

## NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979  
RA22/1002

### TO:

Alex Pontello c/- Edmiston Jones  
92 North St  
Nowra NSW 2541

### being the applicant(s) for RA22/1002 relating to:

44 Coomea St, BOMADERRY - Lot 23 Sec 25 DP 2886  
46 Coomea St, BOMADERRY - Lot 22 Sec 25 DP 2886  
48 Coomea St, BOMADERRY - Lot 21 Sec 25 DP 2886  
50 Coomea St, BOMADERRY - Lot 20 Sec 25 DP 2886  
52 Coomea St, BOMADERRY - Lot 19 Sec 25 DP 2886

### APPROVED USE AND OR DEVELOPMENT:

Construction of Affordable Housing Development comprising Two (2) Residential Flat Buildings containing 39 Dwellings and associated parking

### 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:

The date of satisfaction of deferred commencement conditions.

### 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:

## DEFERRED COMMENCEMENT

1. Pursuant to s 4.16(3) of the *Environmental Planning and Assessment Act 1979*, the applicant must satisfy the following deferred commencement condition of consent prior to this development consent becoming operative:
  - a) Evidence must be submitted to Council that an easement has been obtained across Council Operational Land (Lot 1 DP 1084362), for the drainage of water required within this property.
  - b) Evidence that will sufficiently enable Council to be satisfied as to the compliance of these matters must be submitted to Council within 12 months of the date of determination of this deferred commencement consent, failing which, this deferred development consent will lapse pursuant to s4.53(6) of the *Environmental Planning and Assessment Act 1979*.

This development consent will not become operative until such time that the Council notifies the applicant in writing that the requirements of deferred commencement have been satisfied.

## PART A: GENERAL CONDITIONS

### 1. General

The consent relates to **Construction of Affordable Housing Development comprising Two (2) Residential Flat Buildings containing 39 Dwellings and associated parking** 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
Site Plan	Project No. 21-0012 Drawing No. DA01	Edmiston Jones	20/05/2022 (Revision A)
Building A Ground Floor Plan	Project No. 21-0012 Drawing No. DA02	Edmiston Jones	20/05/2022 (Revision A)
Building A Upper Floor Plan	Project No. 21-0012 Drawing No. DA03	Edmiston Jones	20/05/2022 (Revision A)
Building B Floor Plans	Project No. 21-0012 Drawing No. DA04	Edmiston Jones	20/05/2022 (Revision A)
Roof Plan	Project No. 21-0012 Drawing No. DA05	Edmiston Jones	20/05/2022 (Revision A)
Building A Elevations 1	Project No. 21-0012 Drawing No. DA06	Edmiston Jones	27/05/2022 (Revision B)
Building A Elevations 2	Project No. 21-0012 Drawing No. DA07	Edmiston Jones	27/05/2022
Building B Elevations 1	Project No. 21-0012 Drawing No. DA08	Edmiston Jones	03/03/2022

Building B Elevations 2	Project No. 21-0012 Drawing No. DA09	Edmiston Jones	03/03/2022
Building A Sections	Project No. 21-0012 Drawing No. DA10	Edmiston Jones	03/03/2022
Building B Sections	Project No. 21-0012 Drawing No. DA11	Edmiston Jones	03/03/2022
Stormwater Drainage Plan	Drawing No. 21691-C02	Westlake Punnett	20/04/2022 (Revision B)
Stormwater Treatment Train and Water Sensitive Urban Design Report	Reference No. 21691.01	Westlake Punnett	20/05/2022
BASIX Certificate	No. 1270567M	Gradwell Consulting	28/02/2022
Waste Management Plan	Project No. 21-0012	Edmiston Jones	22/04/2022

*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, Subdivision Certificate or Caravan Park Approval, as the case may be.

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

5. **Outdoor Lighting**

Lighting is to be provided at pedestrian entry points and car parking areas. It must not be directed to shine or cause nuisance to neighbouring properties and must be installed in accordance with AS4282 "Control of the obtrusive effects of outdoor lighting".

**PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS**

NIL

**PART C: PRIOR TO THE COMMENCEMENT OF WORKS**

6. **Construction Certificate**

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

7. **Appointment of Principal Certifier**

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

8. **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’](#)

9. **Register on Title**

Prior to the commencement of any building work, a statutory interest is to be registered over the title of the Council Contribution land in accordance with clause 7.2 of the Housing Project Delivery Agreement executed between Shoalhaven City Council and the Department of Communities and Justice, dated 26 February 2021.

10. **Toilet Facilities - Temporary**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- c) be a temporary chemical closet approved under the Local Government Act 1993.

11. **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 0.9metres of the shared boundary.

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

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

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

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

## **12. Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*. The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant 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.

## **13. 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.

#### 14. Tree Protection Works

All street trees and trees on private property that are protected under Shoalhaven City Council's controls, shall be retained and protected in accordance with AS 4970 - 2009 'Protection of Trees on Development Sites' during demolition and construction works except where Council's prior written consent has been obtained.

#### 15. 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).

### PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

#### 16. 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.

#### 17. Local Infrastructure Contributions

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Calculation	Amount
01AREC5006	Northern Shoalhaven Sports Stadium	\$706.53 * 13.8	\$9,750.11
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$547.93 * 13.8	\$7,561.43
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$739.61 * 13.8	\$10,206.62
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	\$30.25 * 13.8	\$417.45

CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,949.31 * 13.8	\$26,900.48
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,473.26 * 13.8	\$20,330.99
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,292.05 * 13.8	\$17,830.29
CWCFAC5007	Shoalhaven Regional Gallery	\$70.93 * 13.8	\$978.83
CWFIRE2001	Citywide Fire & Emergency services	\$139.37 * 13.8	\$1,923.31
CWFIRE2002	Shoalhaven Fire Control Centre	\$203.89 * 13.8	\$2,813.68
CWMGMT3001	Contributions Management & Administration	\$579.56 * 13.8	\$7,997.93
			<b>\$106,711.12</b>

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Council's website [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au) or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

#### 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 2017](#) 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. Street Numbering of Dwellings

Street numbering must comply with the State Government's Comprehensive Property Addressing System (CPAS), and Council's Property Address Numbering Policy.

The allocated numbers must be shown on the engineering plans with the Construction Certificate. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.

#### 20. Waste Storage Room

Prior to the issue of a Construction Certificate, detailed plans must be submitted to the Certifier that demonstrate that the waste storage room has been designed to be constructed in accordance with the [Waste Minimisation and Management Guidelines](#), and that:

- the floor to be constructed of concrete at least 75mm thick and adequately graded to drain to a Shoalhaven Water approved drainage fitting.
- the floor to be finished so that it is non-slip and has a smooth and even surface covered at all intersections.
- the walls to be finished with smooth faced non-absorbent material capable of being cleaned.

- d) the room to be provided with artificial light controllable within the room and adequate ventilation.
- e) The area to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.

**21. Shoalhaven Water – Prior to the Issue of a Construction Certificate**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading “Prior to the Issue of a Construction Certificate” must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

**22. Residential Apartment Noise Attenuation**

A qualified acoustical engineer with membership of the Association of Australasian Acoustical Consultants must certify that the building has been designed to minimise the noise intrusion from any internal or external noise source and when constructed achieve a 5 star rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic rating Version 1.0. Details of compliance are to be submitted with the relevant plans for a Construction Certificate.

**23. Storage**

In addition to storage in the kitchens, bathrooms and bedrooms, the following storage is to be provided per dwelling type:

- a) Studio apartment - 4m<sup>3</sup> of storage space.
- b) 1 bedroom apartment - 6m<sup>3</sup> of storage space.
- c) 2 bedroom apartment - 8m<sup>3</sup> of storage space.
- d) 3 bedroom apartment - 10m<sup>3</sup> of storage space.

At least 50% of this storage is to be located within the dwelling (excluding the garage). Where located in a garage, the storage areas must not encroach upon allocated car parking spaces.

**24. Design Standards – Works Within Road Reserve**

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

**25. 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.

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.

## 26. 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.

## 27. Erosion and Sediment Control Plan (ESCP)

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) must be prepared by a Professional Engineer, (as defined in the National Construction Code) in accordance with the Landcom Manual – Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition March 2004 to the satisfaction of the Certifier.

