

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 419-9-2003

(FILE NO. S03/02672 PT 1)

TOURIST ACCOMODATION UNITS – 98 BEACH STREET, BATEMANS BAY

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No 71 – Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To preserve the existing or likely future amenity of the neighbourhood,
- (2) To provide for the economic and orderly use of the subject site as tourist accommodation while managing environmental, access, safety and landscape issues,
- (3) To minimise the effects of potential flooding on the development, and
- (4) To meet requirements of the Eurobodalla Urban Local Environmental Plan and relevant Development Control Plans.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2004

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2004

SCHEDULE 1

PART A—TABLE

Application made by:	BHI Architects 57 Beach Road, Batemans Bay, 2536
Application made to:	Minister for Infrastructure and Planning
Development Application:	No: 419-9-2003
On land comprising:	Lot 3, DP 26893 98 Beach Road, Batemans Bay, 2536
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$450, 000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	3
Approval Body / Bodies:	Not Integrated
Determination made on:	The date shown on the notice of determination.
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or ▪ a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 419-9-2003

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid for a development application, within 12 months after the date on which the applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with Eurobodalla Shire Council's contributions plans. The contributions plans may be inspected at Council's offices, Vulcan Street, Moruya.

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means BHI Architects or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Eurobodalla Shire Council.

DA No. 419-9-2003 means the development application and supporting documentation submitted by the applicant on 15 September 2003.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 419-9-2003

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Development consent is granted only to carrying out the development described in detail below:

- demolition of existing two storey dwelling,
- construction of tourist accommodation including 5 tourist units,
- construction of basement car park, and
- removal of Date Palm and Norfolk Island Pine.

A2 *Development in Accordance with Plans*

The development shall be generally in accordance with development application number 419-9-2003 submitted by the applicant on 15 September 2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following, unless otherwise amended by the conditions of this consent:

Statement of Environmental Effects entitled <i>Statement of Environmental Effects: Planning Report for Proposed Tourist Development</i> prepared by Bishop Hitchcock and Irwin Architects, dated 13 January 2004			
Architectural (or Design) Drawings prepared by <i>Bishop Hitchcock and Irwin Architects</i>			
Drawing No.	Revision	Name of Plan	Date
4693-CWD-A01	E	Site Plan and Floor Plan	08.11.04
4693-CWD-A02	E	Elevations and Sections	08.11.04
Note below*			
4693-CWD-A-03	D	Locality and Site Plan	October 2004
101	1	Stormwater Drainage Plan	11/1/2004 as indicated in blue by DIPNR
Landscape Drawings prepared by <i>Taylor Brammer Landscape Architects Pty Ltd</i>			
Drawing No.	Revision	Name of Plan	Date
LC01/01	B	Landscape Concept Plan	15-01-04

*The Elevations and Sections Plan incorrectly identifies the building envelope as required by the DCP. The correct building envelope has been marked in blue by DIPNR.

A3 *Exclusion from Consent – Signage*

No application was made for business identification signage or building signage and as such the erection of any such signs is expressly excluded from this consent.

A4 *Tourist Accommodation and Use Exclusions*

The development is to remain for use as short term temporary accommodation (ie: up to 30 days). Investor lots are to be burdened by way of a Restriction on use pursuant to Section 88B of the Conveyancing Act in the favour of Council, requiring that the lots are to be used for short term accommodation only. Permanent or long term accommodation is to be expressly prohibited and is specifically excluded from this consent. The restriction on use shall include a definition of short and long term accommodation.

A5 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Additional Details

In order to minimise loss and damage through the effects of flooding and to comply with Council's policy to restrict the development of the land by reason of the likelihood of flooding, additional details in regard to the following matters shall be submitted to and approved by the Council prior to the issue of a Construction Certificate:

- (1) A Flood Action Plan including details of evacuation procedures.

Note: Evidence of implementation of the approved Flood Action Plan will be necessary prior to the occupation or commencement of operations.

B2 Design Modifications – Crest of Carpark Entrance

In order to ensure that the car park entrance is a minimum 0.1m above the 1% water level, the plans shall be amended as follows:

- (1) The crest of the car park entrance is to be raised a further 0.12m.

