Shoalhaven City Council

Address all correspondence to: The Chief Executive Officer,
PO Box 42, Nowra NSW 2541 Australia
shoalhaven.nsw.gov.au/contact | 1300 293 111
shoalhaven.nsw.gov.au

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

Application number	DA2025/1608 (Incorporating MA2026/1058)
Applicant	Allen Price Pty Ltd
Description of development	Construction of Low-Pressure Sewer Rising Main
Property	9 Strathstone Street CULBURRA - Lot 1 DP 631825 Culburra Road CULBURRA BEACH - Lot 1 DP 1305809
Determination	Approval
Date of determination	16 January 2026
S4.55 determination	28 July 2026
Date from which the consent operates	16 January 2026
Date on which the consent lapses	16 January 2031

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



David Zabell
Lead – Development Services - Nowra
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

CONDITIONS	REASON
1. 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.	To ensure compliance with the approved plans and documents.

Approved Plans

Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
Drawing No.: N25405-412	Issue: P1	Site Layout Plan	Allen Price Pty Ltd	18/02/2025
Drawing No.: N25405-414	Issue: P2	Site Layout Plan	Allen Price Pty Ltd	29/05/2025
Drawing No.: N25405-413	Issue: P0	SWMP Mitigation Measures	Allen Price Pty Ltd	07/05/2025

Approved Documents

Document title	Version number	Prepared by	Date of document
Flora & Fauna Assessment Report	Version: 4	Eco Logical Australia Pty Ltd	28/05/2025
Arboricultural Impact Assessment Report	Reference: D5771	Allied Tree Consultancy	05/2025
Waste Management Plan	-	Stuart Dixon – Allen Price Pty Ltd	19/06/2025

	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.	
2.	**Concept Approval – Compliance with Conditions** 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 approved by the Planning Secretary for the West Culburra development have been complied with.	To ensure that works are undertaken consist with the overarching 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.	**Biodiversity – Retirement of Species Credits (Modified by MA2026/1058)**	To ensure biodiversity/species credits

	This consent allows for the removal of up to 0.046 ha of native vegetation, as identified for removal in the approved Flora & Fauna Assessment Report (Eco Logical Australia Pty Ltd, Version: 4, dated 28/05/2025) and the approved Arboricultural Impact Assessment Report (Allied Tree Consultancy, Reference: D5771, dated 05/2025). However, the removal or modification (including pruning or trimming) of native vegetation is not permitted to be undertaken as part of this development until satisfactory evidence has been provided to Shoalhaven City Council that the type and number of biodiversity credits required by the overarching SSD 3846 Concept Development (including approved modifications) have been retired. Evidence of the retirement of credits in satisfaction of the SSD-3846 Concept Development (including approved modifications) and this condition (and in accordance with Division 5, 5A and 6 of the Biodiversity Conservation Act 2016) must be provided to the Shoalhaven City Council for review and approval. Before any works impacting biodiversity values, approval must be obtained in writing from the Director – City Development (or delegate) of Shoalhaven City Council that this condition has been satisfied.	are appropriately retired.
8.	**Deleted by MA2026/1058**	
BUILDING / SUBDIVISION WORK **Before building /subdivision work commence**		
CONDITIONS		REASON
9.	**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.*	
10.	**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.
11.	**Biodiversity - Exclusion Fencing Map (Modified by MA2026/1058)** Before the commencement of any works, a site plan showing the location of exclusion fencing such as parra-webbing or similar highly visible bunting surrounding the proposed development footprint must be submitted to the Project Arborist and the Certifier for review and approval. The exclusion fencing is to be designed: a) To ensure that the limits of clearing permitted by this consent are not exceeded, being up to 0.046 ha of native vegetation, as identified for removal in the approved Flora & Fauna Assessment Report (Eco Logical Australia Pty Ltd, Version: 4, dated 28/05/2025) and the approved Arboricultural Impact Assessment Report (Allied Tree Consultancy, Reference: D5771, dated 05/2025). b) In accordance with Appendix B of the approved Arboricultural Impact Assessment report.	To protect biodiversity values.

