original design, specifications and relevant Australian Standards

49. **Dilapidation Report – Evidence**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously

identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

50. Land Dedication

- a) The proposed footpath across the Princess Avenue South that encroaches into the property boundary as identified as 'proposed dedication as a public road' on the 'Subdivision Plan' drawing 19057/A002 (revision O) dated 12 April 2021 will need to be dedicated to council including an additional 0.5m clearance to the new property boundary.
- b) The developer will be responsible for all the legal and survey costs associated with the dedication.

51. Noise

Certification from an appropriately qualified acoustic consultant must be provided to council to demonstrate that the development has been constructed consistent with the noise recommendations and additional conditions of consent related to noise management for the site including certification that the emergency generator does not exceed an energy average, sound pressure level (Leq) of 75 dBA when measured at 1 metre.

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

NIL

PART I : ONGOING USE OF THE DEVELOPMENT

52. Roof Top Terrace

The roof top terrace is approved as an ancillary outdoor area for use in conjunction with the tourist and visitor accommodation, but not as an independent commercial activity.

- a) Only patrons staying in the tourist and visitor accommodation and their guests can occupy the terrace.
- b) No patrons are permitted on the roof terrace between 10.00pm and 7.00am.

53. Exterior lighting to be shielded

Any outdoor lighting must be located/designed or shielded so that no additional light is cast on adjoining land and so that motorists will not be distracted.

54. Hours of Operation

The dining and bar areas may only operate between the following hours:

	Period	Start Time	Finish Time
Normal Hours Restaurant & Bar General Public	Monday to Sunday	9.00am	10.00pm
Normal Hours Restaurant & Bar Accommodation Guests	Monday to Sunday	7.00am	10.00pm

Extended Hours Restaurant and Bar All users	Sunday to Thursday	10.00pm	11.00pm
Extended Hours Restaurant and Bar All users	Friday & Saturday	10.00pm	12.00am

- (a) The premises may also operate between the hours of 7.00am and 10.00am on any day, to the general public excluding the service of alcohol during these hours.
- (b) The extended hours of operation for the restaurant & bar are granted subject to review by council at its discretion on receipt of amenity complaint, in accordance with s4.17(10B) of the Environmental Planning and Assessment Act 1979

The purpose of this condition is to enable Council the ability to modify the extended operating hours of bar and cafe and service of alcohol in order to address any amenity impact complaint issues arising from the activity during these hours.

55. **Plan of Management**

Prior to the commencement of the use a Plan of Management (POM) must be submitted to and approved by Council. When approved, the POM will be endorsed to form part of this consent. The POM must include at least the following information:

- a) The area to be covered by the POM.
- b) Appropriate 24-hour contact details for persons authorised to make decisions and or statements on behalf of the business operator.
- c) The number and the responsibilities and authorities of staff to be on the premises at all times.
- d) The maximum number of patrons to be on the premises at any one time.
- e) Management of the roof terrace to minimise potential for external third party nuisance including the maximum number of patrons that can occupy the roof at any given point in time.
- f) The maintenance of a complaints register to be available on short notice for inspection by Council and other appropriate authorities.
- g) Procedures to be undertaken by staff in the event of complaints by private persons or public authorities.
- h) Identification of security provisions including the use of security personnel during and following permitted business times.
- i) Details of training provided for bar staff in the responsible serving of alcohol. (The Permit Operator must require that all employees of the premises engaged in the service of alcohol undertake a 'Responsible Serving of Alcohol' course).
- j) The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
- k) The measures to be taken by management and staff to ensure that patrons do not cause nuisance to persons beyond the land.
- l) Lighting within the boundaries of the premises.
- m) Security lighting outside the premises.
- n) Any other measures to be undertaken to ensure minimal amenity impacts from the use.

56. The POM must include that at all times when alcohol is served, there must be a person over the age of 18 present on the premises, who is responsible for ensuring the activities on the premises and the conduct of persons attending the premises do not have an unreasonably detrimental impact on the amenity of the locality.

