Shoalhaven City Council

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NOTICE OF DETERMINATION OF A MODIFICATION APPLICATION BY WAY OF CONSOLIDATED CONSENT

Application number	DA2024/1759 (Incorporating MA2025/1304)
Applicant	Allen Price Pty Ltd
Description of development	Realignment of water mains, erection of new boundary fence and soil erosion and sedimentation controls
Property	Culburra Road CULBURRA BEACH NSW 2540 - Lot 1 DP 1279350 and Lot 3 DP 1279350 (modified by MA2025/1304)
Determination	Approval
Date of determination	15 May 2025
S4.55 determination (MA2025/1304)	3 December 2025
Date from which the consent operates	15 May 2025
Date on which the consent lapses	15 May 2030

Under section 118 of the EP&A Regulations, notice is given that the above modification application has been determined by the granting of a modified development consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for Grant of Consent

a) The development proposal, subject to the recommended conditions is consistent with:
   i) the objects of the Environmental Planning and Assessment Act, 1979.
   ii) the aims, objectives and provisions of the applicable environmental planning instruments,
   iii) the aims, objectives and provisions of applicable development control plans
   iv) the aims, objectives and provisions of relevant Council policies.

b) The likely impacts of the proposed development are considered acceptable.

c) The site is suitable for the proposed development.

d) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.

e) The proposed development does not conflict with the public interest.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Person on behalf of the consent authority



Brittany Anderson
Development Planner
City Development

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

<table>
<tr><th colspan="2">CONDITIONS</th><th>REASON</th></tr>
<tr><td>1.</td><td>Approved plans and supporting documentation
Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.
<table>
<tr><td colspan="5">Approved Plans</td></tr>
<tr><td>Plan Number</td><td>Revision Number</td><td>Plan Title</td><td>Drawn by</td><td>Date of Plan</td></tr>
<tr><td>N25405-408
Sh. 1 of 2</td><td>P0</td><td>Proposed Utility Connections for Early Works Package</td><td>Allen Price & Scarratts Pty Ltd</td><td>June 2024</td></tr>
<tr><td>N25405-409
Sh. 2 of 2</td><td>P0</td><td>Proposed SWMP Mitigation Measures</td><td>Allen Price & Scarratts Pty Ltd</td><td>June 2024</td></tr>
</table>
<table>
<tr><td colspan="4">Approved Documents</td></tr>
<tr><td>Document title</td><td>Version number</td><td>Prepared by</td><td>Date of document</td></tr>
<tr><td>Waste Management Plan</td><td>-</td><td>Cowman and Stoddart Pty Ltd</td><td>26/08/2024</td></tr>
</table>
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</td><td>To ensure compliance with the approved plans and documents.</td></tr>
<tr><td>2.</td><td>Concept Approval – Compliance with Conditions (modified by MA2025/1304)
No works associated with the approved development are permitted to be undertaken until satisfactory evidence has been provided to Council that the relevant conditions as outlined within the most recent version of the Staging Plan</td><td>To ensure that works are undertaken consist with the overarching</td></tr>
</table>

	approved by the Planning Secretary for the West Culburra development have been complied with.	Concept Approval.
3.	**Existing Infrastructure** Any required alterations or damage to infrastructure will be at the developer's expense. *Note: It is recommended prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on construction plans with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. This will reduce the potential for unexpected costs and expenses.*	To ensure existing infrastructure is accounted for and any damage to infrastructure is suitably repaired.
4.	**Prescribed Conditions** The development must comply with Part 4, Division 2, Subdivision 1, of the *Environmental Planning and Assessment Regulation 2021*, as applicable.	To ensure compliance with prescribed conditions.
5.	**Scope of Consent** The scope of this consent is limited to only the works proposed in this application, and it does not approve or imply approval of any existing unlawful works that may be present on the site.	To establish the scope of the development consent.
6.	**Shoalhaven Water – Compliance with Conditions** All conditions listed on the Shoalhaven Water Development Notice at each stage of work must be complied with as relevant to that stage. Written notification must be issued by Shoalhaven Water and evidence provided to the Certifier for each applicable stage.	To ensure compliance with Shoalhaven Water requirements.
7.	**Concurrence and Referral – Endeavour Energy** The advice issued by Endeavour Energy, Reference No: CNR-74046, dated 10 October 2024 are included as conditions of this consent and must be complied with.	To ensure compliance with external concurrence and referral advice.
8.	**Boundary Fence Design** The proposed 3 strand and post boundary fencing must be in accordance with the following: a) be built in accordance with the approved plans.	To ensure compliance with approved plans and to protect native wildlife.

	b) a maximum height of the uppermost wire or rail of 1.2 metres; and the bottom wire or rail at least 0.4 metres above the ground surface. c) not be comprised of barbed wire or electrified wire.	

BUILDING WORK

Before issue of a Construction Certificate

CONDITIONS		REASON
9.	**Construction Certificate** A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.	To ensure an appropriate building and Subdivision Certificates are obtained.

BUILDING / SUBDIVISION WORK

Before building/subdivision work commences

CONDITIONS		REASON
10.	**Appointment of Principal Certifier** Before building/subdivision work commences a Principal Certifier must be appointed.	To ensure a Principal Certifier is appointed where required.
11.	**Dilapidation Report (Minor)** Before 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 900mm of the shared boundary. Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation	To ensure a suitable dilapidation report is prepared and the status of existing infrastructure and adjoining structures is recorded prior to the commencement of work.

	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.	**Erosion and Sediment Controls – Implementation** Before any site work commences, the Certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any disturbed areas have been restabilised in accordance with Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) and approved plans (as amended from time to time).	To ensure appropriate erosion and sediment control measures are in place.
13.	**Notice of Commencement** Notice must be given to Council at least two (2) days before 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'.	To ensure appropriate notice is given to Council.
14.	**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*.	To ensure suitable toilet facilities are provided.

15.	**Works within the Road Reserve – Submissions to Council** Before 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.	To ensure relevant approvals are obtained.
BUILDING / SUBDIVISION WORK **During Building/Subdivision Work**		
CONDITIONS		REASON
16.	**Discovery of relics and Aboriginal objects** While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered: a) the work in the area of the discovery must cease immediately. b) the following must be notified for a relic – the Heritage Council; or c) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85. Site work may recommence at a time confirmed in writing by: a) for a relic – the Heritage Council; or for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.	To ensure the protection of objects of potential significance during works.

17.	**Potentially Contaminated Land - Unexpected Finds** If unexpected, contaminated soil and/or groundwater is encountered during any works: a) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant. b) the contaminated soil and/or groundwater must be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) Guidelines. If unexpected, contaminated soil, or groundwater is treated and/or managed on-site an appropriately qualified environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines before recommencement of works. The verification documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council before the recommencement of any works. If contaminated soil or groundwater is to be removed from the site, it must be transported to an appropriately licensed waste facility by an NSW EPA licensed waste contractor in accordance with relevant NSW EPA guidelines including the Waste Classification Guidelines (2014). *Note: An appropriately qualified environmental consultant will have qualifications equivalent to CEnvP "Site Contamination" (SC) Specialist - by Certified Environmental Practitioner or 'Certified Professional Soil Scientist' (CPSS CSAM) by Soil Science Australia (SSA).*	To ensure any detected contaminants are appropriately managed.
18.	**Site Management - 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.	To ensure site work occurs within appropriate construction hours.
19.	**Site Management - Maintenance of Site and Surrounds** During works, the following maintenance requirements must be complied with: a) All materials and equipment must be stored and delivered wholly within the work site unless an approval to store them elsewhere is held.	To ensure the site is maintained in a safe and secure manner.

	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.	
20.	**Site Management - Noise** The noise from all site work, demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LAeq noise level measured over a period of not less than 15 minutes During works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.	To protect the amenity of neighbouring properties.
BUILDING WORK **Before Issue of an Occupation Certificate**		
CONDITIONS		REASON
21.	**Completion of Public Utility Services** Before the issue of the Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development,	To ensure required changes to public utility services are completed, in accordance with the

	have been completed and this confirmation must be provided to the principal certifier.	relevant agency requirements, before occupation.
22.	**Works in the Road Reserve - Evidence of Completion** Before the issue of an Occupation Certificate, the developer must obtain from Council a completion of works in the road reserve letter, confirming compliance with the requirements of section 138 of the Roads Act 1993.	To ensure works in the road reserve are completed appropriately.
23.	**Dilapidation Report (Minor) – Evidence of Completion** Before 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.	To ensure any damage not previously identified in the Dilapidation Report is suitably repaired.
24.	**Shoalhaven Water – Certificate of Compliance** Before 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 Water Development Notice. 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.	To ensure compliance with Shoalhaven Water requirements.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this consent (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction Certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Shoalhaven City Council.

Court means the NSW Land and Environment Court.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation Certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater
- the reuse of stormwater
- the detention of stormwater
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata Certificate means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.