

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
RA22/1001

TO:

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

being the applicant(s) for RA22/1001 relating to:

192 Kerry St, SANCTUARY POINT - Lot 944 DP 27857
194 Kerry St, SANCTUARY POINT - Lot 945 DP 27857
196 Kerry St, SANCTUARY POINT - Lot 946 DP 27857
198 Kerry St, SANCTUARY POINT - Lot 947 DP 27857
Paradise Beach Rd, SANCTUARY POINT - Lot 3 DP 806393
Kerry Street, SANCTUARY POINT - Lot 4 DP 806393

APPROVED USE AND OR DEVELOPMENT:

Demolition of existing structures, tree removal, construction and use of a public library (community facility) and associated car parking spaces, landscaping and public open space

DETERMINATION DATE:

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:

CONSENT TO LAPSE ON:

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: GENERAL CONDITIONS

1. General

The consent relates to **Demolition of existing structures, tree removal, construction and use of a public library (community facility) and associated car parking spaces, landscaping and public open space** as documented on the stamped plans/documentation, 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 stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped Plans/Documents	Ref/Sheet No.	Prepared by	Dated
Demolition Sheet 1 Plan	Drawing No. DA02	Brewster Architects Hjorth	20/02/2023 (Revision F)
Demolition Sheet 2 Plan	Drawing No. DA03	Brewster Architects Hjorth	20/02/2023 (Revision D)
Site and Roof Plan (Option 1b)	Drawing No. DA04	Brewster Architects Hjorth	20/02/2023 (Revision J)
Ground Floor Level 1 Plan	Drawing No. DA05	Brewster Architects Hjorth	16/06/2022 (Revision I)
Upper Floor Level 2 Plan	Drawing No. DA06	Brewster Architects Hjorth	09/12/2021 (Revision G)
Elevations Sheet 1	Drawing No. DA07	Brewster Architects Hjorth	03/02/2022 (Revision B)
Elevations Sheet 2	Drawing No. DA08	Brewster Architects Hjorth	03/02/2022 (Revision B)
Sections	Drawing No. DA09	Brewster Architects Hjorth	03/02/2022 (Revision D)
Landscape Concept Plan	Drawing No. 02	Taylor Brammer Landscape Architects	19/11/2021
Stormwater Drainage Plan	Drawing No. 20606/C21	Westlake Punnett	23/02/2023 (Revision H)
Arboricultural Report & Tree Protection Specification	-	Moore Trees Arboricultural Services	23/02/2023

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 2 Subdivision 1, Environmental Planning and Assessment Regulation 2021, 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.

An application for a Certificate of Compliance is to be made once the Development Consent has been granted.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

5. Construction Certificate

A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

6. Appointment of Principal Certifier

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

7. 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](#)'

8. 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*.

9. 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 works.
- 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.

10. Construction Traffic Management Plan

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.

Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- g) Loading / unloading areas
- h) Requirements for construction or work zones
- i) Pedestrian and cyclist safety
- j) Speed zone restrictions.

11. Run-off and Erosion Controls

Prior to the commencement of site works, run-off 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 run-off 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.

Note: all implemented measures must not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).

12. 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 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 0.9 metres 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.

Note: A dilapidation report can comprise of video footage and photos of adjacent public infrastructure and relevant structures on adjoining properties.

13. Shoalhaven Water – Prior to the Commencement of Any Works

Prior to the Commencement of any works, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading “Prior to the Commencement of Any Works” must be complied with. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

14. Public Safety and Protection of Public Property - Hoarding

Prior to the commencement of works a Class 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.

15. Private Use of Public Parking Spaces

Prior to the commencement of works, any temporary use of on-street or off-street public parking spaces during construction is to be approved by Council in accordance with Council's Policy – “Private use of public parking”. The [application form](#) is available on Council's website. Fees apply.

16. Tree Management

Prior to the commencement of works, all trees to remain on the site and surrounding the work zone must be identified, managed and protected by the installation of Tree Protection Zones as per the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

These trees are to be identified, monitored including the installation of Tree Protection Zones by an independent consulting arborist AQF Level 5 prior to the commencement of works and throughout the construction period up to the issue of the Occupation Certificate.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

17. 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.

18. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2022](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

19. Design Standards – Works Within Road Reserve

Prior to the issue of a Construction Certificate, all civil and landscaping works proposed within road reserves must be approved by Council.

20. Existing Infrastructure

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

21. Soil and Water Management Plans (SWMP)

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) 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.

22. Streetscape Works

All required streetscape works for the development along the Kerry Street and Paradise Beach Road frontages are to be provided in accordance with the *Streetscape Technical Manual* as required by Chapter G18, Shoalhaven Development Control Plan 2014. Crime Prevention Through Environmental Design (CPTED) principles are also to be considered in the provision of these works.

Details of this must be shown on the engineering plans and submitted to Council for approval prior to the issue of a Construction Certificate.

23. Road Design Standards (Urban) – Development

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a suitably qualified engineer or surveyor and approved by Council. The road design must comply with the following:

- a) Councils Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.
- b) AUSTROADS Design Requirements and Specifications.
- c) Relevant Australian Standards.
- d) The existing raised threshold on Kerry Street is to be located a minimum 6 metres away from the proposed driveway either by relocating the threshold or relocating the driveway, or
- e) The existing raised threshold on Kerry Street is to be extended further south along Kerry Street and into the site to provide a raised intersection treatment and incorporate any associated drainage requirements. The design is to be generally in accordance with the existing raised threshold design.

24. Access Driveway Design Standards - Urban

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The access driveway and footpath crossing design must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 150mm compacted road base with centrally placed slab of minimum 150mm depth.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

25. Cycleway and Footpath Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The footpath design must comply with the following:

- a) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) The locations shown on the approved architectural and engineering plans.

- c) All paths to be a minimum 1.2 metres and constructed of concrete, unless otherwise approved by Council to provide improvement of amenity.
- d) All relevant Australian Standards.

26. **Car Parking Design Standards**

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and access design must comply with the following:

- a) Australian Standard AS2890 where relevant.
- b) The approved architectural and engineering plans.
- c) A minimum number of 111 spaces must be provided onsite.
- d) Constructed in accordance with the following:
 - i) with a concrete pavement designed and constructed for a minimum traffic loading of 1 x 10⁶ ESA, or
 - ii) with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1 x 10⁶ ESA.
- e) Bordered in accordance with Council's Standard Drawings by:
 - i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.

27. **Design Standards – Traffic Committee Referral**

Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

Note: This process can take six to eight weeks.

28. **Amended Landscape Design Plans**

Prior to the issue of a Construction Certificate, amended landscaping design plans and specifications must be prepared by a suitably qualified person and approved by Council's Director of City Development or delegate.

The landscape design plans must:

- a) Include details of replacement trees:
 - i) at a ratio of 2:1.
 - ii) with a potential mature height of 15m.
 - iii) with a minimum size of 45 litre containers.
- a) Update the types of shrubbery/trees planted around the perimeter of the facility. Plantings of larger trees that may be climbed to provide access to inside the perimeter should not be used. Plantings that do not impede sightlines within the facility should be considered.

29. Lighting Design - Internal Driveway and Carparking

Prior to the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and car parking area in accordance with *AS/NZS 1158.3.1 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*.

30. Noise

Prior to the issue of a Construction Certificate, to minimise noise transmission and impact, the design is to ensure all glazing along the facades of the building is fitted with minimum 6.38mm laminate glazing, with both glass and frame to achieve a minimum Rw rating of 31.

31. Noise Management

Prior to the issue of a Construction Certificate, a detailed acoustic review of mechanical plant is required to determine if acoustic treatment is required to ensure noise emissions do not impact nearby sensitive receivers.

32. Asset Relocation – Endeavour Energy

Prior to the issue of a Construction Certificate, an application will need to be submitted to Endeavour Energy for an asset relocation / removal to determine possible solutions to the developer's requirements.

33. Network Connection – Endeavour Energy

Prior to the issue of a Construction Certificate, an appropriate application will need to be submitted to Endeavour Energy based on the maximum demand for electricity for connection of load.

34. Stormwater Drainage Design Standards (Urban)

Prior to the issue of a Construction Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 10% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with the concept stormwater drainage plan by Westlake Punnett (Drawing No. 20606/C21, Revision H, dated 23/02/2023).
- d) Where a pipe drains a public road or carpark through land adjoining the road, the pipe is to be designed to cater for the 1% AEP event with an overland flow path to provide for bypass/surcharge in the event of the pipe or pit inlet being 50% blocked.
- e) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:

- i) existing drainage systems through lots draining public roads are to be upgraded where necessary to contain flows in accordance with Council's Engineering Design Specifications - Section D5.04.
 - ii) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- f) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

35. WSUD Measures – Water Quality, Retention and Reuse

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website.

The Integrated Water Cycle Management Strategy must be updated to ensure that stormwater treatment, retention and reuse design must comply with the following:

- a) The concept stormwater drainage plan by Westlake Punnett (Drawing No. 20606/C21, Revision H, dated 23/02/2023).
- b) The stormwater treatment train must comprise of a gross pollutant trap for each sub-catchment.
- c) The GPT design is to include a design compliance statement from the manufacturer ensuring that the GPT has been sufficiently designed for the site.
- d) The GPT is to be sized to include a sump capacity sufficient to hold 12 months of expected sediment and gross pollutants from the contributing catchment.
- e) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than 10mm for increases in all impervious surfaces compared to the pre-development condition.

36. Water Sensitive Urban Design Operation and Maintenance Manual

Adopted WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to Council prior to issue of the Construction Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the objectives and criteria identified in the approved Integrated Water Cycle Management Plan.

37. Water Sensitive Urban Design Checklists

Compliance checklists are to be prepared by the WSUD Designers and submitted to Council prior to issue of the relevant Construction Certificate. The checklists must incorporate all checks and certifications that are required to be carried out during the civil construction phase, asset protection phase, landscape practical completion phase and final compliance inspection prior to final handover.

38. Retaining Walls - Design

Prior to the issue of a Construction Certificate for approved retaining walls exceeding 0.6m in height above ground level (existing) and/or within 1m of a property boundary, detailed design plans must

be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

- a) For retaining walls exceeding 0.6m in height above natural ground level (existing) a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- b) For retaining walls less than 0.6m in height above natural ground level (existing) the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load.
- c) Retaining walls, footings and drainage must be contained wholly within the development site.
- d) Construction within a registered easement is prohibited.

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

39. Waste Management Plan

Prior to the issue of a Construction Certificate a Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by the Certifier prior to demolition works commencing.

40. Hydraulic Engineering Details for Water, Sewer & Drainage

Prior to the issue of a Construction Certificate, an approval to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993. The application is to include hydraulic designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and stormwater drainage for the development. The hydraulic detail must reference, without limitation, the following:

- a) The relevant National Construction Code such as - NCC 2019 Volume 1, 2 & 3 (as relevant) Amendment 1;
- b) Relevant Australian Standard/s and correct standard years;
- c) Must also reference the relevant AS 1170 suit of standards.
- d) List Signatory Qualification and Accreditation details;
- e) Must be National Engineers Register (NER) or NSW Fair Trading Registered Engineer
- f) The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm discharge pit connected to an approval disposal point to enable the line to be flushed. This is to prevent the line becoming blocked.

41. Crime Prevention

The following crime prevention measures are to be shown on the construction plans submitted with the Construction Certificate:

- a) Lighting: All entrances, corridors and staircases are to be well illuminated to the relevant Australian Standards.

- b) Lighting public areas: Suitable lighting to Australian Standards is to be installed around the perimeter of the development including walkways to the carpark and including the carpark. Consideration should be given to security lighting such as movement activated sensor lighting.
 - c) Closed Circuit Television: A closed-circuit television (CCTV) system is to be installed on the premises in accordance with the following requirements:
 - i) The system must record continuously at all times,
 - ii) Recordings must be in digital format and at a minimum of six (6) frames per second,
 - iii) Any recorded image must specify the time and date of the recorded image,
 - iv) The systems cameras must cover the following areas of the site:
 - (a) All entry and exit points on the premises,
 - (b) The car park area and,
 - (c) All public accessible areas (other than toilets) within the premises.
 - v) The system should also:
 - iii) Keep all recordings made by the CCTV system for at least 30 days,
 - iv) Provide any recordings made by the system to a police officer within 24 hours of any request by a Police Officer to provide such recordings.
- Note: Lighting must not, when activated, reduce the quality of the CCTV recording (for example, light shining into the camera).
- d) Graffiti: Graffiti resistant materials or treatments are to be used in outdoor areas of the building, including retaining walls.

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

NIL

PART F: DURING WORKS

42. 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.

43. 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.

44. Vehicle Access to Rear of 204 and 206 Kerry Street

During the construction period, the development is to maintain vehicle access to the rear of the adjacent properties at 204 and 206 Kerry Street, Sanctuary Point, unless otherwise agreed to in writing to affected owners. An agreement is to be provided to Council in writing a minimum of two days prior to access being closed.

45. CCTV Inspection of Stormwater Pipes

Prior to the completion of works, all stormwater pipes within road reserves, public carparks and within drainage easements intended to be dedicated to Council must be inspected by CCTV and submitted to Council for approval. The CCTV must be carried out in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia Version 3.1 after all earthworks and adjacent road pavement works have been completed.

Damaged pipes must either be replaced or repaired to the satisfaction of Council prior to the issue of an Occupation Certificate.

46. Redundant Driveways and Crossings

Prior to the completion of works in the road reserve, all redundant vehicle crossings and lay backs rendered unnecessary by this development must be reconstructed to match the existing kerb and gutter. The verge must be appropriately graded, top soiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

47. 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).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

48. 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).
- c) In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

49. 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).

50. 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.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved soil water management measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) 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

51. 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).

52. Lot Consolidation

Prior to the issue of an Occupation Certificate, a plan of consolidation consolidating Lots 944, 945, 946 and 947 of DP 27857 is to be registered as a deposited plan with NSW Land Registry Services. A copy of the registered plan of consolidation must be provided to the Certifier.

53. Works as Executed Plans

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works
- c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
- d) Show the extent, depth and final levels of filling.
- e) Show any retaining walls including footings and agricultural drainage lines.
- f) Show the location of all underground service conduits.
- g) Include all deviations from the approved Civil Engineering Plans.

54. Works in the Road Reserve - Evidence of Completion

Prior to the issue of a full 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*.

55. Works as Executed – Stormwater Drainage

Works as Executed Plans and certification must be submitted to the Council by a registered surveyor & professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.

The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations and sizes of all pipelines.

Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a professional engineer (as defined in the National Construction Code).

56. Maintenance Period of WSUD Devices

The developer is responsible for all maintenance of the stormwater infrastructure; including trash racks, GPT devices, sediment basins / forebays, constructed wetlands, bioretention basins, water quality ponds, infiltration basins, swales etc for a period of 3 years up until Council's acceptance that the WSUD devices and associated stormwater assets are of a satisfactory condition at the end of the 3 year maintenance period.

Approaching hand over at the conclusion of the 3-year maintenance period, a site meeting with Council must be arranged by the developer. The objective of the meeting will be to identify any outstanding actions that require rectification by the developer before asset hand over. Annual reports documenting implementation measures and containing all monitoring results are to be submitted to Council during this phase.

57. Handover of WSUD Assets to Council

The following conditions are required to be met for WSUD devices to be handed over to Council.

- a) The WSUD infrastructure has been designed and constructed in accordance with Council guidelines, the approved design drawings, and specifications.

- b) All WSUD infrastructure has been maintained in accordance with the approved WSUD Operation and Maintenance Manual. This includes but is not limited to, the removal of all sediment and litter from trash racks / GPT devices, removal of any weeds and reinstatement of any dead or unhealthy plants.
- c) Any accumulated sediment has been removed to the as-built invert levels of sediment basins/forebays, constructed wetlands / water quality ponds and lakes.
- d) For bioretention and infiltration basins, an infiltration test has been undertaken to validate the saturated hydraulic conductivity is in accordance with the approved design. The infiltration test must be observed by Council's Development Engineering Coordinator or delegate.
- e) Any identified defects have been rectified to the satisfaction of Council at the developers cost.
- f) Work as executed (WAE) drawings have been provided to and accepted by Council.

58. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

59. Fire Safety

Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire & Rescue NSW by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates—

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

60. Retaining Walls – Certification

Prior to the issue of a full Occupation Certificate, the Certifier must be satisfied that all retaining walls have been constructed in accordance with the relevant retaining wall plans and specifications, and in accordance with the requirements of any other conditions of this consent.

Note: This condition does not prevent a partial occupation certificate to be issued for the parts of the development that have been completed.

61. Landscaping Compliance

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with written evidence from a suitably qualified landscape professional that all landscape works have been completed in accordance with the approved landscape plans.

62. Accessible Carparking

The accessible carparking space is to be installed in accordance with AS/NZS 2890.6-2009 *Parking facilities Off-street parking for people with disabilities*, prior to the issue of an Occupation Certificate.

63. Section 68 of the Local Government Act

All the conditions under the approval of Section 68 of the Local Government Act 1993 are to be complied with prior to the issue of an Occupation Certificate.

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

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

64. Site Maintenance – Commercial/Industrial Development

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) loading and unloading in relation to the use of the premises must occur in the designated loading areas.
- b) goods or machinery must be stored, and all activities must occur, inside the building(s) and not in the carpark or driveway areas.
- c) maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan.
- d) maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent.
- e) ongoing waste and recycling must be managed in accordance with the approved Waste Management Plan. Waste bins are not to be stored within the loading area/space that is visible from a public place.
- f) maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan.
- g) maintenance of buildings, fencing, signage/markings to the standards specified in this consent.
- h) the removal of all graffiti within a maximum of 14 days of being notified by Council.

65. Fire Safety – Annual Statement

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An application form is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has:

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building
- b) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 3 of Part 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.

66. Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater

All excavation, backfilling and landscaping works must not result in:

- a) any change to the overland stormwater flow path on your property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff must be collected and directed to a legal point of discharge.
- b) the redirection and/or concentration of stormwater flows onto neighbouring properties.

67. Private Use of Public Parking Spaces

If the temporary use of on-street or off-street public parking spaces is required for building maintenance purposes, an application must be submitted to Council and approved in accordance with Council's Policy – "Private use of public parking". The [application form](#) is available on Council's website. Fees apply.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL

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).

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.

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: 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 and determination of the review must be undertaken within the prescribed period.

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 the prescribed period.

PART M: 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.

SIGNED on behalf of Shoalhaven City Council: