

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
DA18/2138

TO:

Construction Control - Willinga Park
PO Box 5120
BRADDON ACT 2612

being the applicant(s) for **DA18/2138** relating to:
123 Forster Dr, BAWLEY POINT - Lot 3 - DP 527264
132 Forster Dr, BAWLEY POINT - Lot 21 - DP 1217069

APPROVED USE AND OR DEVELOPMENT:

Commercial Additions - Wastewater Treatment Facility

DETERMINATION DATE: 10-Dec-2019

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: 10-Dec-2019

CONSENT TO LAPSE ON: 10-Dec-2024

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

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

DETAILS OF CONDITIONS:

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

PART A

CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

1. **General**

This consent relates to **Commercial Additions -Wastewater Treatment Facility** as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	VERSION/ REVISION	PREPARED BY	DATED
Wastewater Master Plan	D19/337377 VS18020 H.101	4	Vital Design Solutions	27/09/19
Hydraulic Services Site Plan	D19/334329	2	Vital Design Solutions	16/07/19
Effluent System Site Plan	D19/334328	-	Bereza Surveying	N/A
Effluent System Plant Layout	D19/33425	-	Bereza Surveying	N/A
Pump Station General Layout	D19/334323 1825VC-50P1	A	QMAX Pumping System	13/03/18
Pump Station Section	D19/334323 1825VC-50P2	A	QMAX Pumping System	13/03/18
Treatment Tank Section	D19/334306	-	Unknown	N/A
Internal plan view/slab plan view	D19/334311	-	Unknown	N/A
Tank cross-section	D19/334313	-	Unknown	N/A
Operation & Maintenance manual	D19/334294	-	FujiClean Australia	15/12/17
Effluent Irrigation Disposal Site Plan	D18/400194 VS17069	3	Vital Design Solutions	01/11/18
Effluent Treatment Centre	D18/400181 DA1-01	4	Cox Architects	01/11/18
Effluent Treatment Plant Site Plan	D18/400173 VS17069	8	Vital Design Solutions	01/11/18
Sanitary Site Plan	D18/352110 VS18020	8	Vital Design Solutions	31/08/18

Notes:

- 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 Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.

- The approved development must not be occupied or the use must not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. a security).

PART B

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

3. ***Principal Certifier, Construction Certificate and Notice of Commencement***

The following must be undertaken prior to the commencement of any construction works:

- a) a Principal Certifier (PC) must be appointed,
- b) a Construction Certificate must be obtained from Accredited Certifier,
- c) notice must be given to Council at least two (2) days prior to the commencement of any works, and
- d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for construction of all engineering works including erosion and sediment control measures and their maintenance.
- e) Any clearing of vegetation approved under this consent is not permitted unless:
 - i) The erosion and sediment control measures required by this consent have been implemented and inspected by Council or the Accredited Certifier;
 - ii) Evidence of an application for a Construction Certificate is provided to Council;
 - iii) The clearing is carried out in accordance with the relevant conditions of consent and the approved Waste Minimisation and Management Plans.

4. ***Erosion and Sediment Control***

Prior to the commencement of works, a Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified and experienced person and based on the Landcom manual - *Soils and Construction, Managing Urban Stormwater*, Vol 1, 4th Edition, March 2004", must be submitted to the PC (for works within the development lot) and Council (for works within the road reserve) for approval.

5. Prior to the commencement of any works, the approved erosion and sediment control measures must be implemented by the contractor and inspected and approved by the PC prior to the commencement of any other site works. The erosion and sediment measures must be maintained for the life of the construction period and until runoff catchments are stabilised.

6. ***Public Safety and Protection of Public Property***

The building site/area where works are being undertaken is to be fenced (in accordance with Safework NSW (formerly WorkCover) requirements), prior to the commencement of works, suitable for keeping members of the public and unauthorised people out.

PART C

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

7. ***Revised Validation & Sewage Management Plan***

Prior to the issue of a construction certificate, the Validation report and sewage management plan must be updated to the satisfaction of Council and must be submitted to and approved by Council. When approved, the plan will be endorsed and will then form part of the development consent. The report must be modified to include the following:

- a) The commissioning and validation report must be modified so that pump-out will be employed to keep levels within the outflow balance tank below 50%.
- b) The plan must also include detailed layout plan/s for all system components.
- c) Non-compliant water quality sampling results by double the prescriptive value (or 2 pH units above or below) for two consecutive samples will trigger immediate shut-down of the effluent disposal facilities and disposed of at an approved wastewater treatment plant, until the issue is appropriately diagnosed and managed
- d) It is also noted that in accordance with the Interim NSW Guidelines for Management of Private Recycled Water Schemes the sewage management plan needs to include contact details for notifying the following:
 - i. NSW Health (human health emergency)
 - ii. Department of Environment and Climate Change (pollution incident and/or environment emergency)
 - iii. Shoalhaven City Council
 - iv. Neighbours/community which may be affected

PART D

CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT

8. ***Building Code of Australia***

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Note: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

9. ***Sewer Management System Construction***

The sewage management system must be constructed in accordance with report entitled *Soil and Site Assessment for Onsite Wastewater Disposal – Development Application For Proposed Commercial Development on 132 Forster Drive, Bawley Point, NSW (Willinga Park)* prepared by Harris Environmental Consulting, dated 14 November 2019.