57. A copy or copies of the POM must be held on the premises at all times, in a site that is immediately accessible for reference by the person acting as the venue manager at any point in time.

58. **Recording of Complaints**

The property owner/operator must keep a legible record/log book of all complaints made to the owner/operator or any employee or agent of approved development in relation to the operation of the approved use. As a minimum in this regard, the Complaints Register must include details of the following:

- a) The date and time of the complaint;
- b) The method by which the complaint was made;
- c) Any personal details of the complainant provided by the complainant or, if no such details were provided, a note to that effect;
- d) The nature of the complaint;
- e) The action taken by the proponent in relation to the complaint, including any follow-up contact with the complainant; and
- f) If no action was taken by the proponent, the reasons why no action was taken.

The complaints register must be kept for at least 2 years after the complaint was made and must be made available to Council at any time on request.

- 59. The operator shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which this consent relates during or immediately after the trading hours authorised under this consent.
- 60. The operator must request patrons, by prominent notices to respect the needs of local residents for peace and quiet during normal sleeping hours, and when patrons leave the premises.
- 61. The operator and/or security staff must request patrons to not congregate on the footpath, in front of the premises.
- 62. Security or staff are to patrol the perimeter of the premises for 30 minutes after the close of the venue to ensure that patrons do not congregate on the footpath.
- 63. The footpath must not be obstructed by patrons entering or leaving the premises

General Amenity

- 64. The amenity of the area must not be unreasonably detrimentally affected by the use or development, through:
 - (a) The transport of materials, goods or commodities to or from land;
 - (b) The appearance of any buildings, works or materials;
 - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) The presence of vermin.
- 65. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00pm on any night or before 7.00am on any day
- 66. Garbage collections are restricted between 7.00am and 8.00pm on any day.
- 67. Except with the prior written consent of Council, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
- 68. **Number of Car Spaces Required**
No fewer than 52 car spaces must be provided on the land for the use and development, including 2 spaces clearly marked for use by disabled persons.

69. **Survey Report – Height**

In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum must be prepared by a Registered Surveyor as follows:

- a) At the completion of the formwork for the Level 1 floor level indicating the level of that floor achieves an **FPL of 3.2m AHD** and the relationship of the building to the boundaries.
- b) At the completed height of the building, demonstrating compliance with maximum permitted height of **RL 12.8m AHD**.
- c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.

Progress certificates in response to points (a) through to (c) must be provided to the Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

70. **Low Reflective glass to be used**

All glass used externally must have a maximum reflectivity index of 20%.

71. **Lighting Design**

Lighting is to be provided to the internal driveway and car parking areas in accordance with AS/NZS 1158 - Road Lighting Pedestrian Area, Category P Lighting, Performance and Installation Design Requirements. Lighting design plans are to be submitted to Council.

72. **Construction Noise**

The noise from all demolition and 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.

73. **Dust**

Dust emissions must be confined within the site boundary. The following dust control procedures may be employed to comply with this requirement:

- a) erection of dust screens around the perimeter of the site;
- b) securely covering all loads entering or exiting the site;
- c) use of water sprays and additives across the site to suppress dust;
- d) covering of all stockpiles of soil remaining more than 24 hours;
- e) keeping excavation surfaces moist.

74. **Noise**

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's *Noise Policy for Industry* and *Noise Guide for Local Government* (guideline) and the *Protection of the Environment Operations Act 1997 (POEO Act)*.

75. **Acoustic Report**

The recommendations and sound mitigation measures of the report prepared by Harwood Acoustics dated 14 November 2019 must be implemented and complied with at all times.

76. **Maximum Noise Level**

Noise levels emanating from the approved use when measured over a 15 minute period ($L_{eq, 15 \text{ minute}}$), must not exceed the background noise ($L_{90, 15 \text{ minute}}$) by more than 5 dB for a sub urban noise amenity area as defined pursuant to Table 1 (page 11) of the Environmental Noise Impact Assessment prepared by Harwood Acoustics Ref: 1908005E-R, dated 14/11/2019.

77. Notwithstanding compliance with the above, the noise from the licensed premises must not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am

78. **Amplified Music Level**

- a) Amplified music played anywhere within the first-floor areas must not exceed a sound pressure level (L_{10}) of **80 dBA** when measured at 3 metres from the speakers over a period of 3 minutes.
- b) No amplified music is to be played on the rooftop terrace.
- c) All amplified music must be controlled through an in-house sound system with levels pre-set to ensure compliance with the relevant criterion where practicable.
- d) All amplified music must be played exclusively through an electronic noise limiter that must be installed and calibrated within the building to ensure that amplified music/voices between 10.00pm and 12.00am do not exceed **80 dBA (L_{10})** when measured at a distance of 3m from the speakers supplying the music. All sound equipment must be connected to mains power that is connected to the noise limiter;

79. **Noise Management Plan**

- a) All external areas including the first-floor decks, roof top terrace and smokers areas must be closed for use by patrons at 10 pm.
- b) There must be no loud-speakers, video screens or PA system located outside of the building except for ambient level speakers serving the southern deck. Video screens must not be visible from the outside.
- c) There must be no stools or seating on the eastern deck facing Princess Ave to discourage patrons from congregating near the north eastern corner of the building adjacent to the neighbouring residence.

80. **Occupancy**

No single person shall occupy the proposed tourist accommodation for more than 30 days or for more than 13 weeks in any continuous twelve-month period.

81. **Mechanical Plant**

Any mechanical plant associated with the proposal must not exceed the Intrusiveness Noise limits listed below when measured over a period of 15 minutes.

- a) Kitchen Exhaust Fan – **80 dBA**, assumes the fan operates during daytime and evening hours only (i.e. not to operate after 10 pm) and is located a minimum 15 metres from the shared residential boundary to the north east;
- b) Refrigeration compressor – **75 dBA**, assumes this operates 24 hours and is located no closer than 10 metres from the shared residential boundary to the north east and is located at ground level behind a minimum 1.8-metre-high boundary fence;
- c) Air conditioning condenser – **72 dBA**, assumes the unit operates during day time and evening hours only (i.e. not to operate after 10 pm) and is located a minimum 10 metres from the shared residential boundary to the north east.

82. **Food Business Regulations**

Any premises used for the preparation and storage of food for sale to the general public must (where relevant) comply with:

- a) [Shoalhaven City Council's Food Premises Policy](#)
- b) [Chapter 3 of the Australia/New Zealand Food Standards Code](#)
- c) [Food Act 2003 \(NSW\)](#)
- d) [Food Regulation 2015](#)
- e) AS 4674 Construction and fit out of food premises
- f) AS 1668.2 The use of ventilation and air conditioning in buildings-Mechanical ventilation in buildings.

83. **Food Business Notification**

Prior to commencing any food handling operations, a '[Food Business Registration Form](#)' available on Councils' website will need to be submitted to Council as part of the NSW Food Partnership and for the purposes of regular food hygiene inspection.

84. **Courtesy Bus Service**

A courtesy bus service is to be provided by the tourist accommodation and drink dine venue operators for local patrons in accord with the approved Courtesy Bus Plan of Management for the life of the development.

PART J : OTHER COUNCIL APPROVALS AND CONSENTS

85. **Approval to Connect to the Reticulated Sewerage System**

Approval for Sewerage, Plumbing and Stormwater Drainage is granted subject to the following conditions:

- a) All plumbing and drainage work must comply with the Plumbing Code of Australia and *AS/NZS 3500 Plumbing and drainage*.
- b) In accordance with the Plumbing and Drainage Act 2011, plumbers and drainers must submit the following documents to Shoalhaven City Council and to the person for whom the work was carried out:
 - i) Notice of Work no later than two (2) business days prior to the commencement of any work.
 - ii) a Certificate of Compliance for drainage works must be provided within seven days (7) after the external drainage works have been completed.

- c) A works as executed (WAE) sewer service diagram, must be provided within seven days (7) of the drainage works that have been completed.

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).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

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.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

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 : GENERAL ADVICE

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

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 *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.