

Our Reference: DA0189/20 – PPSSTH-11

23 April 2020

Eurobodalla Shire Council
C/- S Phipps
C/- Eurobodalla Shire Council
Vulcan Street
MORUYA NSW 2537

Dear Eurobodalla Shire Council

**Notice to applicant of determination of Development Application No: DA0189/20,
Southern Regional Planning Panel reference No: PPSSTH-11
Proposal: Regional Arts, Aquatic and Leisure Centre and demolition of existing
Address: Part Lot 30 DP 755902, Part Lot 31 DP 755902, Lot 1 DP 1049123, Lot 259 DP 755902,
Lot 2 DP 1049123; 10 Vesper Street BATEMANS BAY NSW 2536, 12 Vesper Street BATEMANS
BAY NSW 2536, Vesper Street BATEMANS BAY NSW 2536**

Council is pleased to advise you that your application has been approved by the Southern Regional Planning Panel on the 23 April 2020 and development consent & relevant plans and documentation for DA0189/20 is attached. The development consent issued under the Environmental Planning and Assessment Act 1979 is subject to conditions. Please ensure that you comply with these conditions when undertaking the development.

Note: A Construction Certificate must be issued before any construction works commence.

Please also note the consent contains information in relation to your appeal and review rights, and the expiry date of the development consent.

We wish you well in undertaking the development and if we can be of any further assistance, please do not hesitate to contact Rebecca Ireland on 4474 7354. We also welcome your feedback in relation to the quality of service that was provided to you during the course of the development process via email to developmentfeedback@esc.nsw.gov.au.

Yours sincerely



Gary Bruce
Divisional Manager Development Services
Encl.

Development Consent

Eurobodalla Shire Council
C/- S Phipps
C/- Eurobodalla Shire Council
Vulcan Street
MORUYA NSW 2537

Application Number: DA0189/20

**Southern Regional Planning
Panel No:** PPSSTH-11

Description of Development: Regional Arts, Aquatic and Leisure Centre and demolition of existing

Subject Land: 10 Vesper Street BATEMANS BAY NSW 2536, 12 Vesper Street BATEMANS BAY NSW 2536, Vesper Street BATEMANS BAY NSW 2536, Part Lot 30 DP 755902, Part Lot 31 DP 755902, Lot 1 DP 1049123, Lot 259 DP 755902, Lot 2 DP 1049123

Date of Determination: 23 April 2020

Date Consent Operates from: 23 April 2020

Date Consent Lapses on: 22 April 2025

This notice of determination of the development application issued under the Environmental Planning & Assessment Act 1979 contains the following conditions for the purposes of ensuring:

- That the proposed development:
 - (a) achieves the objectives 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. [R.01]
- That the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities. [R.02]
- It meets the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Local Government Act. [R.03]
- That the protection of the amenity and character of land adjoining and in the locality of the proposed development. [R.04]
- Any potential adverse environmental, social or economic impacts of the proposed

development is minimised. [R.05]

- That all traffic, car parking and access requirements arising from the development are addressed. [R.06]
- That the development does not conflict with the public interest. [R.07]

GENERAL CONDITIONS

1. **Approved plans**

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA0189/20 Sheet 1 of 18	18076-NBRSDPA-A-DA Revision 1 000 – Cover Page	10 January 2019	NBRS Architecture
DA0189/20 Sheet 2 of 18	18076-NBRSDPA-A-DA Revision 1 001 - Location Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 3 of 18	18076-NBRSDPA-A-DA Revision 1 002 – Site Analysis	10 January 2019	NBRS Architecture
DA0189/20 Sheet 4 of 18	18076-NBRSDPA-A-DA Revision 1 010 – Site Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 5 of 18	18076-NBRSDPA-A-DA Revision 1 011 – Demolition Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 6 of 18	18076-NBRSDPA-A-DA Revision 1 012 – Ground Floor Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 7 of 18	18076-NBRSDPA-A-DA Revision 1 013 – Level 1 Floor Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 8 of 18	18076-NBRSDPA-A-DA Revision 1 014 – Roof Plan	10 January 2019	NBRS Architecture

DA0189/20 Sheet 9 of 18	18076-NBRSDPA-A- DA Revision 1 015 – Future Stages Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 10 of 18	18076-NBRSDPA-A- DA Revision 1 020 – Elevations 1	10 January 2019	NBRS Architecture
DA0189/20 Sheet 11 of 18	18076-NBRSDPA-A- DA Revision 1 021 – Elevations 2	10 January 2019	NBRS Architecture
DA0189/20 Sheet 12 of 18	18076-NBRSDPA-A- DA Revision 1 022 – Elevations 3	10 January 2019	NBRS Architecture
DA0189/20 Sheet 13 of 18	18076-NBRSDPA-A- DA Revision 1 030 – Sections	10 January 2019	NBRS Architecture
DA0189/20 Sheet 14 of 18	18076-NBRSDPA-A- DA Revision 1 050 – External Finishes	10 January 2019	NBRS Architecture
DA0189/20 Sheet 15 of 18	18076-NBRSDPA-A- DA Revision 1 060 – Café/Kitchen Detail Plans & Elevations	10 January 2019	NBRS Architecture
DA0189/20 Sheet 16 of 18	18076-NBRSDPA-A- DA Revision 1 061 – Bar & Kitchenette Detail Plans and Elevations	10 January 2019	NBRS Architecture
DA0189/20 Sheet 17 of 18	18076-NBRSDPA-A- DA Revision B 201 – Carparking Plan	18 December 2019	NBRS Architecture
DA0189/20 Sheet 18 of 18	Preliminary Siteworks & Stormwater Plan	4 February 2020	TTW Taylor, Thomson & Whitting

Council Stamp No.	Document title	Date of document	Prepared by
DA0189/20 Doc 1 of 6	Noise Impact Assessment	30 September 2019	Norman Disney & Young
DA0189/20 Doc 2 of 6	Acid Sulfate Management Plan	Undated	Navigate Planning
DA0189/20 Doc 3 of 6	Landscape Development Application	27/09/2019	NBRS Architecture
DA0189/20 Doc 4 of 6	Aquatic Art & Leisure Centre: Mackay Park, Batemans Bay Flora and Fauna Assessment NBRS Architecture	1/10/2019	Ecological Australia
DA0189/20 Doc 5 of 6	Statement of Environmental Effects Batemans Bay Regional Aquatic Arts and Leisure Centre & Addendum	13/09/2019 & 22/01/2020	Navigate Planning
DA0189/20 Doc 6 of 6	Aboriginal Heritage Due Diligence Assessment Report	October 2018	ngh environmental

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]

2. Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that if fill brought to the site - must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the

Environment Operations Act 1997, and

- (d) that if excavated soil is to be removed from the site - it must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005. [11.16]

3. ***Loading and Unloading***

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times. [15.07]

4. ***Carpark/Road/Public Space Lighting***

All external lighting shall be installed and operated in accordance with the AS/NZ 1158 Lighting for roads and public spaces and AS/NZ 4282:2019.

5. ***Water & Sewer Inspections***

All plumbing and drainage works (water supply, sanitary plumbing and drainage, stormwater drainage and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of any Occupation Certificate.

The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
- (b) Hot and cold water plumbing under pressure test prior to covering;
- (c) Internal stackwork under hydrostatic test prior to covering; and
- (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
- (e) Issue of final satisfactory inspection. [2.16]

6. ***Demolition Standards***

Building demolition works are to be carried out in accordance with AS 2601 (2001) - The Demolition of Structures.

Note: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications. [21.01]

7. ***Discharge of Liquid Trade & Factory Waste***

Liquid trade and factory waste or chemicals or other impurities from any business, trade or manufacturing process other than domestic sewage is not permitted to be discharged into Council's sewerage system without application and approval by Council. The application for approval must be in accordance with Council's Liquid Trade Waste (LTW) Policy. [4.14]

8. ***Food Premises***

The food business operating in the premises shall submit a Notification of a Food Business (available on the Council website) to Council by prior to occupation.

9. ***Design of Food Premises***

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Food Standards Australia New Zealand (FSANZ) and AS4674-2004 "Design, Construction and Fit-out of Food Premises". Prior to the issue of a Construction Certificate, plans and specifications showing compliance with the above which include details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, cool-room and storage areas, shall be submitted to and approved by the Certifying Authority. These plans are to provide the location of the hand wash basin for the ice cream server.