10. ***Validation & Verification***

A validation and verification period is to be implemented as proposed in *Onsite Sewage Management System - Commissioning and Validation Plan Supporting Documentation For Development Application 132 Forster Drive, Bawley Point, NSW (Willinga Park)* prepared by Harris Environmental Consulting, dated 13 November 2019 and managed as per *Sewage Management Plan for Willinga Park Sewage Treatment Plant (STP) 134 Forster*

Drive, Bawley Point NSW 2539, prepared by BluenGrey, with amendments as required above. The validation period is to be conducted for a continuous 12-week period. The results of the validation sampling are to be forwarded to Council.

11. ***Pump-out***

A pump out point is to be installed on the wet weather storage tank to enable pump out of the effluent and disposal to an approved treatment plant. The septic tank collection well suction pipe shall be a minimum 50mm diameter galvanised iron for a horizontal distance, beneath ground level, for at least 1.0 metre beyond all bends and risers at both the collection well and service ends of the pipe. The service pipe shall be suitably encased in concrete at all bends beneath ground level.

12. ***Disposal of recycled water***

During the verification period all recycled water shall be removed in an approved vehicle and disposed of at an approved wastewater treatment plant for disposal.

13. ***Non-compliant water quality sampling***

Non-compliant water quality sampling results by double the prescriptive value (or 2 pH units above or below) for two consecutive samples will trigger immediate shut-down of the effluent disposal facilities and disposed of at an approved wastewater treatment plant, until the issue is appropriately diagnosed and managed. This requirement must be included in the sewage management plan.

14. ***Contractual Servicing Arrangement***

The applicant must enter into a contractual servicing arrangement with an approved service provider to ensure Onsite Sewage Management System performance for the life of the system.

15. ***Pipes & Fittings***

All pipes and fittings are to be installed as per AS/NZS 1477:2017 and AS 2698.2- 2000. Wastewater pipework from buildings to treatment plant must be cream and pipework from the treatment plant to application areas must be purple

16. The proposed pressure-compensating subsurface irrigation (PCSI) land application system should be installed at depths >150mm within the 'primary' LAA to prevent damage from (Polocrosse) use.

17. ***Decommissioning existing sewage management system***

Any existing onsite sewage management system to be decommissioned must be completed in accordance with NSW Health Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems (AWTS) and other Sewage Management Facilities (SMF).

18. ***Stormwater Diversion***

Stormwater diversion is required to be installed between the proposed pressure-compensating subsurface irrigation (PCSI) land application system and dam.

19. ***Works as executed***

A Works as Executed plan of the work is to be provided to Council at the completion of the work

20. ***Tree Removal***

Trees to be cleared must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.

21. Any hollow-bearing trees must be felled carefully in sections utilising a “cherry picker” or crane if necessary to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna.

22. ***Heritage***

Should any historical relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

23. Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

24. ***Waste Minimisation and Management Plan***

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste must 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 WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Note: “Waste” has the same meaning as the definition of “Waste” in the *Protection of the Environment Operations Act 1997*.

25. ***Work Hours and Noise***

The following must be complied with during demolition and construction works:

- a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am and 5.00pm Monday to Saturday and no construction is to be carried out at any time on a Sunday or public holiday. Proposed changes to hours of construction must be approved by Council in writing; and
- b) The noise from all activities associated with any demolition works and construction of 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 when

the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

PART E

CONDITIONS THAT RELATE TO THE ONGOING MANAGEMENT OF THE APPROVED DEVELOPMENT

26. ***Operation of the system***

The landowner/occupier must ensure the system is operated, maintained and records kept in accordance with the Sewage Management Plan.

27. ***Warning Signs***

Warning signs are to be erected within the land application area in accordance with AS1547:2012 and AS1319:1994.

28. ***Annual Report***

An annual report on the system's performance and compliance is to be submitted to Council.

PART F

STATEMENT OF REASONS

Reasons for Approval

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, notably the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).
2. The proposed development is, subject to the recommended conditions, consistent with the objectives of the Shoalhaven Development Control Plan 2014 (SDCP 2014).
3. The proposed development is considered to be suitable for the site.
4. The proposed development, subject to the recommended conditions will not result in unacceptable adverse impacts on the natural and built environments.
5. Any issues raised in submissions have been considered in the assessment of the application and where appropriate, conditions have been included in the determination.

Conditions of Consent Have Been Imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the *Environmental Planning and Assessment Act, 1979*;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.

2. Ensure that 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.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

PART G

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.

PART H

GENERAL ADVICE TO APPLICANT

Private Use of Public Parking Spaces

If the temporary use of public parking spaces (either on street or off street) for private purposes is proposed to be undertaken during development construction and/or for maintenance purposes, a formal request for use of public parking must be submitted to

Council, in accordance with Council's Policy – "*Private use of public parking, policy No. POL08/408*". Such request must be submitted to Strategic Planning and Infrastructure Group of Council, with the relevant application fee.

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

Trees Located on Public Land

Please note that any works carried out on the subject property or within the road reserve, such as construction of a driveway, that damages or otherwise detrimentally impacts on the health or safety of any tree located on public land may result in the applicant incurring the costs of any remedial action or removal of the tree(s). If you are proposing to carry out any works that may impact on any tree on public land, it is recommended that you contact Council for advice before carrying out those works.

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on

- a) A matter of national environmental significance (NES) matter; or
- b) Commonwealth land

without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act, 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation.

It is the proponent's responsibility to consult the Department of the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application.

The Commonwealth Act may have application and you should obtain advice about this matter.

There are severe penalties for non-compliance with the Commonwealth legislation.

Disability Discrimination Act 1992

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

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

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

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.

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.

Inspections

If Council is the appointed Principal Certifier for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.

SIGNED on behalf of Shoalhaven City Council:



Bryan Netzler
Development Planner
Planning, Environment & Development Group