Details shall be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

B3 Design Modifications – Continuous Access Path

To ensure compliance with the DCP – Tourism Development Guidelines, the plans shall be amended to include a continuous path of travel from the units to the footpath.

Details shall be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

B4 Minimum Floor Levels

In order to minimise the effects of flooding:

1. The minimum floor level of the basement car park will be at or above RL 1.08m AHD, and
2. The minimum floor level of the habitable floors shall be at or above RL 3.0 AHD.

B5 Gutter and Kerb

Provision of a 6m wide layback gutter crossing, and reinstatement of kerb over redundant laybacks is required to Council's standard Plan No M2732/1 to ensure that access is constructed to a satisfactory engineering standard.

B6 Material Selection

1. Flooding: to avoid deterioration of materials due to immersion in water, all building materials used below the 1% (AEP) minimum habitable floor level, including the floor, are to be of flood compatible materials, that is the structural integrity of the materials must not be affected by repeated immersion in flood water.

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2. Ecologically sustainable materials: material selection is to take into account the life cycle effect of their manufacture, use and disposal. A building materials assessment that sets out the main materials and finishes to be used and how they have been selected to minimise their environmental impact is to be submitted, to the satisfaction of Council, prior to the issue of a construction certificate.
 3. The use of PVC is to be minimised and alternate materials used where possible.

B7 *Car Parking Areas and Accessways*

Car parking spaces, manoeuvring areas and access driveways are to be sealed, drained, line marked and constructed and maintained to pavement designs prepared by a qualified engineer which are to be submitted to and approved by Council prior to the release of a construction certificate.

B8 *Reflectivity*

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate.

B9 *Outdoor Lighting*

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate.

B10 *Treatment of Vehicular Entry*

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible. Details shall be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

B11 *Roads Act Requirements – Section 138*

Prior to commencement of any construction within the road reserve the applicant is to obtain a Section 138 consent from Council to undertake such works. The application for a Section 138 consent is to address:

1. The requirement for a traffic control plan prepared by a suitably qualified consultant certified by the Roads and Traffic Authority in work site traffic control plan preparation. The consultant is to certify that the Traffic Control Plan complies with the current RTA manual "Traffic Control at Work Sites". Copies of records of inspections of traffic control layouts must be sent to Council after completion of works.
2. Advice to affected neighbouring property for disruption to driveways.
3. Public liability of contractors.
4. Trench subsidence and bonding of works.

B12 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy to at least one unit within the site. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

It is noted that this consent is issued for tourist accommodation only and permanent occupation if the units is expressly prohibited.

B13 *Erosion and Sedimentation Control*

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction* (NSW Department of Housing, 1998.) Details are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

B14 *Dilapidation Reports*

A Dilapidation Report detailing the current structural condition of the existing and adjoining buildings, infrastructure and roads shall be prepared and endorsed by a qualified structural engineer. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A second Dilapidation Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The report shall also be submitted to the satisfaction of the PCA and should be compared with the earlier report to ascertain if any change has occurred

A copy of both reports is to be forwarded to Eurobodalla Shire Council.

B15 *Footpath Levels*

Footpath levels are to be maintained with grades complying with Council's standards 2732-2A.

B16 *Visitor and Disabled Car Spaces*

One (1) basement car parking space is to be designated as a visitor space and one (1) of the basement parking spaces is to be designated as a disabled space, which is to be provided in accordance with the Australian Standards.

B17 *Car Park and Service Vehicle Layout*

The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked. Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the PCA prior the issue of a Construction Certificate.

B18 *Stormwater Drainage Plans*

To ensure that drainage control is provided to a suitable engineering standard and to remove stormwater pollutants, the stormwater drainage plan is to be amended by a suitably qualified

person and is to be submitted to and approved by Council for the control of stormwater from impervious areas. The amended plan is to address:

1. Certification by a suitably qualified drainage consultant or qualified engineer for compliance with AS3500.-3.2 within the property and Council's standards beyond the property,
2. installation of a dual water supply (rainwater and domestic supply) rainwater tank system capable of servicing each unit, and/or an alternative source control measure*,
3. Piping of water flows to an approved Council drainage facility,
4. The overflow is to be connected to Council's existing road stormwater pit. Contact is to be made with Council's plumbing inspector on (02) 4474-1277, at least 2 days prior to making the connection to arrange suitable inspection of construction,
5. The removal of pollutants such as trash and coarse grits,
6. Pumping system from the basement car park,
7. the location of all components and their relationship to nearby buildings,
8. the configuration of inlet / outlet and overflow pipes, and
9. details of dimensions, structural stability and proposed materials.