10. ***NSW Rural Fire Service Recommend Conditions
Emergency Management Planning***

Intent of measures is to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

- (a) A Bush Fire Emergency Management and Evacuation Plan shall be prepared in accordance with Table 6.4d of 'Planning for Bushfire Protection 2018'.

Access

Intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.

- (b) Access is to comply with Table 6.4b of 'Planning for Bushfire Protection 2018'.

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- (c) At the commencement of building works, and in perpetuity, the area around the building shall be managed as outlined within Table 6.4a and Appendix 4 of 'Planning for Bush Fire Protection 2018' and the NSW Rural Fire Service's document 'Standards for asset protection zones' as follows:
- North and East Directions: To the property boundary as an Inner Protection Area (IPA);
 - South Direction: IPA for a minimum distance of 23 metres; and
 - West Direction: IPA for a minimum distance of 39 metres.

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (d) New construction must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section 7.5.1.1 of Planning for Bush Fire Protection 2018.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- (e) The provision of water, electricity and gas shall comply with Table 6.4c of 'Planning for Bush Fire Protection 2018'.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

- (f) All landscaping within the site shall comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection, 2018'.

11. Department of Planning, Industry and Environment - Aboriginal Cultural Heritage Conditions

- I. If the area of low to moderate archaeological potential (below the imported fill) is going to be impacted, subsurface testing should be conducted within the area of impact to determine the nature of the subsurface deposits. Subsurface testing must be completed in accordance with OEH Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW.
- II. The natural banks of the estuarine swamp flats and marshlands should be avoided by the proposed works to prevent any inadvertent disturbances to subsurface Aboriginal objects.
- III. If Aboriginal objects are identified and harm to those objects cannot be avoided, an Aboriginal Heritage Impact Permit (AHIP) is required. This will require a full Aboriginal cultural heritage assessment including archaeological survey and Aboriginal community consultation in accordance with the Department guidelines. All Aboriginal objects must be reported to AHIMS under s.89A of the Act.
- IV. If Aboriginal objects are identified during construction, work must stop immediately, and the Department must be contacted by calling 131 555. If human skeletal remains are discovered, work must stop, and both the NSW Police and the Department must be called.
- V. The recommendations as outlined in the Aboriginal Heritage Due Diligence Assessment Report, page 17 stamped approved DA0189/20 Doc 6 of 6, dated October 2018 shall be implemented during construction and for the life of the development.

12. Noise Management

The recommendations as outlined in the Norman, Disney & Young Acoustics Report page 26 of 31 stamped approved DA0189/20 Doc 1 of 6 shall be implemented during construction and for the life of the development.

13. NSW Roads and Maritime Recommended Conditions

Prior to commencing works within the road reserve, the developer must:

- (a) Obtain Section 138 consent under the Roads Act, 1993 for the works associated with the WAD.

Notes:

- TfNSW will be exercising its powers under Section 64 of the Roads Act, 1993 to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.
- (b) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a State road or any

other works that impact a travel lane of a State road or impact the operation of traffic signals on any road.

Notes:

- For information on the ROL process and to lodge an ROL application, please visit <https://lmyrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

14. ***Department of Primary Industries - Fisheries and Batemans Marine Park - General Conditions of Consent***

- (a) Any revegetation within the riparian buffer area and adjacent to the carpark to be revegetated with River Red Gums and other native species endemic to this site and the locality.
- (b) The bund created for stormwater control must not encroach into the adjoining Coastal Wetland zone, and its bank is to be treated to reduce sedimentation impacts to the wetland.
- (c) Prior to works commencing for construction (excluding demolition), a copy of the Construction and Environmental Management Plan is to be submitted to the Batemans Bay Marine Parks for comment.
- (d) The stormwater treatment facility is to be maintained in accordance with the manufacturer's specifications over the life of the proposal.
- (e) All actions in the Acid Sulphate Soil Management Plan are to be undertaken by a suitably qualified and/or experienced person and includes:
 - (i) Briefing contractors and workers on site regarding the Acid Sulphate Spoil Treatment Plan;
 - (ii) Identifying any excavated Acid Sulphate Soil (ASS) or Potential Acid Sulphate Soil (PASS); and
 - (iii) Supervising the treatment and storage of ASS and PASS.

15. ***Crime Prevention and Security Management Plan***

A Crime Prevention and Security Management Plan is to be prepared, in consultation with the NSW Police, and submitted to the Council for approval. The measures contained in the plan shall be implemented prior to the issue of the Occupation Certificate.

The plan is to be prepared by a suitably qualified person and shall address, but not be limited to, the recommendations of the NSW Police submission, in particular:

- Closed Circuit Television system
- Alarm system
- Landscaping
- Lighting

- After-hours access
- Pathways
- Signage

16. ***Ecological Management***

The following recommendations shall be implemented as outlined in the Ecological Australia Report, pages 20 and 21, dated 1 October 2019 stamped approved DA0189/20 Doc 4 of 6.

Vegetation and habitat management

- All vegetation to be retained should be appropriately protected during the construction phase of the proposal. This should involve the erection, prior to the commencement of construction, of temporary flagging to identify the limits of clearing and to protect vegetation to be retained.
- Trees to be removed should be felled so as to fall away from other trees and vegetation, in order to minimise further disturbance to remnant native vegetation.
- The proposed development should be designed to avoid any direct or indirect impacts on the Coastal Wetland within and adjoining the subject land.
- The proposed development should be designed to showcase the remnant native vegetation on the subject land.
- The proposed development should include weed control actions to eradicate the weed infestations that currently occur within the remnant native vegetation on the subject land. These actions should use low impact bush regeneration methods.

Landscaping

- The landscaping to the proposed development should showcase, if possible, the remnant Forest Red Gum trees on the subject land.
- The landscaping for the proposed development should use plants that are native to the Batemans Bay area and avoid the use of exotic and/or known or potentially invasive species.
- The landscaping for the proposed development should be designed so as to avoid species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a bushfire danger period.
- Any landscaping or plantings should be located far enough away from the buildings so that they will not ignite the building by direct flame contact or radiant heat emission.
- Any landscaping or plantings should preferably be low flammability species.

Water and Sediment Management

- Appropriate sediment control measures should be implemented prior to any construction works and should be retained in place until exposed areas of soil are stabilised and/or revegetated.
- Works should not be scheduled when heavy rainfall is forecast.

- Works involving soil disturbance should not take place during heavy rainfall periods, other than work necessary to stabilise the site.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

17. Long Service Levy

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more. [2.03]

18. Water Meter - Commercial Development

Prior to issue of a Construction Certificate, submission to Council of certification and a layout plan for the service by a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2018 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose reels.

Note: All fire hose reels must be supplied through the metered supply.

Council will provide a quote to construct the water service complete with meter with prepayment required prior to works being scheduled. The meter is to be located so as to be accessible to Council's Water Meter Reader at all times. Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken at full cost to the applicant.

Note: A backflow prevention device is to be installed and certified by a private plumber in accordance with Council's Backflow Prevention policy.

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed). Please contact Council's Water and Sewerage Project Engineer on 44741342 to arrange the quote and prepayment will be required to be receipted at Council Administration Centre at Vulcan Street Moruya, the Batemans Bay or Narooma depot. [5.05a]

19. Ocean/Flood

Prior to issue of a Construction Certificate the applicant is to submit for the approval if the Certifying Authority, revised plans prepared by a suitably qualified and experienced structural/civil engineer that demonstrate that the building is designed to a flood planning level of 3.13m AHD. The revised plans are required to be consistent with the approved design and demonstrate that the development will be capable of withstanding the impact of the flood/ocean hazard applicable to the location, including the wave run-up as identified in Council's Eurobodalla Coastal Hazard Assessment 2017.

PRIOR TO COMMENCEMENT OF WORKS

20. Construction Management Plan

Prior to commencement of works, a Construction Management Plan is to be submitted to the Certifying Authority. The plan is to be prepared by a suitably qualified person and shall address, but not be limited to, the following matters:

- (a) hours of work;

- (b) contact details of site manager;
- (c) arrangements for site deliveries and removal of material from site;
- (d) details of hoardings;
- (e) details of demolition works and the presence of any asbestos or other hazardous waste;
- (f) traffic and/or pedestrian control measures;
- (g) dust control measures;
- (h) noise control measures;
- (i) screening from adjoining properties;
- (j) environmental management (sediment and erosion, groundwater, etc.).