	c) Using ground protection matting to prevent the trampling and removal of native vegetation regenerating along the access track. d) To accommodate the smallest possible machinery required to achieve the works. Before the commencement of work, approval must be obtained in writing from the Director – City Development (or delegate) of Shoalhaven City Council that this condition has been satisfied.	
12.	**Biodiversity – Site Preparation and Stockpiling (Modified by MA2026/1058)** Before the commencement of any works and prior to the retirement of biodiversity credits required by Condition 7 herein, there must be no vegetation clearing, disturbance to vegetation, site preparation or stockpiling clearing within areas of native vegetation identified as a green polygon on Figure 6 of the approved Flora and Fauna Assessment prepared by Eco Logical Australia (Rev: Final 4) and dated 28/5/2025. *Note: Native vegetation includes groundcover, shrubs and trees.*	To protect biodiversity values and to ensure credits are retired prior to impacting biodiversity values
13.	**Biodiversity – Tree and Biodiversity Protection (Modified by MA2026/1058)** Before the commencement of any clearing works the following requirements must be met to the satisfaction of the Certifier: a) A suitably qualified Project Ecologist must be engaged to conduct pre-clearance surveys and to guide/supervise the clearing work and protection of biodiversity features on the site. Evidence of engagement must be submitted to the Certifier prior to the commencement of work. b) An AQF Level 8 Project Arborist must be engaged to implement the recommendations and mitigation measures detailed in the approved Arboricultural Impact Assessment prepared by Allied Tree Consultancy (D5771; dated May 2025). c) The Project Arborist and Project Ecologist is to hold a pre-construction site induction with principal contractor to discuss methods, equipment proposed, 'no-go' areas detailed in the approved Flora and Fauna Assessment prepared by Eco Logical Australia (Rev: Final 4) and dated 28/5/2025, importance of tree and vegetation protection measures and resolve any issues in relation to feasibility of tree and biodiversity protection requirements that may arise.	To minimise biodiversity impacts.

	d) The biodiversity exclusion fencing must be installed in accordance with the approved Exclusion Fencing Map, the approved Arboricultural Impact Assessment and Condition 11 and retained/maintained until all works are complete. e) Project Arborist to assess and certify that tree protection has been installed in accordance with AS 4970-2025. The Project Ecologist must implement all biodiversity protection measures required by this consent and approved plans and documents prior to commencement, including pre-clearing surveys and inspections. Vegetation removal must not commence if any fauna is confirmed to be nesting (such as hollow inspection, collection of nesting material) or showing signs of breeding activity. Subsequent pre-clearance surveys are to be undertaken following the completion of the nesting/breeding event, until it is confirmed that the site is clear of nesting/breeding activity. Evidence of compliance with the above requirements must be forwarded to the Director – City Development (or delegate) of Shoalhaven City Council prior to the commencement of any clearing works for record keeping purposes.	
14.	**Biodiversity - Tree / Environmental Protection Measures (Evidence of Installation) (Modified by MA2026/1058)** Before the commencement of any work, the Project Arborist and Project Ecologist must confirm in writing to the Certifier that all required tree/biodiversity protection measures detailed in this consent and approved plans and documents are in place. Site works must not commence until the Certifier has confirmed in writing that the installed protection measures are satisfactory. Evidence of compliance with the above requirements must be forwarded to the Director – City Development (or delegate) of Shoalhaven City Council prior to the commencement of any clearing works for record keeping purposes.	To ensure tree/environmental protection measures are adequately installed.
BUILDING / SUBDIVISION WORK **During building /subdivision work**		
CONDITIONS		REASON

15.	**Acid Sulfate Soils - Unexpected Finds** If acid sulfate soils are encountered during excavation and/or construction works, all work must cease, and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.	To ensure acid sulfate soils are appropriately managed.
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	To ensure any detected contaminants are appropriately managed.

	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).*	
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. 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	To ensure the site is maintained in a safe and secure manner.