*To ensure a reliable water supply and to provide cost benefit savings and stormwater management benefits, rainwater tank systems are to include:

- (a) provision of a first flush system with a minimum capacity of 0.5Litres / sqm of roof,
- (b) tank capacity is to be 10kL or a reduction may be justified based on PURRS program,
- (c) an air space for additional stormwater management,
- (d) a minimum availability volume to ensure that water supply is always available,
- (e) top up technology and appropriate cross connection controls and backflow prevention in accordance with section 2 of CUPDR Circular P&D No 18,
- (f) separate reticulation should include washing machines, toilet flushing, garden irrigation, washing cars and filling any ornamental ponds or water features,
- (g) installation requirements, proximity to other services, and marking and labelling of rainwater services in accordance with sections 3, 4 and 5 of CUPDR Circular P&D No 18.

The final Plan is to be prepared in accordance with AS3500 and principles consistent with the Eurobodalla Integrated Water Cycle Management Strategy and Appendices.

B19 Water Meter Upgrade

To ensure adequate water volume and pressure to the development prior to issue of a construction certificate payment to Council the standard fee at the time of payment (\$1654.00 for the 03/04 financial year) for upgrading of the water meter to 32mm diameter. Such to be located so as to be accessible to Council's Water Meter Reader at all times.

Note: A credit for the existing water meter has been considered. This fee is revised at 1 July each year.

B20 Sewer Main

To prevent potential damage to development and to protect and allow future maintenance of Council's assets, satisfactory designs for special footings adjacent to Council's sewer main are to be prepared by a suitably qualified engineer. The designs are to be submitted to and approved by Council prior to the issue of a construction certificate.

Note: Attached to the approval are sewer diagrams and the relevant manhole levels for the required engineers footing design, adjacent to Council's sewer line.

B21 Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

B22 Landscape Plan

In order to address privacy and amenity issues, the landscape plan is to be amended by a qualified landscape architect or landscape designer. The amended plan shall be submitted to and approved by the Council prior to the issue of a Construction Certificate. The revised landscape plan will incorporate the following:

- (1) Plantings are to be amended to maximise the use of a range of locally native species. Where locally native species are not suitable, species native to NSW are to be used,
- (2) The amended masterplan is to demonstrate water sensitive design and conservation aims in the selection of species and landscape design,
- (3) Additional plantings are to be included in the court adjacent to unit 1 in particular additional plantings between the court and driveway to provide additional privacy to the court area). Note: the south eastern courtyard wall may need to be relocated further north west to allow for plantings required in this condition.
- (4) Planting of larger species at the front of the development, whether as street trees or within the court yard, including at least one shrub or tree that grows greater than or equal to 5m in height. In selecting the location existing views (ie: prior to the removal of the Norfolk Island Pine) of adjacent sites are to be considered,
- (5) Plantings are to be included along the south eastern and north western boundaries of the site, that maximise privacy of the adjacent properties to the south east and north west and soften the visual impact of the development. Note that privacy issues created by the top floor bedrooms and the terraces are to be addressed in this respect,
- (6) Remove Kentia Palms from the plant list for the north western boundary of the development and replace with native species that will serve as a more

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- appropriate privacy screen to address privacy issues from the top floor bedrooms to the adjacent development,
- (7) Plantings along the south western elevation are to reduce and soften the visual impact of the development to the rear property.

Notes:

- (a) these conditions contain requirements for a rainwater tank, which should be taken into consideration when revising the landscape masterplan.
- (b) The applicant may wish to make contact with Council prior to amending the landscape plan to ensure that all of Council's expectations are met.

B23 Energy Efficiency

Energy efficiency is to be maximised within the development including but not limited to the following:

- (a) energy efficient options for lighting are to be installed in all cases where possible,
- (b) all classes of appliances that are available with an energy label or a Minimum Energy Performance Standard to be installed within the premises are to have an energy star rating of 4 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more and natural gas water heaters which are to have a rating of 5 stars or more),
- (c) all baths, hot water pipes and ceiling spaces are to be insulated during construction,
- (d) air conditioners to be installed are to have a variable speed compressor or inverter drive and their outdoor components are to be positioned out of direct sunlight while still allowing access to outside air,
- (e) doors and windows are to be fitted with draught seals and weather stripping,
- (f) water heaters are to be solar, heat pump or natural gas,
- (g) where washing machines are to be installed they are to be front loading machines,
- (h) a means of hanging washing/towels to allow air drying is to be provided on the terraces to units 2-5.

The applicant shall submit to the PCA a statement demonstrating compliance with the requirements of this condition.

B24 Water Ratings

All water fixtures installed within the premises are to have a AAA water rating or more. The applicant shall submit to the PCA a statement demonstrating compliance with the requirements of this condition.

B25 Non-Ozone Depleting Refrigerants

Non ozone depleting refrigerants are to be used in all equipment. Details shall be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

B26 *Waste Management and Storage*

The design and management of facilities for the storage and handling of waste must ensure that appropriate space is provided for separation of recyclable products.

Appropriate waste separation facilities are to be provided within each unit and within the designated waste storage area in the basement car park to ensure that waste separation is maximised and in order to meet the waste and recycling needs of each unit.

Suitable arrangements for garbage and recycling services are to be made with appropriate waste service contractor(s) in accordance with Council Policy.

Details are to be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate.

B27 *Mechanical Ventilation*

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate.

B28 *Section 94 Payments*

Payment to Council pursuant to Section 94 of the Environmental Planning and Assessment Act of contributions towards the provision of public amenities or services. The contribution rates for this development for the 2003/2004 financial year were as follows:

(i)	Open Space	\$819.40
(ii)	Waste Disposal	\$260.60
(iii)	Arterial Roads	\$1912.00
(iv)	Cycleways / Pedestrian Facilities	\$70.60
(v)	Administration	\$211.60

The above contributions are to be paid prior to the release of the Construction Certificate or occupation of the development (whichever occurs first).

For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Eurobodalla Shire Council.

Evidence of the payment to Eurobodalla Shire Council shall be submitted to the PCA prior to the issue of the Construction Certificate.

The contribution for land will be adjusted in accordance with the latest annual valuations. You should contact Council prior to the payment to determine the rate of contribution as such rates are revised at least annually. Staging of the payments is permitted if staging of development is approved by the terms of this consent.

B29 *Headworks Charges*

This development results in an increased demand on existing services. Therefore, pursuant to Section 25 of the *Water Supply Authorities Act 1987* payment to Council prior to the release of a Construction Certificate, release of plan of survey or occupancy (whichever occurs first) of headworks charges is to be made. The contributions rates for the 2003/2004 financial year were as follows:

(i)	Water Headworks	\$8400.00
(ii)	Sewer Headworks	\$7000.00

You should contact Council prior to payment to determine the rate of contribution as such rates are revised at least annually. Staging of payments is permitted if staging of development is approved by the terms of this consent.

Evidence of the payment to Eurobodalla Shire Council shall be submitted to the PCA prior to the issue of the Construction Certificate.

B30 Plan stamping by Water Supply Authority for new buildings

The relevant approved plan, which shows the building footprint, must be submitted to the local Water Supply Authority to determine whether the development will affect any sewer and water mains, stormwater drains and/or easements, in addition to those identified and if further requirements need to be met prior to the issue of a Construction Certificate.

B31 Compliance Report – Part B

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the PCA a report addressing compliance with all relevant conditions of Part B of this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 Norfolk Island Pine

The existing Norfolk Island Pine is to be protected from damage as a result of all on-site works and as far as possible damage from the transplanting process. The Norfolk Island Pine is to be either relocated on the site or relocated to another site as a mature planting. In the case that these options are not possible the pine should be offered to Council for relocation to a public reserve (at no cost to Council). The pine should only be sold or destroyed in the case that the above options are exhausted.

C2 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 1991 *The Demolition of Structures*. The work plans required by AS2601: 1991 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works.

C3 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C4 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C5 Power Outlets

To minimise the effects of flooding and to allow electrical equipment to be removed from the building prior to flooding, all additional power outlets are to be constructed as high as practical (consideration to be given to access for people with a disability in that unit designated as such) or at a minimum height of 900mm above the floor level.

C6 Minimum Floor Height Requirement

To ensure the minimum floor level is obtained all floors that are the subject of a minimum height requirement are to be verified by a Registered Surveyor prior to the fixing or pouring of those floors.

C7 *Construction Management Plan*

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the PCA. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) traffic and pedestrian management including but not limited to: ingress and egress of vehicles to the site, loading and unloading, including construction zones, traffic routes, pedestrian and traffic management methods.
- (4) noise and vibration management (see **C8**),
- (5) waste management, which is to be addressed by a suitably qualified person in accordance with Council's relevant DCP and is to demonstrate waste minimisation through re-use or recycling of materials, and
- (6) erosion and sediment control.

The Applicant shall submit a copy of the approved plan to Council.

C8 *Noise and Vibration Management Plan*

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the PCA. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this consent,
- (4) The construction vibration criteria specified in the conditions of this consent,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- (9) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (10) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and

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- (11) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

The Applicant shall submit a copy of the approved plan to Council.

C9 Erosion and Sediment Control

Prior to the commencement of works approved erosion and sediment control measures are to be in place to the required standard.

C10 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

C11 Compliance Report – Part C

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the PCA a report addressing compliance with all relevant conditions of this consent.

PART D—DURING CONSTRUCTION

D1 Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D2 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D3 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

D4 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D5 Site Notice

A site notice shall be prominently displayed at the front boundary of the site for the purposes of informing the public of project details. The notice is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D6 Contact Telephone Number

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D7 External Lighting

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

D8 Protection of Trees

All street and on-site trees not approved for removal shall be protected at all times during construction. Any tree on the footpath or on-site, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

D9 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (2) Covers are to be adequately secured,
- (3) Cleaning of footpaths must be carried out regularly*,
- (4) Roadways must be kept clean*,
- (5) Gates are closed between vehicle movements,
- (6) Gates are fitted with shade cloth,
- (7) The site is hosed down when necessary*, and
- (8) Wheel washes shall be installed for all vehicles exiting the site.

*note: it is an offence under the *Protection of the Environment Operations Act 1997* to cause pollution of waterways and as such hosing of footpaths and roads to the stormwater system is not permitted.

D10 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;

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- (3) the work is approved through the Construction Noise and Vibration Management Plan; and
 - (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D11 Construction Noise Objective

The construction noise objective for the Project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) not more than 20dB(A) for a construction period of four weeks and under;
- (2) not more than 10dB(A) for a construction period of greater than four weeks and not exceeding 26 weeks; and
- (3) not more than 5dB(A) for a construction period greater than 26 weeks.

Background noise levels are those identified in the approved Construction Noise and Vibration Management Plan. The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D12 Construction Noise Management

The Applicant shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
 - (a) 9 am to 12 pm, Monday to Friday;
 - (b) 2pm to 5pm Monday to Friday; and
 - (c) 9 am to 12 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.

D13 Vibration Criteria

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

D14 Vibration Management

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

D15 Water Conservation

Water efficient devices, with a AAA rating, must be installed throughout the building, including, but not limited to:

- a) Pressure limiting valves;
- b) Dual flush toilet systems;
- c) Water efficient shower nozzles.

All new hot water systems are to have a minimum rating of 4 stars.

D16 Recycling of Concrete

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the PCA.

D17 Construction Inspections

Compliance certificate/s shall be issued by the PCA and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

D18 Compliance Report – Part D

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the PCA a three monthly report addressing compliance with all relevant conditions of Part D of this consent.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

N/A – The application was not made for subdivision or strata subdivision and as such there are no Part E conditions relevant to this consent.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

F1 Tourist Accommodation Management Plan

Prior to the issue of an occupation certificate or commencement of use, the applicant will submit to the Council a management plan for the development demonstrating that the use of the facility will be in accordance with the definition of 'Tourist Accommodation' as defined by the Eurobodalla Urban Local Environmental Plan 1999 (as amended).

F2 Flood Action Plan

Evidence of implementation of the approved Flood Action Plan to be submitted and approved by Council, prior to the occupation or commencement of operations.

F3 Stormwater Management

To ensure systems satisfy the necessary requirements, prior to the issue of an occupation certificate:

1. Stormwater control construction is to conform to the approved plans,
2. All tanks and associated structures, including stands, shall be installed in accordance with the manufacturer's / designer's specifications, and
3. Accurate work as executed plans and a maintenance schedule are to be provided to Council.

F4 Driveway Details

Prior to the issue of an occupation certificate, it is to be demonstrated to the satisfaction of the PCA, that:

1. the crest of the driveway and earth mounding at the car park entrance has been constructed with a crest level no lower than 2.3m (AHD),
2. the grades and transitions of the driveway do not exceed the maximum of that shown on Council's specification plan 2732-2A,
3. the level of the driveway within the footpath has not been raised.

F5 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to the consent authority and Council by the PCA.

F6 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of the Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;

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- (2) Australian Standard AS1668 and other relevant codes;
 - (3) The development consent and any relevant modifications; and,
 - (4) Any dispensation granted by the New South Wales Fire Brigade.

F7 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

F8 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to the issue of an Occupation Certificate.

F9 Water Supply Authority

An application shall be made to the relevant water supply authority (WSA) for a Compliance Certificate in accordance with their requirements. Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate.

Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the relevant WSA, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

F10 Curtains / Awnings

To further address privacy issues associated with the site, internal curtains and/or external awnings shall be erected with/along all bedroom windows along the south eastern and north western facades of the building. This requirement is to be addressed prior to the release of an occupation certificate.

PART G—POST OCCUPATION

G1 Annual Fire Safety Certification

The owner of the building shall provide to Council an annual fire safety statement certifying that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. The purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

G2 Loading and Unloading

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

G3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

G4 Vehicular Access

Signs shall be exhibited in a prominent location on the site advising that all vehicles entering or leaving the site are to be driven in a forward direction at all times.

G5 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

G6 Compliance Report – Part G

The Applicant, or any party acting upon this consent, shall submit to the PCA a report within 3 months of the release of the occupation certificate or commencement of use, addressing compliance with all relevant conditions of Part G of this consent.

PART H—GENERAL TERMS

N/A - The application was not made for integrated development and as such there are no General Terms of Approval that apply to this consent.

ADVISORY NOTES

AN1 Potentially Flood Prone Land

This property is assessed as being potentially flood prone. The following is the best information to qualify the flood risk currently available to Council:

1% flood level: 2.5m AHD

It should be noted that flooding beyond the 1% flood level can occur. The developer is advised to undertake survey work if more site specific information is required on how flooding could affect the subject land.

AN2 Local Government Act 1993 - Section 733

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

AN3 Rainwater Tank

The rainwater tank should be checked every two years for sludge at the bottom. Removal of accumulated sludge may be required about once every ten years. Frequency of cleaning will depend on the amount of sediment entering the tank.

AN4 Road Traffic Impacts

To ensure road traffic from Beach Road does not impact on occupant's amenity, the development should be designed and built in accordance with Australian Standard AS3671-1989 and EPA *Road Traffic Noise Guidelines*.

AN5 Disabilities Discrimination Act

The development may be affected by the Disabilities Discrimination Act. It is your responsibility to ensure that the development complies with the Act.

AN6 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Water Supply Authority, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN7 Compliance with Building Code of Australia

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN8 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN9 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN10 Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN11 Excavation – Historical Relics

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

AN12 Street Numbering

Street numbers, if any, will need to be clearly displayed at either end of the ground level frontages in accordance with Council's Policy, prior to the occupation of the building(s) or commencement of the use.

AN13 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of any temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.