21. ***Acid Sulfate Soil Management Plan***

Prior to works commencing, an Acid Sulphate Soils Management Plan is to be submitted to the Certifying Authority. The management plan is to be certified by a suitably qualified and experienced consultant for compliance with the NSW Acid Sulfates Soil Manual (1998), refer to <<https://epa.nsw.epa.gov.au>>.

22. ***Erosion Control Plan***

Designs for sedimentation and erosion control by a qualified practising engineer are to be submitted to the Accredited Certifier prior to works commencing. All requirements of the approved plan are to be implemented on-site. The erosion control plan is to be prepared in accordance with "Managing Urban Stormwater: Soils and Construction - Volume 1, Landcom 2004". [11.01]

23. ***Waste Management Plan***

A Waste Management Plan shall be submitted to and approved by Council, prior to demolition works commencing. The Plan shall address, but not be limited to, the following matters:

- (a) details of demolition works and the presence of any asbestos or other hazardous waste;
- (b) details of waste to be generated by the work;
- (c) arrangements for removal of waste material from site;
- (d) destination of waste materials being removed from the site.

24. ***Stormwater Network***

Submission to and approval by Council, prior to works commencing, of plans for the stormwater network traversing the site and servicing the development. Plans are to be prepared by a suitably qualified engineer in accordance with Council's Infrastructure Design Standard & generally in accordance with the Preliminary Stormwater Concept prepared by TTW Taylor, Thomson & Whitting, dated 4 February 2020. The design is to demonstrate the capacity of the receiving network at the north western corner is capable of servicing development discharge or propose upgrade to network as required. The stormwater treatment in the north western corner of the development is to be located outside of the road pavement area.

25. ***Stormwater Quality***

Submission to and approval by Council, prior to works commencing, of stormwater design plans that are certified by a suitably qualified engineer that demonstrate any stormwater leaving the site complies with the water quality benchmarks for the Batemans Marine Park as expressed in the NSW Water Quality Objectives that accord with the ANZECC 200 Guidelines for Water Quality (Info available at OEH website -

www.environment.nsw.gov.au/ieo/Clyde/index.htm

<<http://www.environment.nsw.gov.au/ieo/Clyde/index.htm>>). Design is to minimise the Council's ongoing maintenance requirements of the components within the stormwater treatment train. The stormwater treatment in the north western corner of the development is to be relocated outside of the road pavement area.

26. **Construction in a Road Reserve**

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL) is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. rol_southern@rta.nsw.gov.au Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from
<http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf>
Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued. [14.09]

27. **Construction Certificate**

The construction works subject of this development consent MUST NOT be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by:
 - (i) the Council, or
 - (ii) an accredited certifier, and
- (b) The person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority, and
 - (ii) has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builders name and licence number has been supplied to Council or the Principal Certifying Authority; and
- (e) Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifying Authority; or
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifying Authority; and

(g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifying Authority for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed. [2.06]

28. **NSW RMS Condition**

Prior to any works involving the southern road access, the developer must:

- (a) Enter into a Works Authorisation Deed (WAD) with the TfNSW for all works on Vesper Street.

Notes:

- A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals.
- To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au.
- All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website at: www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html
- Any new services or modifications to existing services associated with this development application that involve works on, over or under Vesper Street (as defined the area from kerb to kerb) must be incorporated into, and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to TfNSW project manager.
- More information on WADs can be found at:

www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf

- (b) Demonstrate to the satisfaction of Council the post development storm water discharge from the subject site, if going into the Vesper Street drainage system, does not exceed the pre-development application discharge.

29. **Site Contamination Assessment**

Prior to works commencing, a Stage 2 detailed site investigation in accordance with the NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land is to be completed once demolition of the existing structures has occurred to the satisfaction of Council.

DURING CONSTRUCTION

30. **Remediation & Validation Report**

Following demolition of the existing structures and should remediation be required in accordance with the findings of Condition 28, a Remediation Validation Report is to be prepared by a suitably qualified Environmental Consultant. This report, pursuant to Clause 17(2) and Clause 18 of State Environmental Planning Policy 55, is to be submitted to the satisfaction of Council prior to commencement of the new building construction and must stipulate that the land is suitable for its intended use.

31. ***Spoil Removal***

No spoil to be deposited on public roads during the cartage of materials from or to the site. The deposition spoil shall cease, as directed by Council, if the Council determines that excessive deposition of spoil onto the road is taking place. [11.12]

32. ***Excess Fill***

Any excess clean fill (inert clean waste) removed from the site is to be taken to either:

- (a) a public waste disposal facility or
- (b) a site approved by Council.

If option (b) is to be used the persons enacting this consent are to advise Council, in writing, of the chosen site and are not to commence any dumping until written approval is granted.

Note: Council may carry out random inspections and take photographic records to ensure the integrity of the fill. [11.14]

33. ***Construction Works Inspection***

Council is to be notified two (2) days prior to commencement of any works for parking and access construction within the footpath or road reserve (Telephone [02] 44741393) to make arrangements for inspection. [14.08]

34. ***Commercial/Industrial Construction Hours - NOISE***

Construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and between 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays.

Work may be carried out outside of the above standard hours for construction if the work only generates noise that is:

- (a) no louder than 5dB(A) above the rating background level at any residence in accordance with the Interim Construction Noise Guidelines (ISBN 9781742322179) published by the NSW Dept of Environment and Climate Change, July 2009.
- (b) no louder than the noise management levels specified in Table 3 of the Guideline at other sensitive receivers. [20.01a]

35. ***Floor Level***

The minimum floor level of the development shall be at or above 3.13m AHD. This level is to be certified by registered Surveyor prior to the structure proceeding past the nominated level. [7.09]

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

36. ***Section 7.11 Contributions***

Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Waste Facilities: Gym – calculated on 21m² per person of Commercial Floor Area Per m² & \$2.50 for the 2019/20 financial year.

The above contribution will be subject to final design and is to be paid prior to any Occupation, and will be payable at the rate applicable at the time of payment.

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.

The plan can be viewed on Council's website at

<http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf> [3.07]

37. Sealed Traffic Areas

Prior to any Occupation submission to and approval by Council of engineering plans for sealed car parking spaces for 200 spaces, dimensions, manoeuvring areas and access driveway & road, all conforming to AS/NZS2890.1:2004 & AS2890.2:2018. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements. Disabled parking is to be designed in accordance with AS/NZS2890.6:200. Works are to be completed prior to release of any Occupation Certificate.

38. Eurobodalla Shire Council Local Traffic Committee - recommended conditions of consent

- (a) Prior to any Occupation, a detailed design of the roundabout intersection is to be approved by Council. The design is to comply with AUSTROADS and Australian Standards for a 19m articulated vehicle.

Note: consideration is to be given to the road/intersection layout for access to the development from the western section of Beach Road to allow orderly development of the future precinct.

- (b) Prior to any Occupation, a detailed design of the shared pathway on the southern side of Beach Road to the appropriate width is provided, to comply with AUSTROADS and Australian Standards and approved by Council.

Note: Consideration to be given to a pedestrian crossing point from the shared path on the southern side of Beach Road to Mackay Park. The shared path leading into the development on Beach Road needs to accommodate for high volume frequent use and allow sufficient separation from vehicles. Refer Austroads Guide to Road Design Part 6a - Paths for Walking and Cycling Section 2.4 Figure 2.3 and Table 5.3.

- (c) Prior to any Occupation, a detailed design of the accessible parking and related safe and practical pathway link to the building is provided, to comply with Australian Standards and approved by Council.

Note: Consideration is to be given to traffic calming devices such as road humps throughout the site. Particularly relevant at times when peak flows are encountered through to all facilities within the precinct.

All works are to be completed prior to any Occupation.

39. Occupation Certificate

The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority. [2.14]

40. **Land Consolidation**
Consolidation of the land into one lot is required. Plan of consolidation to be registered with the Land and Property Information NSW prior to issue of any Occupation Certificate. [3.15]
41. **Stormwater Work as Executed Plans**
Prior to issue of any Occupation Certificate stormwater construction is to conform to the approved plans. A Works as Executed plan of the work is to be provided to and approved by Council at the completion of the work. [6.06]
42. **Fire Safety Certificate**
A Fire Safety Certificate shall be furnished to the Accredited Certifier for all the "Essential Fire or Other Safety Measures" forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the Accredited Certifier prior to issue of an Occupation Certificate. [8.01]
43. **Annual Fire Safety Statement**
- (a) A final Fire Safety Certificate shall state that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the Certificate relates:
 - (i) has been assessed by a properly qualified person; and
 - (ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the Certificate is issued.
 - (b) The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.
 - (c) The choice of person to carry out the assessment is up to the owner of the building.
 - (d) The person who carries out the assessment:
 - (i) must inspect and verify the performance of each fire safety measure being assessed; and
 - (ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.
 - (e) As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates:
 - (i) must cause a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be given to the Commissioner of New South Wales Fire Brigades; and
 - (ii) must cause a further copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be prominently displayed in the building. [8.02]
44. **NSW RMS Condition**
Upgrade the junction of the access and Vesper Street to the Aquatic centre to the satisfaction of TfNSW.
- Notes:
- The pavement design on Vesper Street must be in accordance with Austroads standards.
 - Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.

- All works need to be completed at no cost to TfNSW

45. ***Flood Action Plan***

Prior to any Occupation, a site-specific Flood Action Plan, prepared by a suitably qualified engineer is to be submitted to the Certifying Authority. Evidence of implementation of the Flood Action Plan is necessary prior to the occupation of/or commencement of operations. The Flood Action Plan is to include an Emergency Plan available from the NSW State Emergency Service (SES) Website <<http://www.sesemergencyplan.com.au/>>. The site-specific Flood Action Plan is to include but not be limited to:

- Property Address
- Local Emergency Contact Numbers
- Local Radio Stations for Emergency Warnings
- Bureau of Meteorology Website for Emergency Warnings
- Flood Warnings and Approximate Site Levels for occupants to determine flood severity.
- Evacuation Procedures
- Evacuation Map
- Location of SES Emergency Plan
- Location and Contents of Emergency Kit as per SES Emergency Plan.

46. ***Landscaping***

Prior to issue of any Occupation Certificate, a landscape plan is to be approved by Council generally accordance with stamped approved DA0189/20 Doc 3 of 6 'Landscape Development Application'.

ADVISORY NOTES

Essential Energy - General Conditions of Consent

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
- Essential Energy has existing overhead powerlines located along Vesper Street. Any landscaping or planting of trees along this boundary must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- Any driveway access and/or exit (concrete crossovers) into the properties (including the car park) must remain at least three (3) metres away from any electricity infrastructure (power pole/s) at all times to prevent accidental damage.
- Minimum safety clearance requirements must be maintained at all times for any proposed driveway access and/or exit (concrete crossovers), as such driveways will pass under Essential Energy's existing overhead powerlines, located on the Vesper Street frontage of the properties. Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- Satisfactory arrangements must be made with Essential Energy for the provision of power to all proposed improvements. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions. Essential Energy's

internal records do not indicate electrical infrastructure at the oval, however, this may be because the infrastructure is privately owned. The Applicant will also need to be aware of this infrastructure.

(g) In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity to the properties. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

(h) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

(i) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au <<https://protect-au.mimecast.com/s/1Dk4CwVLBNFKNjZTqDhek?domain=safework.nsw.gov.au>>) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.

Discovery of a Relic

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

NCC/BCA Compliance

This Development Application has been subject to a merit-based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA. [2.23]

Flooding Liability

The land may be subject to flooding and the development has been assessed using best available information concerning the likelihood of flooding at the date of determination. If the land is flooded Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.10]

Sea Level Rise Liability

This land may be subject to sea level rise and this development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (such as sewer, water, stormwater and roads) may also be subject to sea level rise. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise in the future.

If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.13]

ADVICE - RIGHTS of REVIEW and APPEAL

Under Section 82A of the Environmental Planning and Assessment Act, 1979 (the Act) an applicant may request the Council to review its determination except where it relates to a designated development or integrated development application. The request must be made within six (6) months of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.

Section 97 of the Act provides the applicant who is dissatisfied with the determination with opportunity to appeal to the Land and Environment Court within six (6) months of the date of determination.

ADVICE – LAPSING of CONSENT

In accordance with Section 95 of the Act, a development consent for the use of land, the erection of a building, or the carrying out of works does not lapse if the building, or work or the use is physically commenced on the land to which the consent applies before the lapse date.

Signed on behalf of **Southern Regional Planning Panel:**

23 April 2020



Rebecca Ireland

Senior Development Assessment Planner