	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.
21.	**Biodiversity – Project Limits (Modified by MA2026/1058)** During works, the pipe must be underbored at a minimum depth ranging from 600mm and greater to avoid the generic root depth of within 500mm below the surface, in accordance with the requirements of the approved Arboricultural Impact Assessment prepared by Allied Tree Consultancy (D5771; dated May 2025). The total area permitted to be cleared to construct Pit A, Pit B and Pit C is 1000mm by 2000mm for each borehole entry point.	To ensure compliance with the Arboricultural Impact Assessment.
22.	**Biodiversity – Access Protocol** The Project Ecologist must be on site prior to, and during the works to ensure that the ground protection matting is adequately preventing the trampling and removal of native vegetation regenerating along the access track.	To minimise biodiversity impacts.
23.	**Biodiversity - Timing of Works (Modified by MA2026/1058)** During works, the following timing considerations are to be adhered to: a) To protect adjoining bushland, works involving soil disturbance must not take place during heavy rainfall periods (typically >15 mm in 24 hours), other than work necessary to stabilise the site.	To minimise biodiversity impacts.
24.	**Biodiversity – Vegetation Removal Protocol** During works, the following vegetation removal protocol is to be adhered to in order to protect wildlife:	To minimise biodiversity impacts.

	a) Any vegetation to be removed must be inspected by the Project Ecologist for wildlife prior to removal. b) Measures to prevent tracking of soils/sediments from the work site to roadways, footpaths and drainage lines as a result of work vehicle or machinery movement must be advised by the Project Ecologist and implemented by all construction personnel. c) All trenches must be inspected for wildlife prior to backfilling. d) No trees or canopy species are permitted for removal, in accordance with the approved Flora and Fauna Assessment prepared by Eco Logical Australia (Rev: Final 4) and dated 28/5/2025 and approved Arboricultural Impact Assessment prepared by Allied Tree Consultancy (D5771; dated May 2025). e) No vegetation on Lot 1 DP 631825 is permitted for removal. Ground protection matting must be used to prevent the trampling and removal of native vegetation regenerating along the access track. f) Pruning or trimming of any trees to be retained must be undertaken in accordance with AS 4373 2007 Pruning of amenity trees. g) If any native wildlife is identified as breeding on site, clearing works must stop immediately and must not recommence until the Director – City Development (or delegate) of Shoalhaven City Council has confirmed in writing that clearing works may recommence. h) If any wildlife is disoriented or injured during clearing works, works must stop immediately, and any injured wildlife must be referred to a local Veterinary Clinic or into the care of Wildlife Rescue South Coast (0418 427 214). Within 10 days of completing clearing work, the engaged ecologist must provide to Council written evidence of any fauna detected during clearing.	
25.	**Tree Protection – During Works** During works, tree protection for trees to be retained as shown in the Arboricultural Impact Assessment prepared by Allied Tree Consultancy (D5771; dated May 2025) should be conducted in accordance with the following: a) Section 8.0 Protection Specification of the approved Arboricultural Impact Assessment prepared by Allied Tree Consultancy (D5771; dated May 2025) is to be adhered to.	To ensure compliance with the Arboricultural Impact Assessment.

	b) The Project Arborist should carry out regular site inspections to ensure works are being completed in accordance with the recommendations from the approved Arboricultural Impact Assessment. c) The Project Arborist to supervise all manual excavations and underboring inside the Notional Root Zone of any tree to be retained d) Project Arborist to certify that all underground services including storm water inside Notional Root Zone of any tree to be retained have been installed in accordance with AS 4970-2025.	
26.	**Tree Protection Certification and Reporting** After all tree removal and construction works are complete the Project Arborist must: a) Assess the condition of retained trees and provide recommendations for remediation works if required. b) Provide a final project report that demonstrates tree protection measures required by the consent have been implemented and any recommended remediation measures following final inspection. Evidence of completion must be submitted to the Director – City Development (or delegate) of Shoalhaven City Council for review and approval.	To ensure compliance with the Arboricultural Impact Assessment.
BUILDING / SUBDIVISION WORK **On Completion of building / subdivision work**		
CONDITIONS		REASON
27.	**Completion of Public Utility Services** Upon completion of works, 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, have been completed and this confirmation must be provided to the principal certifier.	To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

28.	**Dilapidation Report (Minor) – Evidence of Completion** Upon completion of works, 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.
29.	**Shoalhaven Water – Certificate of Compliance** Upon completion of works, 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.
BUILDING / SUBERDIVISION WORK **Ongoing Management of Site**		
CONDITIONS		REASON
30.	**Biodiversity – Exotic Grasses within Bushland Areas** In order to maintain the existing condition of remaining native vegetation: a) no exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process Invasion of native plant communities by exotic perennial grasses, must be sown. b) Only locally occurring native plant species occurring in PCT 3273 South Coast Lowland Shrub-Grass Forest are to be planted (if required to stabilise the soil).	To protect biodiversity values.

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.