All implemented measures must:

- a) not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).
- b) Be maintained at all times.
- c) Not be decommissioned until at least 70% revegetation cover has been established

## 28. 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 Council. The access driveway design must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) The concept site plan by Edmiston Jones (Project No. 21-0012, Drawing No. DA01, Revision A, dated 20/05/2022).
- c) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100m depth.
- d) 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.

**29. 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 Council. The cycleway and footpath design must comply with the following:

- a) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) A 1.2 metre-wide concrete footpath designed for the full frontage of the development with:
  - i) cross section design provided from road centreline to the carpark at each driveway access point.
  - ii) 3% cross fall from the boundary to top of kerb.
- c) match existing footpath levels of adjoining property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.

**30. 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*.

**31. 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 18.13% 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. 21691-C02, Revision B, dated 20/04/2022) and the Stormwater Treatment Train and Water Sensitive Urban Design Report by Westlake Punnett (Reference No. 21691.01, dated 20/05/2022).
- d) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:
  - i) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

**32. On-Site Detention – Infill Subdivision and Development**

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

The on-site stormwater detention (OSD) design must comply with the following:

- a) Designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.
- b) Must be able to freely drain via gravity and not rely on pumped systems which could likely fail during a storm event.

**33. 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 stormwater treatment, retention and reuse design must comply with the following:

- a) Rainwater tanks in accordance with BASIX requirements.
- b) The Stormwater Treatment Train and Water Sensitive Urban Design Report by Westlake Punnett (Reference No. 21691.01, dated 20/05/2022).
- c) The WSUD strategy must be able to remove 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 45% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- d) In addition to the above TSS, TN and TP reduction targets, the WSUD strategy must be able to demonstrate that the post-development residual pollutant concentrations must not exceed the ecological trigger values listed in the latest version of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC) as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.

**34. Section 68 Application**

Prior to the issue of a Construction Certificate:

- a) an application for connection of the stormwater line from the site to the existing public drainage line within the adjacent carpark must be approved under section 68 of the Local Government Act 1993. The application must comply with all relevant conditions of this development consent.
- b) a copy of the approval must be provided to the Certifier.

**35. 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) A minimum number of 19 spaces must be provided on site compliant with AS2890.1, inclusive of a space compliant with AS2890.6. No carparking spaces are to be assigned to individual units.
- b) Have a layout generally compliant with the concept site plan by Edmiston Jones (Project No. 21-0012, Drawing No. DA01, Revision A, dated 20/05/2022).
- c) Constructed in accordance with the following:
  - i. for light vehicular loading
  - ii. to a coloured, patterned or stamped concrete standard.
- d) 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 or,
  - ii. a concrete edge strip (min 150mm wide and 300mm deep) where adjacent to landscaping.

**36. Design Standards – On-street Parking Linemarking**

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 Council for the on-street parking linemarking for the Coomea Street frontage of the development to assist in delineating car parking spaces where impacted by the proposed driveways. Parking spaces to comply with AS2890.5.

**37. 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.*

**38. Hydraulic Engineering Details for Water, Sewer & Drainage**

Prior to the issue of a Construction Certificate, an application 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 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.

**39. 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.

**40. Lighting of Common Areas**

Prior to the issue of a Construction Certificate details of lighting of all communal areas is to be submitted to the Principal Certifier. Details are to consider lighting for internal driveways, parking areas, around the building entrances and communal areas, and communal open space areas.

The details are to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents. All lighting is to comply with the following requirements:

- a) Lighting is to be designed and installed in accordance with the relevant Australian and New Zealand Lighting Standards.
- b) Lighting is to be provided to all common areas including all car parking levels, stairs and access corridors and communal open space areas.
- c) Sensor lighting should be installed into areas that may be areas of concealment.
- d) Lighting is to be automatically controlled by time clocks and where appropriate, sensors for energy efficiency and a controlled environment for residents.

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

NIL

**PART F: DURING WORKS**

**41. 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.

**42. Excavation**

Excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)* published by Safe Work Australia in October 2018.

**43. Plumbing Compliance**

It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS/NZS 3500 National Plumbing & Drainage Code, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following:

- a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter.
- b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab.

- c) Pumps must be located and installed to minimize any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output.
- d) Overflow from the tank must be directed into the approved storm water system.
- e) Any town water top-up of the tank must be by indirect connection by means of a visible “air gap”, external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, AS/NZS 3500 – Minimum air gap requirements.
- f) Marking and labelling of rainwater services must be in accordance with AS 1345 – Identification of the contents of pipes, conduits and ducts, including distribution pipes, rainwater pipes and tank outlets.
- g) 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 pit to enable the line to be flushed. This is to prevent the line becoming blocked.
- h) For subsurface or semi subsurface rainwater tanks, the property owner is required to have a non-testable dual check valve with atmospheric port backflow prevention device installed at the boundary water meter. The backflow prevention device must be installed by a licensed plumber in accordance with AS/NZS 3500.

#### 44. **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](#).

#### 45. **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.

#### 46. **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).*

#### 47. **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 /erosion and sediment control 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**

#### 48. **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).

#### 49. **Air-Conditioning Systems - Noise Controls**

Prior to the Issue of an Occupation Certificate, air conditioning must be installed in accordance with manufacturer's instructions and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997 (POEO Act)*

Domestic air conditioners must not emit noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—

- a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
- b) before 7 am or after 10 pm on any other day.

#### 50. **BASIX**

Prior to the issue of an Occupation Certificate, documentary evidence prepared by a suitably qualified person must be submitted to the Certifier confirming that all commitments listed in the

BASIX Certificate(s) are fulfilled in accordance with Section 75 of the *Environmental Planning and Assessment Regulation 2021*.

**51. 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.

**52. Dilapidation Report – Evidence**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

**53. Private Waste Collection Service**

Prior to the issue of an Occupation Certificate, the developer/owner must provide evidence to the Certifier of a formal agreement with a licenced private waste contractor to service the development. A copy of the contract must be forwarded to Council.

The agreement must ensure:

- a) the removal of all waste from the developed property.
- b) the service is functional and meets the operational requirements for the developed property.
- c) the service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- d) the developer/owner indemnifies Council against claims for loss or damages, should Council take over provision of the service at some point in the future.

**54. 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.

**55. 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.



**56. 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.*

**57. 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.

**58. Redundant Driveways and Crossings**

Prior to the issue of an Occupation Certificate all redundant vehicle crossings and lay backs rendered unnecessary by this development must be reconstructed to match the existing the 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.

**59. Works as Executed – Stormwater Drainage**

Works as Executed Plans and certification must be submitted to the Council by a licenced plumber, 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 & 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).

**60. 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.

**61. Letter Boxes**

A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.

**62. Works in the Road Reserve - Evidence of Completion**

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

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

NIL

**PART I: ONGOING USE OF THE DEVELOPMENT**

**63. Affordable Housing**

Following the commencement of an Occupation Certificate being issued, the affordable housing component of the residential development is to be used for affordable housing for a period of at least 15 years and be managed by a registered community housing provider.

**64. Water Sensitive Urban Design Elements**

The registered proprietor must not make or permit or suffer the making of any alterations to any stormwater treatment measures/ water sensitive urban design (WSUD) elements which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Shoalhaven City Council.

The expression "stormwater treatment measures/ water sensitive urban design elements" means the infiltration systems, porous pavement, sediment basins, bio-retention swales, bioretention basins, rain gardens, landscaped or vegetated swales, vegetated buffers, swale/ buffer systems, sand filter, wetlands, ponds, retarding basins, aquifer storage and recovery, rainwater reuse tanks, stormwater reuse tanks, gross pollutant traps, pit inserts, silt/ oil arrestors or other proprietary products including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins or surfaces graded to direct stormwater to the stormwater treatment measures/ water sensitive urban design elements.

**65. Site Maintenance**

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

**66. 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.*

**67. 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 shall be collected and directed to a legal point of discharge.
- b) the redirection and/or concentration of stormwater flows onto neighbouring properties

**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).

### Submissions

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

### Community views

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

### Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

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

### Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

## PART L: 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](http://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: