

Ordinary Meeting

Meeting Date: Monday, 22 May, 2023

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Attachments (Under Separate Cover)

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Monthly Investment Report

April 2023

CL23.154 - Attachment 1

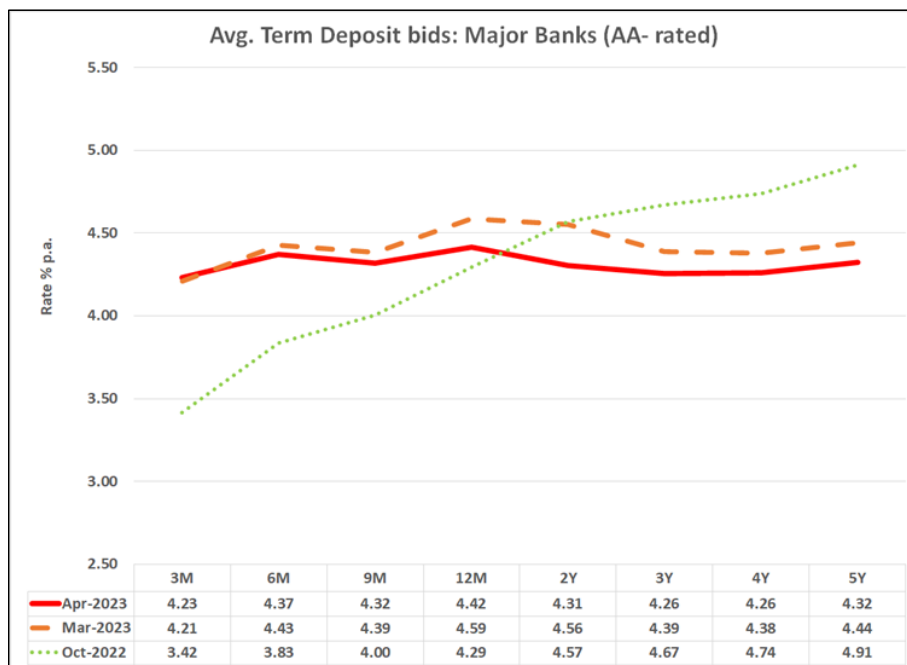
 IMPERIUM MARKETS	<p>Imperium Markets Pty Ltd ABN: 87 616 579 527 Authorised Representative of Libertas Financial Planning Pty Ltd AFSL 429 718 Phone: +61 2 9053 2987 Email: michael.chandra@imperium.markets Level 9 Suite 06, 70 Phillip Street, Sydney NSW 2000</p>



Market Update Summary

Financial markets were aided in April following early signs of inflation peaking across several developed economies. Markets continue to adjust their forecasts regarding future interest rate expectations accordingly, with the peak of the interest rate cycle potentially month(s) away, as per the rhetoric from several global central banks. Domestically, the RBA paused in April but decided to lift rates in May to 3.85%, commenting “*some further tightening of monetary policy may be required*” reinforcing a continuing commitment to do what is necessary to return inflation to target and a bias that still higher interest rates might be required to return inflation to target.

Despite the aggressive rate hikes, over the past few months, the deposit market has already factored in the current rate hike cycle. Deposit rates in the long-end (12m-5yr tenors) from the major banks (rated AA-) fell around 10-20bp on average during April (compared to March), with the market starting to price in the possibility that we may have reached the peak of the interest rate cycle:



Source: Imperium Markets

‘New’ investments close to or above 4% - 4½% p.a. is currently available if Council can place the majority of its surplus funds for terms of 12 months to 3 years. With recessionary fears being priced in coming years, investors may take an ‘insurance policy’ against future rate cuts by investing across 3-5 year fixed deposits and locking in rates above or close to 4½% p.a. (small allocation only), although this is primarily being offered by the lower rated (“BBB”) ADIs.



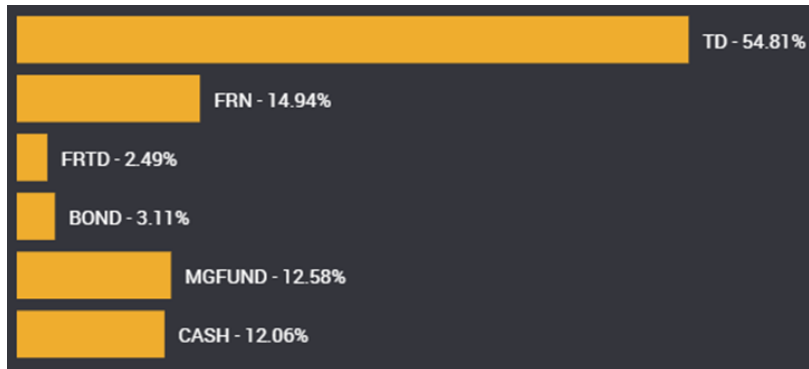
Council's Portfolio & Compliance

Asset Allocation

The majority of the portfolio is directed to fixed and floating rate term deposits, followed by liquid senior FRNs. The remainder of the portfolio is directed to the managed with TCorp, the introduction of fixed bonds with Northern Territory, as well as cash accounts.

Senior FRNs remain relatively attractive as spreads have widened over the past year – new issuances should now be considered again on a case by case scenario. In the interim, fixed deposits for 12 months to 3 years remains appealing following the spike in medium-to longer-term yields during the rate hike cycle.

With recessionary fears being priced in coming years, investors can choose to allocate some longer-term surplus funds and undertake an insurance policy against any potential future rate cuts by investing across 3-5 year fixed deposits, locking in and targeting yields close to or above 4½% p.a. (mainly available from the regional banks).



CL23.154 - Attachment 1



Term to Maturity

All maturity limits (minimum and maximum) comply with the Investment Policy. Short-Medium Term (1-2 years) assets account for around 7% of the total investment portfolio, with capacity of ~\$101m remaining.

We recommend surplus funds be allocated to 1-3 year fixed rate term deposits in combination with any attractive new FRNs (3-5 years) as they come to market (refer to respective sections below).

Compliant	Horizon	Invested (\$)	Invested (%)	Min. Limit (%)	Max. Limit (%)	Available (\$)
✓	0 - 90 days	\$48,359,863	30.12%	0%	100%	\$112,195,281
✓	91 - 365 days	\$59,487,197	37.05%	0%	100%	\$101,067,947
✓	1 - 2 years	\$11,095,520	6.91%	0%	70%	\$101,293,081
✓	2 - 5 years	\$21,409,845	13.34%	0%	50%	\$58,867,728
✓	5 - 10 years	\$20,202,719	12.58%	0%	25%	\$19,936,067
		\$160,555,145	100.00%			



Individual Counterparty Limits

As at the end of April 2023, all counterparty exposures comply within the Policy limits. Capacity limits are also dependent on the movement in the cash balances. Overall, the portfolio is well diversified across the entire credit spectrum, including some exposure to the regional bank (lower rated) ADIs.

Compliant	Issuer	Rating	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	CBA	AA-	\$31,744,100	19.77%	100.00%	\$128,811,044
✓	HSBC Bank	AA-	\$1,998,806	1.24%	100.00%	\$158,556,339
✓	NAB	AA-	\$36,978,449	23.03%	100.00%	\$123,576,695
✓	Northern Terr.	AA-	\$5,000,000	3.11%	100.00%	\$155,555,145
✓	NSW (SIRA)	AA+	\$4,115,000	2.56%	100.00%	\$156,440,145
✓	Westpac	AA-	\$14,000,000	8.72%	100.00%	\$146,555,145
✓	Macquarie	A+	\$3,960,431	2.47%	100.00%	\$156,594,713
✓	Rabobank	A+	\$5,986,519	3.73%	100.00%	\$154,568,626
✓	Suncorp	A+	\$6,747,973	4.20%	100.00%	\$153,807,172
✓	Bank of China	A	\$2,487,197	1.55%	100.00%	\$158,067,947
✓	ING Bank	A	\$20,000,000	12.46%	100.00%	\$140,555,145
✓	AMP Bank	BBB	\$2,238,429	1.39%	5.00%	\$5,789,328
✓	MyState Bank	BBB	\$3,000,000	1.87%	5.00%	\$5,027,757
✓	Newcastle PBS	BBB	\$2,095,520	1.31%	5.00%	\$5,932,237
✓	NSW TCorp LTG	Unrated	\$20,202,719	12.58%	100.00%	\$140,352,425
			\$160,555,145	100.00%		

In July 2022, ANZ (AA-) announced it was putting a bid to buy Suncorp's banking division for ~\$3.9bn. Should that takeover be formalised, Suncorp-Metway's (A+) current credit rating is likely to be upgraded to ANZ's (AA-), although this still requires approval from the Australian Competition and Consumer Commission (ACCC).

We remain supportive of the regional and unrated ADI sector (and have been even throughout the post-GFC period). They continue to remain solid, incorporate strong balance sheets, while exhibiting high levels of capital – typically, much higher compared to the higher rated ADIs. Some unrated ADIs have up to 25-40% more capital than the domestic major banks, and well above the Basel III requirements.

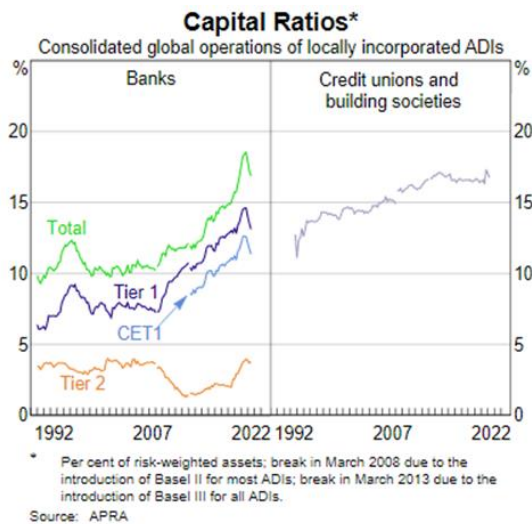
Overall, the lower rated ADIs (BBB and unrated) are generally now in a better financial position than they have been historically (see the Capital Ratio figure below). The financial regulator, APRA has noted that the Common Equity Tier 1 capital of Australian banks now exceeds a quarter of a trillion dollars. It has increased by \$110 billion, or more than 70%, over the past eight years. Over the same time, banks' assets have grown by 44%. Some of the extra capital is supporting growth in the banking system itself but clearly, there has been a strengthening in overall resilience and leverage in the system is lower.

We believe that deposit investments with the lower rated ADIs should be considered going forward, particularly when they offer 'above market' specials. Not only would it diversify the investment



portfolio and reduce credit risk, it would also improve the portfolio's overall returns. The lower rated entities are generally deemed to be the more 'ethical' ADIs compared to the higher rated ADIs.

In the current environment of high regulation and scrutiny, all domestic (and international) ADIs continue to carry high levels of capital. There is minimal (if any) probability of any ADI defaulting on their deposits going forward – this was stress tested during the GFC and the pandemic period. **APRA's mandate is to "protect depositors" and provide "financial stability".**





Overall Credit Quality Limits

The portfolio is well diversified from a credit ratings perspective. The portfolio is predominately invested amongst the investment grade ADIs (BBB- or higher). The allocation to the Unrated category reflects the investment in the TCorp Long-Term Growth Fund.

All ratings categories are within the Policy limits:

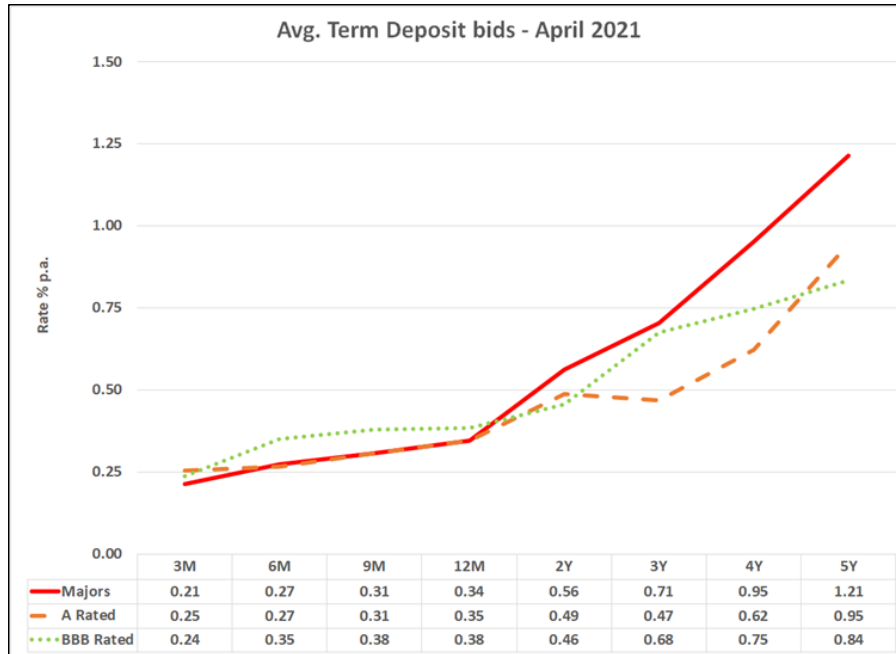
Compliant	Credit Rating	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	AAA Category	\$0	0%	100%	\$160,555,145
✓	AA Category	\$93,836,355	58%	100%	\$66,718,789
✓	A+ to A Category	\$39,182,120	24%	100%	\$121,373,024
✓	A- Category	\$0	0%	40%	\$64,222,058
✓	BBB+ to BBB Category	\$7,333,949	5%	30%	\$40,832,594
✓	BBB- & NR Category	\$0	0%	5%	\$8,027,757
✓	NSW TCorp LTGF	\$20,202,719	13%	100%	\$140,352,425
		\$160,555,145	100.00%		

Pre-pandemic (March 2020), a 'normal' marketplace meant the lower rated ADIs (i.e. BBB category) were offering higher rates on term deposits compared to the higher rated ADIs (i.e. A or AA rated). But due to the cheap funding available provided by the RBA via their Term Funding Facility (TFF) since mid-2020¹, allowing the ADIs to borrow as low as 0.10% p.a. fixed for 3 years, those lower rated ADIs (BBB rated) did not require deposit funding from the wholesale deposit from the likes of Council. Given the higher rated banks had more capacity to lend (as they have a greater pool of mortgage borrowers), they subsequently were offering higher deposit rates. In fact, some of the lower rated banks were not even offering deposit rates at all. As a result, most investors placed a higher proportion of their deposit investments with the higher rated (A or AA) ADIs over the past three years.

¹ The RBA's Term Funding Facility (TFF) allowed the ADI to borrow as low as 0.10% fixed for 3 years: <https://www.rba.gov.au/mkt-operations/term-funding-facility/overview.html>



Term Deposit Rates – During Pandemic (April 2021)



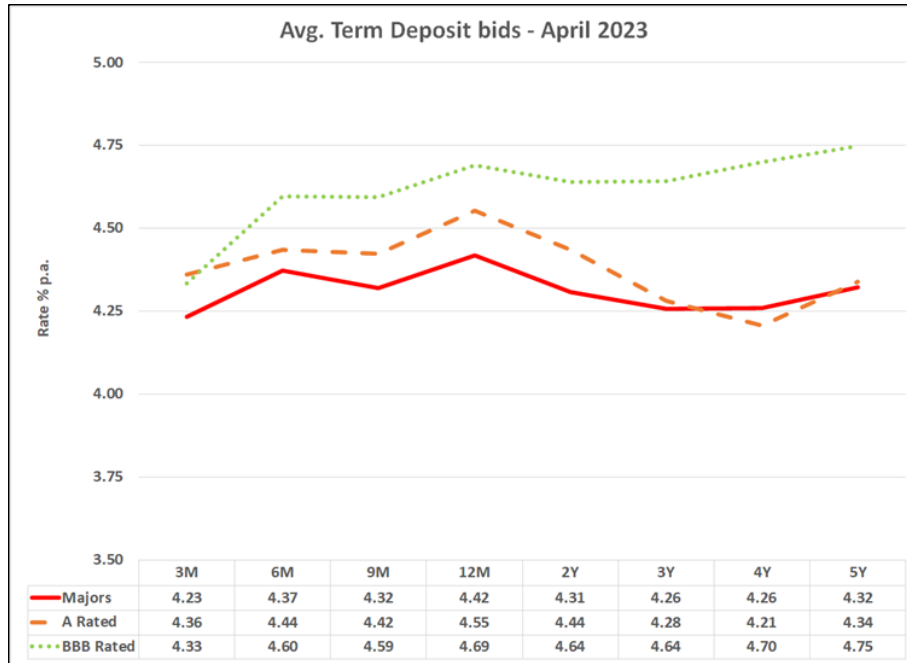
Source: Imperium Markets

The abnormal marketplace experienced during the pandemic is starting to reverse as the competition for deposits increases. We are now starting to see some of the lower rated ADIs ("BBB" rated) offering slightly higher rates compared to the higher rated banks ("A" or "AA" rated) on different parts of the curve (i.e. pre-pandemic environment). Some of this has been attributed to lags in adjusting their deposit rates as some banks (mainly the lower rated ADIs) simply set their rates for the week.

Going forward, Council should have a larger opportunity to invest a higher proportion of its surplus funds with the lower rated institutions (up to Policy limits), from which the majority are not lending to the Fossil Fuel industry. We are slowly seeing this trend emerge, as has been the case over the past month again:



Term Deposit Rates – Currently (April 2023)



Source: Imperium Markets



Performance

Council's performance for the month ending April 2023 (excluding cash) is summarised as follows:

Performance (Actual)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	0.29%	0.85%	1.61%	2.30%	2.40%
AusBond Bank Bill Index	0.30%	0.83%	1.60%	2.28%	2.37%
T/D Portfolio	0.26%	0.73%	1.32%	1.79%	1.95%
FRT/D Portfolio	0.39%	1.12%	2.29%	3.67%	4.23%
FRN Portfolio	0.68%	1.39%	2.50%	4.02%	4.74%
Bond Portfolio	0.09%	0.27%	0.54%	0.90%	1.08%
Council's Fixed Interest[^]	0.37%	0.90%	1.64%	2.37%	2.68%
TCorp LTGF	1.20%	1.80%	5.25%	9.22%	2.83%
TCorp Long-Term Target ^{^^}	0.48%	1.43%	2.93%	4.97%	6.00%
Council's Total Portfolio	0.47%	1.03%	2.08%	3.08%	2.71%
Relative (to Bank Bills)	0.17%	0.20%	0.47%	0.80%	0.34%

[^]Council's Fixed Interest portfolio returns excludes Council's cash account holdings.

^{^^}TCorp has a target of 3.5% above inflation of ~2.5%. The long-term target is therefore 6% p.a. on an ongoing basis.

Performance (Annualised)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	3.60%	3.52%	3.27%	2.77%	2.40%
AusBond Bank Bill Index	3.77%	3.45%	3.26%	2.75%	2.37%
T/D Portfolio	3.19%	3.03%	2.69%	2.16%	1.95%
FRT/D Portfolio	4.80%	4.69%	4.66%	4.42%	4.23%
FRN Portfolio	8.65%	5.84%	5.11%	4.84%	4.74%
Bond Portfolio	1.12%	1.09%	1.09%	1.08%	1.08%
Council's Fixed Interest[^]	4.56%	3.76%	3.33%	2.85%	2.68%
TCorp LTGF	15.68%	7.57%	10.87%	11.17%	2.83%
TCorp Long-Term Target ^{^^}	6.00%	6.00%	6.00%	6.00%	6.00%
Council's Total Portfolio	5.90%	4.30%	4.23%	3.72%	2.71%
Relative (to Bank Bills)	2.14%	0.85%	0.97%	0.97%	0.34%

[^]Council's Fixed Interest portfolio returns excludes Council's cash account holdings.

^{^^}TCorp has a target of 3.5% above inflation of ~2.5%. The long-term target is therefore 6% p.a. on an ongoing basis.

For the month of April, the total portfolio (excluding cash) provided a return of +0.47% (actual) or +5.90% p.a. (annualised), outperforming the benchmark AusBond Bank Bill Index return of +0.30% (actual) or +3.77% p.a. (annualised). Over the past year, the portfolio returned a positive return of +2.71% p.a., outperforming bank bills by 0.34% p.a.

The longer-term positive performance continues to be anchored by the handful of deposits that were originally placed for terms greater than 12 months. Going forward, a more optimal strategy in placing



deposits across 12-24 months terms is likely to earn up to ¼-½% p.a. higher compared to shorter tenors in a normal market environment. There is a growing belief that a recession is not too far away and so locking in rates above 4½% p.a. across 2-3 year tenors may provide some income protection against a potentially lower rate environment.

The T-CorpIM Growth Fund contributed to outperformance this month, with the Fund returning +1.20% (net actual) as shares provided modest returns. Despite the volatility in the Fund over the past few years, the Growth Fund has performed well over longer-term time periods.



NSW T-CorpIM Growth Fund

The Growth Fund returned +1.20% (actual) for the month of April. The gains this month were attributed to international shares (the MSCI World ex-Australia Index rose +1.62%) and domestic shares (S&P ASX 200 Accumulation Index rose +1.85%). Also contributing to the gains was the exposure to fixed bonds (AusBond Composite Bond Index rose +0.19%) as yields fell on expectations about the potential peak of the interest rate cycle.

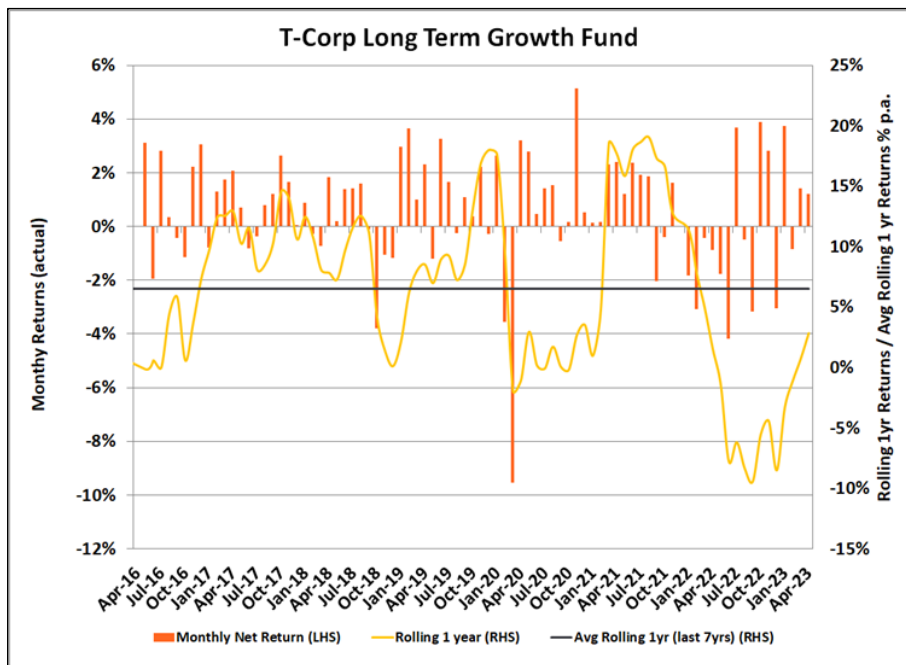
Central banks have been caught between a “*rock and a hard place*” with the recent banking crisis in the US and Europe, and still high inflation not giving them any leeway to pivot towards easier policy. Instead, liquidity tools have been engaged to sort the recent banking crisis while further hikes in rates have been delivered to maintain the pressure on lowering inflation.

Key measures of the supply chain show broadening evidence that the shocks from the pandemic and then Ukraine war are gradually dissipating. Will this be quick enough to temper central banks, who continue to guide that inflation is their greater concern versus growth? Europe is facing a more persistent inflation environment in contrast to the US and Australia. That said, central bank tightening is now in the end phase. Markets are again speculating for near term rate cuts but the hurdle for this is expected to be high unless of course a hard landing manifests. This points to higher volatility persisting in asset markets in the coming quarter(s).

Overall, we remain cautious on the future performance of the T-Corp Growth Fund given the high volatility associated with a diversified growth fund, which generally allocates a range of 60%-80% in domestic and international shares. Investors are bracing for central banks to raise official rates more aggressively than previously anticipated to combat inflation driven by supply-chain bottlenecks, a global energy crunch and ongoing geopolitical risks.

The Fund should be looked at with a long-term view, with a minimum holding period of +7 years. Given the exposure to the volatile asset of shares, Council should expect to see, on average, a negative month once every 3 months over a long-term holding period.

Since Inception	T-Corp Long Term Fund
Negative Months	139 (~1 in 3 months)
Positive Months	267
Total Months	406 (33.83 yrs)
Average Monthly Return	+0.64% (actual)
Median Monthly Return	+1.02% (actual)
Lowest 1 year Rolling Return	-21.12% p.a. (Nov 2008)
Highest 1 year Rolling Return	+29.89% p.a. (Jan 1994)



CL23.154 - Attachment 1



Council's Term Deposit Portfolio & Recommendation

As at the end of April 2023, Council's deposit portfolio was yielding 3.19% p.a. (up 6bp from the previous month), with a weighted average duration of ~177 days (6 months).

Over a longer-term cycle, investors are rewarded if they can continue to maintain a slightly longer average duration. In a 'normal' marketplace, yields at the long-end are generally offered at a slight premium over shorter tenors.

At the time of writing, we see value in:

ADI	LT Credit Rating	Term	T/D Rate
P&N Bank	BBB	5 years	4.95% p.a.
P&N Bank	BBB	4 years	4.85% p.a.
AMP Bank	BBB	2-3 years	4.85% p.a.^
P&N Bank	BBB	3 years	4.80% p.a.
P&N Bank	BBB	2 years	4.70% p.a.
Hume Bank	BBB+	2 years	4.70% p.a.
BoQ	BBB+	2 years	4.65% p.a.
ING	A	2 years	4.40% p.a.
Suncorp	A+	2 years	4.40% p.a.
Westpac	AA-	2 years	4.39% p.a.
NAB	AA-	2 years	4.35% p.a.

[^]Contact us to get an additional 20bp rebated commission. Aggregate limits temporarily lifted to \$10m (from \$5m).

The above deposits are suitable for investors looking to maintain diversification and lock-in a slight premium compared to purely investing short-term. For terms under 12 months, we believe the strongest value is currently being offered by the following ADIs (dependent on daily funding requirements):



ADI	LT Credit Rating	Term	T/D Rate
AMP Bank	BBB	11-12 months	4.90% p.a.^
Hume Bank	BBB+	12 months	4.80% p.a.
P&N Bank	BBB	12 months	4.80% p.a.
BoQ	BBB+	12 months	4.65% p.a.
BoQ	BBB+	6 & 9 months	4.60% p.a.
NAB	AA-	6-12 months	4.55% p.a.
Westpac	AA-	12 months	4.51% p.a.
ING	A	12 months	4.50% p.a.
Suncorp	A+	12 months	4.48% p.a.
Suncorp	A+	3 months	4.46% p.a.

^Contact us to get an additional 20bp rebated commission. Aggregate limits temporarily lifted to \$10m (from \$5m).

If Council does not require high levels of liquidity and can stagger its investments across the longer term horizons (1-5 years), it will be rewarded over a longer-term cycle if it can roll for an average min. term of 12 months to 3 years (this is where we current value), yielding, on average, up to ¼-½% p.a. higher compared to those investors that entirely invest in short-dated (under 6 months) deposits.

With recessionary fears being priced in coming years, Council should consider allocating some longer-term surplus funds and undertake an insurance policy by investing across 3-5 year fixed deposits and locking in rates close to or above 4½ p.a. This will provide some income protection if central banks decide to cut rates in future years, and assuming inflation has peaked and is under control.

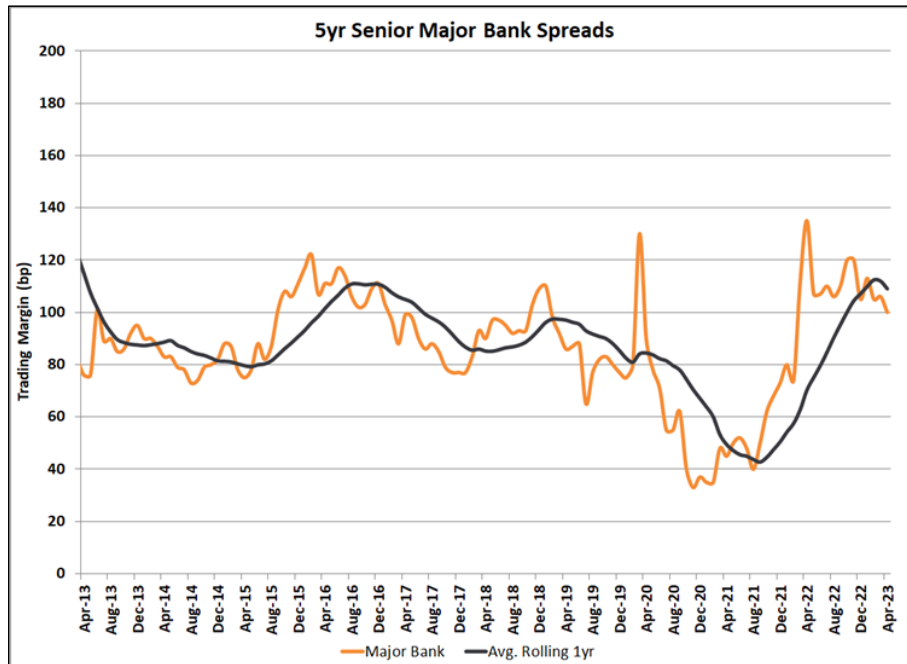
AMP Business Saver & Notice Account

We note the AMP Business Saver and AMP 31 Day Notice Account are now sub-optimal investments given the rise in deposit yields in recent months. We recommend switching into short-dated fixed deposits with the major banks yielding a considerably higher rate of return.



Senior FRNs Review

Over April, amongst the senior major bank FRNs, physical credit securities tightened by around 6-8bp at the long-end of the curve. Major bank senior securities remain fairly attractive again in a rising rate environment (5 year margins above the +100bp level):



Source: IBS Capital

There was a lack of primary issuances again over the month apart from BoQ's (AAA rated) covered FRN at +120bp at month-end. Amongst the "A" rated sector, the securities were marked around 5bp tighter at the 3-5 year part of the curve, whilst the "BBB" rated sector was marked around 15bp tighter (3yrs).

Credit securities are looking much more attractive given the widening of spreads over the past year. FRNs will continue to play a role in investor's portfolios mainly on the basis of their liquidity and the ability to roll down the curve and gross up returns over ensuing years (in a relatively stable credit environment).



Senior FRNs (ADIs)	30/04/2023	31/03/2023
"AA" rated – 5yrs	+100bp	+106bp
"AA" rated – 3yrs	+75bp	+83bp
"A" rated – 5yrs	+115bp	+120bp
"A" rated – 3yrs	+90bp	+95bp
"BBB" rated – 3yrs	+135bp	+150bp

Source: IBS Capital

We now generally recommend switches ('benchmark' issues only) into new primary issues, out of the following senior FRNs that are maturing:

- On or before mid-2025 for the "AA" rated ADIs (domestic major banks);
- On or before mid-2024 for the "A" rated ADIs; and
- Within 6-9 months for the "BBB" rated ADIs (consider case by case).

Investors holding onto the above senior FRNs ('benchmark' issues only) in their last few years are now generally holding sub-optimal investments and are not maximising returns by foregoing realised capital gains. In the current challenging economic environment, any boost in overall returns should be locked in when it is advantageous to do so, particularly as switch opportunities become available.

Primary (new) FRNs are now looking more appealing and should be considered on a case by case scenario.



Council's FRN Portfolio – Sale/Switch Recommendations

During the month, due to unexpected cash flow requirements, Council sold out of the following FRNs and received access to the funds within two business days:

Issuer	Rating	Maturity Date	ISIN	Face Value	Trading Margin	Capital Price (\$)	Realised Gain / Loss (\$)
Macq.	A+	12/02/2025	AU3FN0052908	\$2,000,000	+82bp	\$100.024	\$480
ING	AAA	08/12/2025	AU3FN0074175	\$2,200,000	+85bp	\$100.324	\$7,128
Bend.	AAA	11/11/2025	AU3FN0073334	\$4,000,000	+83bp	\$100.282	\$11,280
Citi.	A+	14/11/2024	AU3FN0051561	\$1,000,000	+92bp	\$99.926	-\$740
Bend.	BBB+	17/03/2025	AU3FN0067401	\$1,650,000	+99bp	\$99.981	-\$313.50
NAB	AA-	25/11/2027	AU3FN0073896	\$4,200,000	+89bp	\$101.269	\$53,298
ANZ	AA-	04/11/2027	AU3FN0073003	\$3,200,000	+91bp	\$101.174	\$37,568
						Total	\$108,700.50

Council realised significant capital gains of \$108,700.50, which boosted the overall returns of the portfolio this month.

We recommend that Council retains all its other FRNs at this stage (most are marked at a slight discount to par at month-end). We will continue to monitor them individually and will advise when it is appropriate to sell to boost the overall returns of the portfolio in future.

Council's Senior Fixed Bonds

In September 2020, Council has invested into the following NTTC (AA-) fixed bonds:

Investment Date	Maturity Date	Principal	Rate % p.a.	Interest Paid
15/09/2021	15/12/2024	\$3,000,000	1.00%	Annually
15/09/2021	15/12/2025	\$2,000,000	1.10%	Annually
Totals / Wgt. Avg.		\$5,000,000	1.04%	

We believe this was prudent given the low rate environment and particularly after the RBA's easing decision in early November 2020 and forward guidance towards official interest rates (no rate rises "until at least 2024").

The NTTC bonds are a 'retail' offering and not 'wholesale' issuances. Given the lack of liquidity and high penalty costs if they were to be sold/redeemed prior to the maturity date, they are considered to be a hold-to-maturity investment and will be marked at par value (\$100.00) throughout the term of investment.



Senior Fixed Bonds – ADIs (Secondary Market)

As global inflationary pressures remain, this has seen a significant lift in longer-term bond yields over the past year (valuations fell) as markets have reacted sharply.

This has resulted in some opportunities in the secondary market. We currently see value in the following fixed bond lines, with the majority now being marked at a significant discount to par (please note supply in the secondary market may be limited on any day):

ISIN	Issuer	Rating	Capital Structure	Maturity Date	~Remain. Term (yrs)	Fixed Coupon	Indicative Yield
AU3CB0255776	ING	AAA	Covered	07/09/2023	0.36	3.00%	3.97%
AU3CB0258465	Westpac	AA-	Senior	16/11/2023	0.56	3.25%	4.10%
AU3CB0265403	Suncorp	A+	Senior	30/07/2024	1.27	1.85%	4.32%
AU3CB0263275	Westpac	AA-	Senior	16/08/2024	1.31	2.25%	4.10%
AU3CB0265718	ING	AAA	Covered	20/08/2024	1.32	1.45%	4.20%
AU3CB0266179	ANZ	AA-	Senior	29/08/2024	1.36	1.55%	4.10%
AU3CB0266377	Bendigo	BBB+	Senior	06/09/2024	1.39	1.70%	4.41%
AU3CB0268027	BoQ	BBB+	Senior	30/10/2024	1.52	2.00%	4.49%
AU3CB0269710	ANZ	AA-	Senior	16/01/2025	1.73	1.65%	4.08%
AU3CB0269892	NAB	AA-	Senior	21/01/2025	1.74	1.65%	4.03%
AU3CB0270387	Macquarie	A+	Senior	12/02/2025	1.81	1.70%	4.37%
AU3CB0287415	Westpac	AA-	Senior	17/03/2025	1.90	2.70%	4.08%
AU3CB0291508	Westpac	AA-	Senior	11/08/2025	2.32	3.90%	4.11%
AU3CB0291672	CBA	AA-	Senior	18/08/2025	2.32	4.20%	4.03%
AU3CB0280030	BoQ	BBB+	Senior	06/05/2026	3.03	1.40%	4.62%
AU3CB0282358	ING	AAA	Covered	19/08/2026	3.33	1.10%	4.31%
AU3CB0284149	BoQ	BBB+	Senior	27/10/2026	3.52	2.10%	4.66%
AU3CB0286037	Westpac	AA-	Senior	25/01/2027	3.77	2.40%	4.21%



Economic Commentary

International Market

Financial markets were aided in April following early signs of inflation peaking across several developed economies. Across equity markets, the S&P 500 Index gained +1.46%, whilst the NASDAQ added +0.04%. Europe's main indices also gained, led by UK's FTSE (+3.13%), France's CAC (+2.31%) and Germany's DAX (+1.88%).

US CPI showed welcome, but not overwhelming, progress. Headline CPI rose less than expected, up +0.1% m/m and +5.0% y/y, down from +6.0% previously, the first monthly decline since November 2020. Core inflation, however, was in line with expectations at +0.4% m/m and +5.6% y/y.

The US unemployment rate fell 0.1% to 3.5% (3.6% expected) and average hourly earnings rose by an as expected +0.3% to be +4.2% up on a year ago down from +4.6% and +4.3% expected.

Strong Canada jobs report showed employment up +34.7k against +5k expected and the unemployment rate remained steady at 5.0%, rather than the consensus for a rise to 5.1%. The Bank of Canada held rates for the second consecutive meeting as expected.

UK employment growth was strong at 169k vs. 50k expected, while the unemployment rate ticked up 0.1% higher to 3.8%. BoE pricing now has a 90% chance of a 25bp rate hike in May (up from a 79% previously).

UK April CPI was a shocker, headline CPI only falling from +10.3% to +10.1% against +9.8% expected and the core measure unchanged at +6.2% against expectations for a fall to +6.0%.

The RBNZ raised rates by 50bp to 5.25%, against a strong market consensus for a smaller 25bp hike.

The International Monetary Fund (IMF) downgraded global growth forecasts made three months ago by 0.1% to +2.8% for 2023 and +3.0% for next year, following the +3.4% lift last year. The IMF noted *"the risks are weighted heavily to the downside, in part because of the financial turmoil of the last month and a half"*.

Chinese activity data showed GDP rebounded more quickly than expected. Q1 GDP growth beat expectations by +0.2% at +2.2% q/q vs. +2.0% expected. Strength was seen by the consumer with retail sales +10.6% y/y vs. +7.5% expected.

The MSCI World ex-Aus Index rose +1.62% for the month of April:

Index	1m	3m	1yr	3yr	5yr	10yr
S&P 500 Index	+1.46%	+2.28%	+0.91%	+12.70%	+9.50%	+10.07%
MSCI World ex-AUS	+1.62%	+2.07%	+1.66%	+11.39%	+6.45%	+6.99%
S&P ASX 200 Accum. Index	+1.85%	-0.80%	+2.83%	+13.99%	+8.26%	+7.90%

Source: S&P, MSCI



Domestic Market

The RBA decided to leave interest rates unchanged at 3.60% in April, while it assesses the outlook for the economy and the impact of previous substantial interest rate increases.

In addition, the bias to tighten further was softened with prior phrasing of further tightening will be required replaced with further tightening may well be needed. This suggests that the RBA has downgraded its forecasts for growth and/or inflation from the February Statement on Monetary Policy when a cash rate of 3.75% was seen as being required to achieve the return of inflation to 3% by mid-2025.

RBA Governor Lowe commented that *"the decision to hold rates steady this month does not imply that interest rate increases are over"* and that *"at our next meeting, we will again review the setting of monetary policy with the benefit of an updated set of forecasts and scenarios"*.

Core trimmed mean Q1 CPI came in 0.2% less than market expectations at +1.2% q/q and +6.6% y/y (consensus +1.4%/+6.7%). Headline inflation was a fraction above consensus at +1.4% q/q and +7.0% y/y, (consensus +1.3%/+6.9%). Overall, the inflation figures confirmed the widely held expectation that Australian inflation peaked late last year (Q4 2022), something now becoming clearly evident in goods price pressures, a trend in place in other parts of the world as supply chain disruptions heal and freight rates fall.

Employment grew +53.0k m/m in March, more than double the consensus of +20k. The unemployment rate held steady at 3.5%, where it has been since July 2022 and it remains around its lowest levels since the 1970s. The participation rate lifted by around 0.1% to 66.74% from 66.65%.

Australian dwelling prices rose +0.6% m/m in March. That is the first nationwide increase since April 2022 and comes after declines moderated to just +0.1% in February. Meanwhile dwelling approvals rose +4.0% m/m in February (consensus +10.0%), following the sharp -27.1% fall seen in February.

The February trade surplus was \$13.8bn (consensus \$11.2bn) from \$11.3bn, largely driven by a big fall in imports (-9.1% m/m or -\$4.3bn).

The Australian dollar lost -1.52%, finishing the month at US66.10 cents (from US67.12 cents the previous month).

Credit Market

The global credit indices remained relatively flat over April. They are now back to their levels in early 2022 (prior to the rate hike cycle from most central banks):

Index	April 2023	March 2023
CDX North American 5yr CDS	79bp	78bp
iTraxx Europe 5yr CDS	86bp	88bp
iTraxx Australia 5yr CDS	91bp	92bp

Source: Markit



Fixed Interest Review

Benchmark Index Returns

Index	April 2023	March 2023
Bloomberg AusBond Bank Bill Index (0+YR)	+0.30%	+0.28%
Bloomberg AusBond Composite Bond Index (0+YR)	+0.19%	+3.16%
Bloomberg AusBond Credit FRN Index (0+YR)	+0.46%	+0.26%
Bloomberg AusBond Credit Index (0+YR)	+0.45%	+1.85%
Bloomberg AusBond Treasury Index (0+YR)	+0.01%	+3.53%
Bloomberg AusBond Inflation Gov't Index (0+YR)	+0.32%	+4.16%

Source: Bloomberg

Other Key Rates

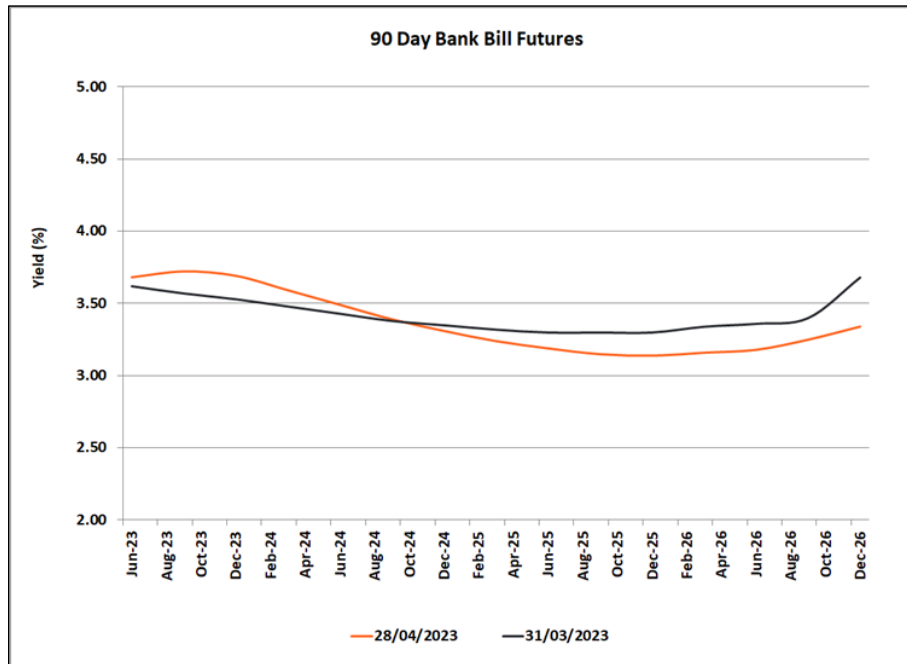
Index	April 2023	March 2023
RBA Official Cash Rate	3.60%	3.60%
90 Day (3 month) BBSW Rate	3.68%	3.72%
3yr Australian Government Bonds	3.00%	2.94%
10yr Australian Government Bonds	3.34%	3.30%
US Fed Funds Rate	4.75%-5.00%	4.75%-5.00%
2yr US Treasury Bonds	4.04%	4.06%
10yr US Treasury Bonds	3.44%	3.48%

Source: RBA, AFMA, US Department of Treasury



90 Day Bill Futures

Bill futures fell at the long-end of the curve in April, following the lower than expected inflation figures released at month-end. The markets continue to factor in the possibility of a global recession over the next few years, highlighted by the drop in the futures pricing in early 2024:



Source: ASX



Fixed Interest Outlook

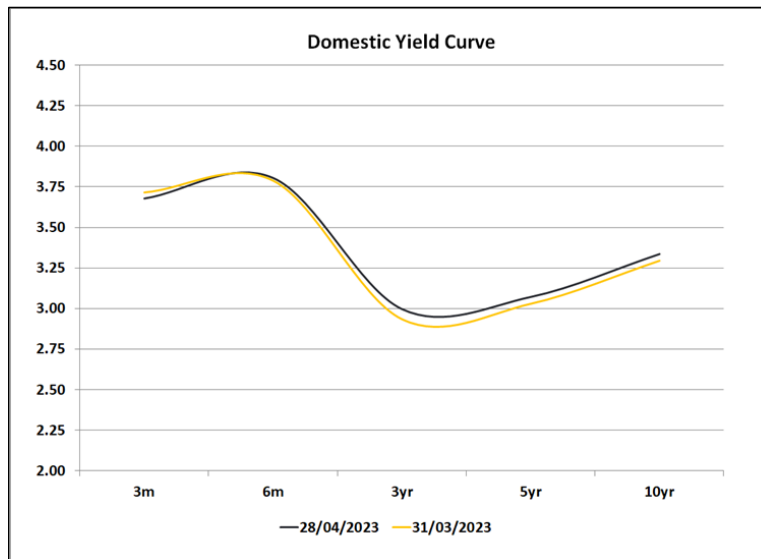
US money market rates ascribe more than an 80% probability to the Fed lifting the Funds rate by 0.25% to 5.00-5.25% on May 3 following the stronger than expected employment numbers.

Domestically, after announcing official interest rates would remain unchanged in April, the RBA's bias to tighten further was softened with prior phrasing of further tightening will be required replaced with further tightening may well be needed. With this pause, 3.60% may potentially mark the peak of interest rates for Australia this cycle as we envisage considerably slower growth in the second half of 2023, moderating inflation and an increase in the unemployment rate. But the RBA continues to suggest they will be agile and act depending on the economic data that is presented to them.

With the RBA having paused in April, the latest CPI data suggests the RBA remains on balance and is likely to pause again in May, waiting on further information on wages (WPI on 17th May and the Minimum Wage Decision) to assess whether the aim of returning inflation to 3% by mid-2025 remains plausible.

What would cause the Board to raise interest rates further? This would likely require in the near term, a significant inflation or wages shock, something that cannot be ruled out as the RBA has been quite reactive to surprises in this sense in recent months, though it also seems to have been comfortable with the prospect of a minimum wage increase as large as 7% being announced in the next few months. Medium term, further rate rises would likely require an accumulation of evidence that inflation was not tracking back towards the 2-3% target. The risk continues to be to the upside in the near term with the RBA to remain reactive to the data flow, especially around inflation and wages.

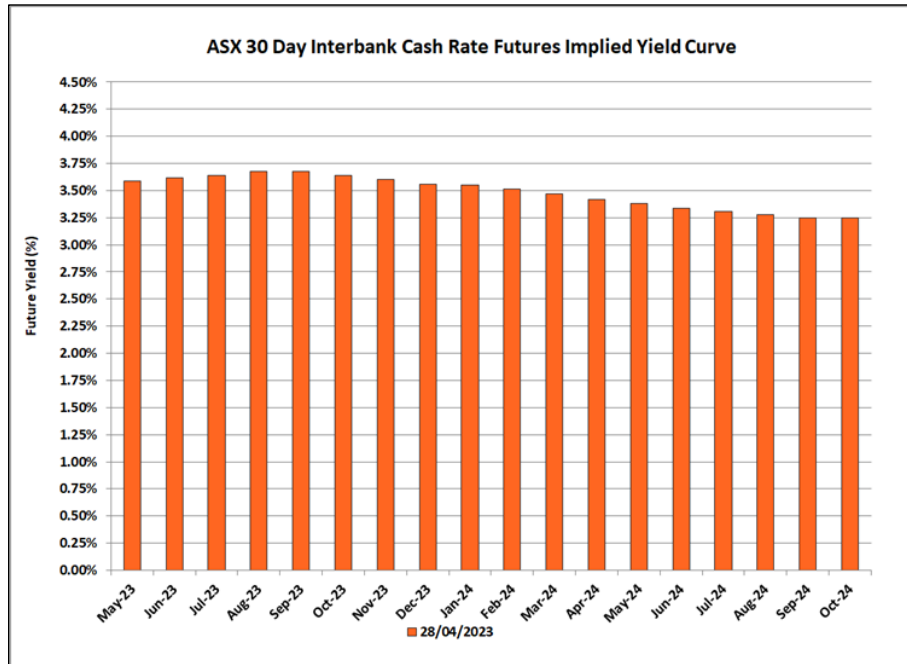
Over the month, yields remained relatively flat at the long-end of the curve:



Source: AFMA, ASX, RBA



With the RBA keeping rates on hold in April and a slightly softer inflation reading than anticipated, the market has changed its view to the next move bring a rate cut, against the RBA's rhetoric that rates may still need to move higher should inflation remain persistently high over the medium term.



Source: ASX

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shoalhaven.nsw.gov.au     

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979
DA22/1847

TO:

being the applicant(s) for DA22/1847 relating to:

31 Currumbene St, HUSKISSON - Lot 3 - DP 758530

APPROVED USE AND OR DEVELOPMENT:

Stage 1 - Demolition of existing structures

Stage 2 - Torrens title subdivision of 1 lot into 2 lots

Stage 3 - Dwelling house and swimming pool on each new lot

DETERMINATION DATE: Error! Unknown document property name.

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: Error! Unknown document property name.

CONSENT TO LAPSE ON: Error! Unknown document property name.

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

PART A: GENERAL CONDITIONS

1. General

The consent relates to a staged development for demolition of existing structures, Torrens title subdivision of 1 lot into 2 lots and construction of a two-storey dwelling house and swimming pool on each new lot as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Stage 1 – Demolition Plan	A500	K2 Design Studio	01/09/2022
Stage 2 - Subdivision	A501	K2 Design Studio	01/09/2022
Stage 3 – Dwelling Construction	A502	K2 Design Studio	01/09/2022
Torrens Subdivision Plan	A010	K2 Design Studio	18/05/2022
Site Plan	A100, Rev. B	K2 Design Studio	23/01/2023
Ground Floor Plan	A200, Rev. B	K2 Design Studio	18/05/2022
First Floor Plan	A201, Rev. B	K2 Design Studio	23/01/2023
Roof Plan	A202, Rev. B	K2 Design Studio	23/01/2023
Elevations 01	A300, Rev. A	K2 Design Studio	23/01/2023
Elevations 02	A310, Rev. A	K2 Design Studio	23/01/2023
Elevations 03	A320	K2 Design Studio	18/05/2022
Sections	A400, Rev. B	K2 Design Studio	23/01/2023
Landscape Plan	A700	K2 Design Studio	18/05/2022
BASIX Certificate (Lot B)	1322203S02	ecomaxhomes	30/01/2023
BASIX Certificate (Lot A)	1322115S_02	ecomaxhomes	30/01/2023
Geotechnical Report	TERRA22-435.Rep1.Rev0	Terra Insight	22/11/2022
Hydraulic Plans	H01-H02 Rev.2	ANAcivil P/L	23/03/2023
Sediment Control Management Plan	SM01	ANAcivil P/L	11/07/2022

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. Staging of Development

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Consent is given for the development in accordance with the approved staging plans and the following:

- a) Stage 1 - Demolition of existing structures
- b) Stage 2 - Torrens title subdivision of 1 lot into 2 lots
- c) Stage 3 - Dwelling house and swimming pool on each new lot

The conditions in this consent apply to all stages unless otherwise specified.

3. **Prescribed Conditions**

The development must comply with the Prescribed Conditions of Development Consent, *Environmental Planning and Assessment Regulation 2021*, as applicable.

4. **Occupation / Use**

The development must not be occupied or used before an Occupation Certificate has been issued by the Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

5. **Shoalhaven Water - Certificate of Compliance**

A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of an Occupation Certificate, Subdivision Certificate or Caravan Park Approval, as the case may be.

6. **Endeavour Energy**

The conditions referred to in the Endeavour Energy referral advice (CNR-47746) dated 7 November 2022 are included as conditions of this consent and must be complied with.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

7. **Construction Certificate**

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

8. **Appointment of Principal Certifier**

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

9. **Notice of Commencement**

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Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form [‘Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority’](#)

10. Toilet Facilities - Temporary

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

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

11. Waste Management Plan Prior to Demolition

A Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by Council or the Certifier prior to any demolition or vegetation clearing works commencing.

12. Asbestos Removal

Asbestos removal must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable, by a person holding the relevant licence issued by SafeWork NSW.

A licence is not required to remove less than 10m² of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m².

Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.

Post asbestos removal and prior to further work on the site, the following must be submitted to the Certifier:

- a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the *Work, Health and Safety Regulation 2017* for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.
- b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.
- c) Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

13. Asbestos – Notification of Neighbours

Seven (7) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council

14. Demolition

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Demolition work must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable.

15. Demolition - Completion of Works

Demolition work, once commenced, must be completed within three (3) months.

16. Demolition - Decommissioning of Services

Prior to the commencement of demolition work:

- a) all existing internal sewer drainage pipework must be flushed, disconnected from the existing sewer junction and the sewer junction must be temporarily capped off.
- b) internal water lines must be disconnected from the water meter currently servicing the property.
- c) the capped off sewer junction and disconnected water lines must be inspected by Shoalhaven Water. For all inspections contact Shoalhaven Water on 4429 3547.
- d) the developer must provide the Certifier with evidence of compliance with the above requirements.

17. Run-off and Erosion Controls

Prior to the commencement of site works, run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated run-off around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

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

18. Shoalhaven Water – Application for Certificate of Compliance

Prior to commencement of works, an application for a Certificate of Compliance must be made with Shoalhaven Water and where required a Water Development Notice is to be obtained. Shoalhaven Water will determine if sewerage and/or water infrastructure and/or easements will be affected by any part of your development including what charges/fees apply. Please visit <https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice> to make application for a Certificate of Compliance or call (02) 4429 3214 to learn more about applying.

Upon the receipt of the application, Shoalhaven Water will assess the development and if required will issue a "Water Development Notice" document detailing all requirements which must be met.

Note: As water and/or sewerage infrastructure may impact on part/s or all of the development such as building, provision of services, protection of water and/or sewer assets, etc., it is recommended that this application is made as early as possible during the development process.

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

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

20. Dilapidation Report

Prior to the commencement of work, the developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

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

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

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

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

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

21. Long Service Levy

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

22. Street Numbering of Dwellings

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

Street numbering for the development must be as follows:

Lot B – 31A Currumbene Street Huskisson

Lot A – 31B Currumbene Street Huskisson

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

23. Outdoor Storage / Waste

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Prior to the issue of a Construction Certificate, plans and specifications of appropriate materials to screen the outdoor waste storage area from street view must be prepared to the satisfaction of the Certifier.

24. Privacy

Prior to the issue of a Construction Certificate, amended plans must be submitted to the Certifier that:

- a) increase the sill height of the first floor window servicing the rumpus room (Lot B) on the northern elevation to have a minimum sill height of 1.5m above finished floor level and
- b) provide opaque/translucent glazing to the openings servicing the internal staircase on the southern elevation of Lot B and the northern elevation of Lot A

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

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

26. Section 68 Application

Prior to the issue of a Construction Certificate, an application to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under section 68 of the *Local Government Act 1993*.

27. Rainwater Facility

Prior to the issue of a Construction Certificate, details of rainwater tanks must be provided to the Certifier.

Water stored in the tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in accordance with the current edition of AS 3500.1 Water Services – Section 16.

It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS 3500.1 Water Services, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following:

- a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter.
- b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab.
- c) Pumps must be located and installed to minimize any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output.
- d) Overflow from the tank must be directed into the approved storm water system.
- e) Any town water top-up of the tank must be by indirect connection by means of a visible "air gap", external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, AS3500.1 – Minimum air gap requirements.
- f) Marking and labelling of rainwater services must be in accordance with AS 3500.1 Section 16.

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- g) The charged line to the rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked.
- h) For partially buried or fully buried rainwater tanks the property owner is required to have a dual check valve with atmospheric port valve installed at the boundary water meter. Zone protection will be required at the tank or cross connection point to be installed in accordance with AS3500.1 – Section 4.

28. On-site Stormwater Disposal Design Standards

Prior to the issue of a Construction Certificate on site stormwater disposal design plans for driveways and other hardstand areas must be prepared by a Professional Engineer (as defined in the National Construction Code) and approved by the Certifier.

- a) The stormwater design must be in accordance with:
 - i) the National Construction Code
 - ii) Relevant Australian Standard/s
 - iii) Shoalhaven DCP 2014 Chapter G2 – Supporting Document 1, including the provision of a geotechnical report
- b) Design plans and associated documentation must demonstrate that:
 - i) Runoff from all buildings and structures will be directed to an on-site absorption/infiltration disposal system. Any absorption system must be a minimum distance of 3 metres to any building on the lot or adjacent lots.
 - ii) Collection, diversion and disposal of stormwater will not result in surface water being concentrated onto adjoining property either above or below ground.
 - iii) Stormwater will be captured in rainwater tank(s), pipes and/or pits and the like and overland flows will be equivalent to predevelopment overland flows.
 - iv) Trench(s) will have sufficient capacity to store the inflow of a one in three months average recurrence interval design storm, with an emptying time of less than 24 hours.
 - v) The trench is not to require excavation beneath the dripline of any trees to be retained unless approved by a qualified arborist certifying that such excavation will not affect the longevity of the subject tree(s).
 - vi) The trench design must not include any surcharge outlet resulting in the concentration of stormwater flows.
 - vii) Trench design must include a documented maintenance program, copies of which are to be submitted to Council in PDF format with the design plans for the on-site stormwater disposal system.

29. Stormwater - New Urban Dwellings

Prior to the issue of a Construction Certificate stormwater plans must be prepared by a Licensed Plumber or professional engineer (as defined in the National Construction Code) and submitted to the Certifier for approval.

- a) Drainage must be designed and constructed in accordance with:
 - i) the approved concept plans prepared by ANAcivil PTY. LTD. dated 23/03/2023
 - ii) the National Construction Code
 - iii) Council's [Engineering Design Specifications](#)
 - iv) [Development Control Plan G2](#)
- b) Stormwater overflow from driveways and impervious areas unable to be drained to the street via a charged system is to be directed to on-site absorption systems.

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c) Roof runoff is to be captured by on-site detention tank(s) and conveyed via a charged drainage line connected to a boundary pit and discharged to the kerb and gutter.

30. Stormwater – Internal Charged Lines

Prior to issue of a Construction Certificate, the Certifier must be satisfied that any charged stormwater line on the design plans is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed and prevent blockage.

31. Maintenance of Stormwater Infrastructure

The approved stormwater design and any associated on site detention must be maintained for the life of the development in accordance with the approved documents and maintenance programs.

32. Existing Infrastructure

Any required alterations or repair of damaged 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 potentially prevent unexpected costs and expenses.

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

33. Existing Infrastructure

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

34. Local Infrastructure Contributions

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

Stage 2: Torrens title subdivision of 1 lot into 2 lots

Project	Description	Rate	Qty	Total	GST	GST Incl
03AREC0005	Planning Area 3 - Recreation facilities upgrade various locations	\$295.15	1	\$295.15	\$0.00	\$295.15
03AREC3003	Bay and Basin Leisure Centre	\$442.43	1	\$442.43	\$0.00	\$442.43
03CFAC0007	Bay & Basin Branch Library	\$586.94	1	\$586.94	\$0.00	\$586.94
03CFAC4001	Bay & Basin Community Hub	\$2,855.45	1	\$2,855.45	\$0.00	\$2,855.45
03ROAD2115	Sydney / Bowen Streets, Huskisson	\$512.34	1	\$512.34	\$0.00	\$512.34
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,640.37	1	\$2,640.37	\$0.00	\$2,640.37
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,995.55	1	\$1,995.55	\$0.00	\$1,995.55
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,348.90	1	\$1,348.90	\$0.00	\$1,348.90
CWCFAC5007	Shoalhaven Regional Gallery	\$74.05	1	\$74.05	\$0.00	\$74.05
CWFIRE2001	Citywide Fire & Emergency services	\$145.50	1	\$145.50	\$0.00	\$145.50
CWFIRE2002	Shoalhaven Fire Control Centre	\$212.86	1	\$212.86	\$0.00	\$212.86
CWMGMT3001	Contributions Management & Administration	\$605.06	1	\$605.06	\$0.00	\$605.06
				Sub Total:		\$11,714.60
				GST Total:		\$0.00
				Estimate Total:		\$11,714.60

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

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

35. Road Design Standards (Urban) – Development

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

- a) Council's Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.
- b) AUSTRROADS Design Requirements and Specifications.
- c) Integral kerb and gutter in accordance with Council's Standard Drawings with alignment matching the existing kerb and gutter alignment at 37 Currambene St along the frontage of the proposed lot(s).
- d) A road shoulder pavement constructed from the gutter crossing to 300mm beyond the edge of existing bitumen seal on a pavement having a minimum compacted thickness of 300mm and either:
 - i) a minimum 30mm AC10 on a primer seal or
 - ii) 2 coat bitumen seal with 14mm & 7mm aggregate
- e) The kerb and gutter shall have a minimum grade of 0.5% and the longitudinal design shall extend a minimum of 30 metres each end of the development and at least 60m if the grade is <0.5% or ≥ 0.3%.
- f) The road table drain either side of the proposed development is to be reconstructed as required to match the kerb and gutter and to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.
- g) Subsoil drainage is to be provided behind the kerb line where an outlet to existing underground drainage (or other alternative suitable to Council) is available. Subsoil drainage is to be placed on the high side of the road or both sides if the cross-fall is neutral.

36. Access Driveway Design Standards - Urban

Prior to the issue of a Subdivision Works Certificate, engineering design plans must be prepared by a suitably qualified person and approved by Council. The layback/footpath crossing design must comply with the following:

- a) Council's Engineering Design Standard Drawings, including No. 2026-09 and No. 2637-34.
- b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.
- d) Not be located within the structural root zone of any existing or proposed street tree.

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- e) Will have a minimum clearance of 300mm from any power pole or Telstra box.
- f) The driveway for Lot A is aligned to service the full width of the double car garage.

37. Design Standards – Works Within Road Reserve

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

38. On-Site Detention – Infill Subdivision and Development

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

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

- a) Designed such that stormwater runoff from the site for design storm events up to and including the 1% AEP does not exceed the pre-developed conditions.

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

NIL

PART F: DURING WORKS

39. 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.

40. Noise

The noise from all 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 LA10 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.

41. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately.
- b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

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

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42. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area.

Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).

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

43. Survey Report – Height

In order to ensure compliance with approved plans for Stage 3, a Survey Certificate to Australian Height Datum must be prepared by a Registered Surveyor as follows:

- a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- b) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.
- d) Progress certificates in response to points (a) through to (c) must be provided to the Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

44. Survey Certification

A survey must be undertaken by a registered surveyor for Stage 3 and provided to the Certifier on completion of the ground floor slab formwork prior to the concrete being poured.

The surveyor must certify all of the following:

- a) the distance of the structure to all boundaries of the allotment are in accordance with the approved plans,
- b) the height of the floor level/s in relation to ground level (existing) are in accordance with the approved plans, and
- c) the garage floor level complies with the garage floor level shown on the approved plans and grades comply with Council's gradient standards.

45. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.

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- 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.

46. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

47. Earthworks and Excavation

- a) Approved earthworks (including any structural support or other related structure for the purposes of the development):
 - i) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
 - ii) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
 - iii) that is fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.
Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.
 - iv) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- b) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)* published by Safe Work Australia in October 2018

48. 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.

49. Contamination - Unexpected Finds

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- a) If unexpected contaminated soil and/or groundwater is encountered during any works:
 - i) all work must cease, and the situation must be promptly evaluated by an appropriately qualified environmental consultant.
 - ii) 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.
- b) 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 prior to recommencement of works. The verification documentation must be provided to the satisfaction of the Certifier and Shoalhaven City Council prior to the recommencement of any works.
- c) 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).

50. Street Trees - Existing

Unless prior written approval is obtained from Council:

- a) Street trees at the frontage of the property must be retained and protected during construction
- b) Excavation inside the drip line of any street tree is not permitted.
- c) The developer will be responsible for all costs associated with any necessary tree works.
- d) Street trees that are damaged or removed must be replaced with the same species at the developer's expense prior to issue of the Occupation Certificate. Street trees that are to be replaced must be planted in the same location as the existing tree with the following specifications:
 - i) Trees must be set back a minimum 900mm from the back of the kerb or midway between the footpath and kerb. Where the tree is less than 900mm from the footpath, root barriers must be installed
 - ii) 1m x 1.5m timber edging installed at the base of the tree constructed from the back of the kerb
 - iii) Two hardwood stakes with 50mm hessian ties, fixed in a figure 8, to support each tree
- e) Minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk.

51. Swimming Pool Safety During Construction

- a) A child-resistant barrier must be erected during the construction of the swimming pool. The barrier shall comply with the requirements of the *Swimming Pools Act 1992*; *Swimming Pools Regulation 2018*; *AS1926.2 Swimming pool safety - Location of safety barriers for swimming pools* and *AS1926.1 Swimming pool safety-Safety barriers for swimming pools*.
- b) In addition to any signage that may be required under the Environmental Planning and Assessment Act 1979, or any other Act, the occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:

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- i) Bears a notice containing the words "This swimming pool is not to be occupied or used".
- ii) Is located in a prominent position in the immediate vicinity of that swimming pool.
- iii) Continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

52. **Compliance**

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

53. **Air-Conditioning Systems - Noise Controls**

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

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

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

54. **BASIX**

Prior to the issue of an Occupation Certificate, documentary evidence prepared by a suitably qualified person must be submitted to the Certifier confirming that all commitments listed in the BASIX Certificate(s) are fulfilled in accordance with the *Environmental Planning and Assessment Regulation 2021*.

55. **Colours and Materials**

The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.

56. **Landscaping Compliance**

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

The Certifier must be satisfied that any required Street trees have been installed in accordance with requirements.

57. **Letter Boxes**

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

58. **Registration of Swimming Pool**

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The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and Prior to the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au

Note: Penalties may apply if a swimming pool is not registered. If you are unable to access the internet, Shoalhaven pool owners can contact Council during business hours on (02) 4429 3111 or alternatively, register in person at Council's Nowra or Ulladulla Office and our Customer Service Officers will assist you to register your pool. There is a fee for this service.

59. Warning Notice Swimming Pools

Prior to the issue of an Occupation Certificate, a Warning Notice (sign) must be erected in a prominent position in the immediate vicinity of the swimming pool as required by section 17(1) of the *Swimming Pools Act 1992*. The sign must comply with part 3, clauses 10 and 11 of the *Swimming Pools Regulation 2018*. Details must be provided to the Certifier for approval.

60. Water Diversion from Swimming Pools

No water derived from the swimming pool or immediate proximity of the swimming pool (i.e hard stand areas) shall be diverted onto any adjoining property.

61. Shoalhaven Water – Certificate of Compliance

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

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

62. Driveway – Evidence of completion

Prior to the issue of a full Occupation Certificate, all driveway works internal to the site as shown on the approved plans must be completed.

63. Works as Executed - Stormwater Drainage

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

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

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

64. On-site Stormwater Disposal Design Standards

Prior to the issue of an Occupation Certificate, the Certifier must be satisfied that all on-site stormwater disposal systems have been installed in accordance with any relevant condition of consent and the requirements of the National Construction Code.

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65. Works in the Road Reserve - Evidence of completion

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

66. Dilapidation Report – Evidence

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

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

67. Subdivision / Strata Certificate

A Subdivision / Strata Certificate for Stage 2 must be obtained from Council or an accredited certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.

68. Schedule of Compliance

The Subdivision / Strata Certificate for Stage 2 must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with Council (i.e. a security). A schedule of compliance in table format must be submitted with the application for a Subdivision / Strata Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.

69. Boundary Fencing

Fencing must be provided along all dividing property boundaries located behind the building line before the Subdivision / Strata Certificate for Stage 2 is obtained.

70. Utility Services

Prior to the issue of a Subdivision / Strata Certificate for Stage 2, utility services must be provided in accordance with the following:

- a) The provision of electricity to service allotments and street lighting in the subdivision must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.
- b) The submission of a Telecommunications Infrastructure Provisioning Confirmation from an approved telecommunications carrier to the Certifier or Council (as applicable) confirming that satisfactory arrangements have been made for the provision of telecommunication services to all individual lots.
- c) A Certificate of Compliance under Section 307 of Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of a Subdivision Certificate, as the case may be.
- d) If 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.

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Note: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water. For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3547.

71. Restrictions – Easements and Restrictions on Use of Land

An Instrument must be prepared under section 88B of the Conveyancing Act 1919 which will provide for the following Restrictions on the land when the subdivision in Stage 2 is registered:

- a) Easements must be provided where and as required for inter-allotment services, drainage and sewerage.
- b) where there is a shared access or common driveway, reciprocal rights of carriageway must be provided inclusive of any maintenance responsibilities and financial apportionments, where necessary.
- c) where there is shared infrastructure, landscaping, structures, and the like, arrangements must be made for access and maintenance.

The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.

The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.

A draft 88B Instrument must be submitted to the Certifier for approval before a Subdivision Certificate is issued.

72. Works in the Road Reserve - Evidence of Completion

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

73. Works as Executed Plans

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans. The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and comply with the following requirements:

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

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

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74. On-site Detention System

Prior to the issue of the Subdivision Certificate, the developer must:

- a) create a restriction on use under the *Conveyancing Act 1919* over the on-site detention system and provide it to the Certifier as follows:
 - i) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures. Name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.
- b) create a positive covenant under the *Conveyancing Act 1919*, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule.
- c) provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

PART I: ONGOING USE OF THE DEVELOPMENT

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

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

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

76. Landscaping – Noxious and Environmental Weeds

The planting of plant species listed in the South East Regional Strategic Weed Management Plan 2017 – 2022 is prohibited for the life of the development. 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 within the outer protection area or the asset protection zone for the life of the development. Native grasses must be sown in these areas, as this is the interface between disturbed areas and the remaining native vegetation for the life of the development.

77. Swimming Pool – Noise Control Requirements

Pool plant and equipment must not emit 'Offensive Noise' as defined in the *Protection of the Environment Operations Act 1997 (POEO Act)*.

78. Swimming Pool - Ongoing Use

The approved swimming pool and associated structures must be maintained in accordance with:

- a) The National Construction Code
- b) Swimming Pools Act, 1992
- c) Swimming Pools Regulation, 2018.

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79. Maintenance of Stormwater Infrastructure

The approved stormwater design and any associated on site detention must be maintained for the life of the development in accordance with the approved documents and maintenance programs.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2021* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

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

Community views

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

Suitability of the Site

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

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

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

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Impacts of the Development

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

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

PART L: RIGHTS OF REVIEW AND APPEAL**Determination under Environmental Planning and Assessment Act, 1979**

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Determination Notice - Page 22 of 22 - DA22/1847

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*.

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.


Existing and proposed Swimming Pool/ Spa Barrier

Existing and proposed swimming pools or spas on the premises must comply with the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulation 2018* and comply with all the relevant Australian Standards.

SIGNED on behalf of Shoalhaven City Council:

Emily May
Development Planner
City Development

Section 4.15 Assessment Report - DA22/1847

	Section 4.15 Assessment Report <i>Environmental Planning & Assessment Act 1979</i>
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<u>Conflict of interest declaration</u>			
I have considered the potential for a conflict of interest under the Code of Conduct and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.			
<i>Note: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the Manager.</i>			
Assessing Officer	Emily May	1/11/2022	
Peer Review Officer	Peter Woodworth	13/03/2023	
Delegation Level Required	Director		
Variations Proposed	<input type="checkbox"/> Clause 4.6 exception <input checked="" type="checkbox"/> DCP departure		
Councillor Representations	Councillor	Date	TRIM Reference
	Cllr Christen / Cllr Ell - DA22/1847 – 31 Currumbene Street, Huskisson be called in for determination by Council due to public interest.	26/09/2022	D22/413295

Report Recommendation	Approval
Variations Proposed	<input checked="" type="checkbox"/> DCP departure

DA Number	DA22/1847
PAN	PAN-243863
Property Address	31 Currumbene St HUSKISSON - Lot 3 Sec 1 DP 758530

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Proposal	Demolition of existing structures, Torrens title subdivision of 1 lot into 2 lots and construction of a two-storey dwelling house and swimming pool on each new lot.
Applicant(s)	Kalyan Raju Gaddiraju
Owner(s)	Nader Hassan Hamam Abdullah Riad Arab
Owner's consent provided?	Yes
Date Lodged	22-Jul-2022
Date of site inspection	3/08/2022
Date clock stopped	16/08/2022
Date clock started	1/02/2023
Related Application in NSW Planning Portal?	<input checked="" type="checkbox"/> Concurrence and/or external agency referral <input type="checkbox"/> Section 68 <input type="checkbox"/> Section 138 <input type="checkbox"/> Construction Certificate <i>Note: s138 and CC applications will not be incorporated into the Development Consent and will be determined separately.</i>
Number of submissions	6 <i>Note: where submissions are received Council must give notice of the determination decision to all submitters.</i>

1. Detailed Proposal

The proposal includes staged development:

- Stage 1: Demolition of the existing dwelling house and detached shed
- Stage 2: Torrens Title Subdivision of 1 lot into 2 lots
- Stage 3: New Two Storey Dwelling House and in-ground swimming pool on each new lot

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2. Subject Site and Surrounds

Site Description



Figure 1: Aerial imagery of subject site

The subject site is located on the western side of Currambene Street and is legally identified as Lot 3, Section 1, DP 7585530 H/N 31 Currambene Street, Huskisson.

The site is a regular shaped allotment of 1,011.7m². The site has connections to town water and a reticulated sewer system. Existing development on the site consists of a single storey dwelling and a detached shed. The surrounding area is residential in character and the site is adjoined by low and medium density residential development and associated ancillary structures. Under the provisions of Shoalhaven LEP 2014 the subject land is zoned R2 – Low Density Residential.


Summary of Site and Constraints

GIS Map Layer		
	Lot Area	1,011.71m ²
	Zone	R2 Low Density Residential
	Does the land have a dwelling entitlement? <small>Note: for rural land refer to clause 4.2D of Shoalhaven LEP 2014.</small>	Yes
T O P O	Fall direction of land	Fall of land away from street

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	<i>Slope of land >20%?</i>	No
Site Inspection	<i>Works within proximity to electricity infrastructure?</i>	No
	<i>Is the development adjacent to a classified road?</i>	No
	<i>Is the development adjacent to a rail corridor?</i>	No
Utility Network	<i>Access to reticulated sewer?</i>	Yes
	<i>Does the proposal require a new connection to a pressure sewer main (i.e. a new dwelling connection)?</i> <input checked="" type="checkbox"/> Sewer Pressure Mains > <div> <div>— Rising Main</div> <div>— Surcharge Main</div> <div>— Low Pressure Sewer Main</div> <div>— Under Construction</div> </div>	No
	<i>Building over sewer policy applicable?</i> <i>Note: Zones of influence can differ based on soil type (e.g., sandy soils vs clay soils). If unsure discuss with Shoalhaven Water.</i>	No
	<i>Access to reticulated water?</i>	Yes
	<i>Does the proposal impact on any critical water or sewer infrastructure (e.g. REMS, water, sewer layers)?</i>	No
	<i>Does the proposal increase dwelling density and demand on water or sewer services (e.g. secondary dwelling, dual occupancy, multi dwelling housing, subdivision)?</i>	Yes - Referral to Shoalhaven Water required.
Environmental Layers	<i>Aboriginal Cultural Heritage</i>	No
	<i>Bush Fire</i>	No
	<i>Coastal Hazard Lines (applies to location of proposed development)</i>	No

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	Coastal Hazard Area	No
	Potentially Contaminated Land	No
	Flood <i>Note: There are several catchments that have not have flood studies conducted. Sites outside of the flood study area may still be subject to flooding. Refer to advisory note on p.3 of Chapter G9 of Shoalhaven DCP 2014.</i> <input checked="" type="checkbox"/> Flood Data <input checked="" type="checkbox"/>  Flood Studies	No
	Development within 40m of a watercourse?	No
	SEPP (Resilience and Hazards) 2021	Yes <ul style="list-style-type: none"> Coastal Environment area Coastal use area
	Sydney Drinking Water Catchment area (e.g. NorBE)	No
Shoalhaven LEP 2014	Acid Sulfate Soils	Class 5
	Terrestrial Biodiversity	No
	Coastal Risk Planning	No
	Heritage	No
	Scenic Protection	No
BV Map	Biodiversity Values Map	No

Site Inspection Observations

Refer to site inspection report.

Deposited Plan and 88B Instrument

There are no identified restrictions on the use of the land that would limit or prohibit the proposed development.

3. Background

Pre-Lodgement Information

N/A

Post-Lodgement Information

Additional information was requested of the applicant on 16 August 2022. The applicant was advised that the initial assessment had identified that revised plans and documentation was

Section 4.15 Assessment Report - DA22/1847

required to allow the application to continue to be progressed. The information requested of the applicant included, but was not limited to:

- Amended plans to demonstrate compliance with the maximum building height permitted under the Local Environmental Plan (LEP) 2014
- Clarification regarding the type of subdivision proposed as part of the development application.
- Plans to identify the proposed stages of development.
- Shadow diagrams in accordance with Chapter G12 of Shoalhaven Development Control Plan (DCP) 2014
- Stormwater to be considered in accordance with Chapter G2 of Shoalhaven DCP 2014
- Compliance with the predominant building line in accordance with Chapter G12 of Shoalhaven DCP 2014
- Identify the extent of earthworks associated with the proposed building works.
- Clarification of the proposed Floor Space Ratio
- Revised Statement of Environmental Effects to address the applicable chapters of Shoalhaven DCP 2014 and to remove any reference to other Local Government Areas

On 5 September additional information was submitted by the applicant. A review of the submitted information revealed a number of items previously requested on 16 August 2022 remained outstanding. On 12 September 2022 the applicant was advised of the information that was needed to allow the application to be processed.

On 26 September 2022 Council resolved to call in development application DA22/1847 for determination citing public interest (MIN22.729).

ORDINARY MEETING		26/09/2022
TO: Director - City Development (Ruprai, James)		
<hr/>		
Subject:	Notice of Motion - Call in of DA22/1847 - 31 Currumbene Street, Huskisson - Lot 3 Sec 1 DP 758530	
Target Date:	26/10/2022	
Notes:		
HPERM Reference	DA22/1847	
Related Report	D22/400252	
Item Number	CL22.475	
<hr/>		
RESOLVED (Clr Christen / Clr Ell)		MIN22.729
That DA22/1847 - 31 Currumbene Street, Huskisson be called in for determination by Council due to public interest.		
FOR:	Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White and Clr Wells	
AGAINST:	Nil	
CARRIED		

Correspondence was sent to the applicant on 2 November that re-iterated further information was required to be able to support the application.

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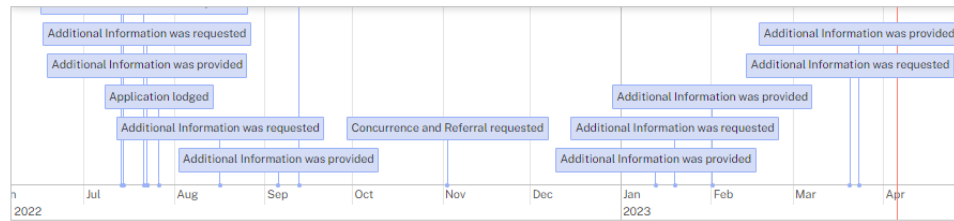
The applicant provided amended plans and documentation on 12 January 2023. The Development Assessment Officer requested further information on 19 January 2023 and in response the applicant provided further amended plans and documentation on 01 February 2023.

A final request for information was provided to the Applicant on 20 March 2023 requesting amendments to the stormwater engineering design. Amended stormwater plans were provided on 23 March 2023.

Reference number	Milestone	Date
1	Application submitted	13/07/2022
2	Additional Information was requested	14/07/2022
3	Additional Information was requested	21/07/2022
4	Additional Information was requested	22/07/2022
5	Additional Information was provided	22/07/2022
6	Application lodged	26/07/2022
7	Additional Information was requested	16/08/2022
8	Additional Information was provided	05/09/2022
9	Additional Information was requested	12/09/2022
10	Concurrence and Referral requested	02/11/2022
11	Additional Information was provided	12/01/2023
12	Additional Information was requested	19/01/2023
13	Additional Information was provided	01/02/2023
14	Additional Information was requested	20/03/2023
15	Additional Information was provided	23/03/2023

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Timeline



Site History and Previous Approvals

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
DA22/1847	22/07/2022	Development Application	Sub Division & Dwelling with Swimming Pool	Incomplete	

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
SD10824		Approved	Malby AD&CL	

4. Consultation and Referrals

Internal Referrals

Referral	Comments
Shoalhaven Water Group	No objection subject to recommended conditions.
GIS Unit House Numbering	No objection subject to recommended conditions
Development Engineer	Further information is required (see referral comments copied below). However, outstanding issues can be addressed by way of recommended conditions.

Driveway Location

Typically, a shared driveway would be mandatory for this type of development. However, due to the location of the existing and well-established street tree, two separate driveways will be acceptable. DAO to condition that the street tree remains.

It will be conditioned that any driveway is to not be located within the structural root zone of any existing or proposed street tree.

It will be conditioned that any driveway will have a minimum clearance of 300mm from any power pole or Telstra box.

Kerb and Gutter

Per the DCP, kerb and gutter is required along the entire property frontage for a dual occupancy. This has not been shown in the revised plans. This will be conditioned.

Drainage Easement

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Evidence that an easement has been refused (to the satisfaction of the DAO) must still be provided. Note a charged line does not appear feasible for the development/site.

If the DAO is satisfied that the applicant has made a *genuine* attempt in seeking a drainage easement through providing evidence of this, the proposed on-site absorption system is acceptable. The provided Geotechnical Investigation Report by Terra Insight date 22/11/22 (Council Ref: D23/50942) is acceptable.

5. Other Approvals

Integrated Development – N/A

6. Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.14 Consultation and development consent – certain bush fire prone land

<i>Is the development site mapped as bush fire prone land?</i>	No
<i>Is there vegetation within 140m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection?</i> <i>Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.</i>	No

Biodiversity Conservation Act 1979

<i>Does the application include works or vegetation removal within the Biodiversity Values mapped area?</i>	No																		
<i>Does the application involve clearing of native vegetation above the area clearing threshold?</i> <div data-bbox="319 1267 903 1682" data-label="Table"> <table> <tr> <th colspan="2">Area clearing threshold</th></tr> <tr> <td colspan="2">The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).</td></tr> <tr> <th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr> <tr> <td>Less than 1 ha</td><td>0.25 ha or more</td></tr> <tr> <td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr> <tr> <td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr> <tr> <td>1000 ha or more</td><td>2 ha or more</td></tr> <tr> <td colspan="2">The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.</td></tr> <tr> <td colspan="2">If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.</td></tr> </table> </div>	Area clearing threshold		The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).		Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.		If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.		No
Area clearing threshold																			
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If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.																			

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<p><i>Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in section 7.3 of the Biodiversity Conservation Act 2016 (i.e. 'test of significance')?</i></p> <p><i>Note: Consideration should be given to the site's proximity to NPWS land (see guidelines) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.</i></p>	No
<p><i>If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?</i></p>	N/A

Fisheries Management Act 1994

The proposed development would not have a significant impact on the matters for consideration under Part 7A of the *Fisheries Management Act 1994*.

Local Government Act 1993

<p><i>Do the proposed works require approval under Section 68 of the Local Government Act 1993?</i></p>	Yes
<p><i>Does the application include an application under Section 68 of the Local Government Act 1993 for water supply, sewerage and stormwater drainage work?</i></p> <p><i>Note: Section 68 applications are shown as a related case to the PAN in the NSW Planning Portal.</i></p>	No
<p><i>Does the application include an application under Section 68 of the Local Government Act 1993 to operate a system of sewage management (i.e. on-site sewage management system)?</i></p>	No
<p><i>Does the application include a solid fuel heater and/or an application under Section 68 of the Local Government Act 1993 to install a domestic oil or solid fuel heating appliance, other than a portable appliance (i.e. a fire place)?</i></p>	No

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

(i) Environmental planning instrument


This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*. The following planning instruments and controls apply to the proposed development:

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Environmental Planning Instrument
<i>Shoalhaven Local Environmental Plan 2014</i>
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>
<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A valid BASIX certificate has been submitted as part of the application. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.




Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1322115S_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Monday, 30 January 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.



Planning,
Industry &
Environment

Project summary

Project name	Lot A, 31 CURRAMBENE STREET, HUSKINS_02
Street address	31 CURRAMBENE Street HUSKINSSON 2540
Local Government Area	Shoalhaven City Council
Plan type and plan number	deposited 758530
Lot no.	3
Section no.	-
Project type	separate dwelling house
No. of bedrooms	5

Project score

Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 80	Target 50

Certificate Prepared by

Name / Company Name: ecomaxhomes
ABN (if applicable): 22805208126

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BASIX[®] Certificate
Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1322203S_03

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Monday, 30 January 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.

 Planning, Industry & Environment

Project summary	
Project name	Lot B_31 CURRAMBENE STREET, HUSKINSS_03
Street address	31 CURRAMBENE Street HUSKINSSON 2540
Local Government Area	Shoalhaven City Council
Plan type and plan number	deposited 758530
Lot no.	3
Section no.	-
Project type	separate dwelling house
No. of bedrooms	5

Project score	
Water	✓ 41 Target 40
Thermal Comfort	✓ Pass Target Pass
Energy	✓ 81 Target 50

Certificate Prepared by

Name / Company Name: ecomaxhomes

ABN (if applicable): 22805208126

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal management

The subject land is mapped as "coastal environment area" and "coastal use area" under the SEPP.

It is considered that the proposed development does not unduly impact upon the coastal environment. The proposed development is acceptable with regard to SEPP.

Chapter 4 Remediation of land

Question	Yes		No	
1. Does the proposal result in a new land use being a residential, educational, recreational, hospital, childcare or other use that may result in exposure to contaminated land?	<input checked="" type="checkbox"/>	Proceed to Question 2	<input type="checkbox"/>	Assessment under SEPP 55 and DCP not required.
2. Are there any previous investigations about contamination on the land?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 3
3. Was the site previously used or is the site currently used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 4
4. Are there any land use restrictions on the land relating to possible contamination (e.g. notices issued by EPA or other regulatory authority)?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 5

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Question	Yes		No	
5. Did the site inspection suggest that the site may have been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines or were any potential sources of contamination observed on site?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 6
6. Are there any identified sources of contamination on land immediately adjoining the subject site which could affect the subject land?	<input type="checkbox"/>	Detailed investigation required.	<input checked="" type="checkbox"/>	Proceed to Question 7
7. Does Council have sufficient information to be satisfied that the proposed land use will not expose contaminants that might be present in soil or groundwater?	<input checked="" type="checkbox"/>	Proposal satisfactory with regard to SEPP55 and DCP requirements	<input type="checkbox"/>	Detailed investigation required.

Shoalhaven Local Environmental Plan Local Environmental Plan 2014

Land Zoning

The land is zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan 2014*.

Characterisation and Permissibility

The proposal is best characterised as Demolition of existing structures, Torrens Title Subdivision of 1 Lot into 2 Lots, construction of a dwelling house and swimming pool on each new lot under *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

Zone objectives

Objective	Comment
To provide for the housing needs of the community within a low-density residential environment.	The proposal is consistent with the objectives of the zone.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	
To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.	

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Applicable Clauses

Clause	Comments	Complies/ Consistent				
Part 1 Preliminary						
Part 2 Permitted or prohibited development						
2.6	Subdivision is permitted but only with development consent.	Complies				
2.7	Demolition is permitted but only with development consent.	Complies				
Part 4 Principal development standards						
4.1	<p>The proposal includes subdivision of land pursuant to clause 4.1. The minimum lot size set by the Lot Size Map for the land is 500m².</p> <p>The proposed subdivision will create lots with the following sizes:</p> <ul style="list-style-type: none">Lot A = 505.8m²Lot B = 505.8m² <p>All lots have a site area greater than the minimum lot size set by the Lot Size Map and therefore the proposal complies with the requirements of clause 4.1.</p>	Complies				
4.3	<p>The set by the Height of Buildings Map is 8.5m.</p> <p>The proposed development has a peak height of 8.4m. and does not exceed the building height limit.</p>	Complies				
Part 5 Miscellaneous provisions						
Part 7 Additional local provision						
7.1	<p>The subject land is mapped as acid sulfate soils:</p> <table><tr><th>Class</th><th>Commentary</th></tr><tr><td>Class 5</td><td>The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.</td></tr></table>	Class	Commentary	Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.	Complies
Class	Commentary					
Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.					
7.2	<p>The proposal involves some cut and filling and construction of retaining walls to create a level building pad.</p> <p>Consideration has been given to the matters outlined in clause 7.2 and it is considered that the proposed earthworks are suitable and can be managed appropriately.</p>	Complies				
7.11	All relevant services are available to the site.	Complies				

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ii) Draft Environmental Planning Instrument

The proposal is not inconsistent with any [draft environmental planning instruments](#).

iii) Any Development Control Plan

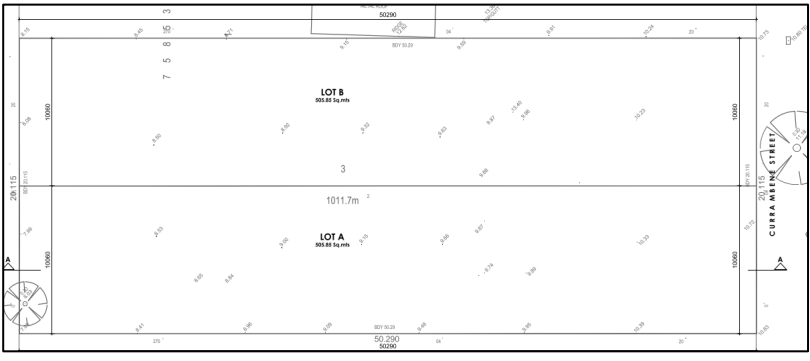
Shoalhaven Development Control Plan 2014

Generic DCP Chapter		Relevant	
G1: Site Analysis, Sustainable Design and Building Materials			
A suitable site analysis plan and schedule of proposed materials has been submitted as part of the application and is deemed acceptable.			
G2: Sustainable Stormwater Management and Erosion/Sediment Control			
Has the application been supported by appropriate erosion and sediment control details?		No - Recommended conditions of consent will require erosion and sediment control measures be provided.	
Has the application been supported appropriate stormwater drainage details?		Yes - Complete table below	
Question	Yes	No	
1. Is the application for alterations and additions attached to an existing building?	<input type="checkbox"/>	Complies - Recommended conditions will require stormwater be directed into the existing stormwater system.	<input checked="" type="checkbox"/> Proceed to Question 2
2. Can stormwater be drained to the street via gravity?	<input type="checkbox"/>	Complies - Recommended conditions will require stormwater be directed to street.	<input checked="" type="checkbox"/> Proceed to Question 3
3. Can stormwater be drained to an existing inter-allotment drainage easement?	<input type="checkbox"/>	Complies - Recommended conditions will require stormwater be directed to existing drainage easement.	<input checked="" type="checkbox"/> Proceed to Question 4

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4. Does the application include the creation of a proposed inter-allotment drainage easement?	<input type="checkbox"/>	Referral required to development engineers.	<input checked="" type="checkbox"/>	Proceed to Question 5
5. Is a charged stormwater drainage system proposed?	<input checked="" type="checkbox"/>	Proceed to Question 6	<input checked="" type="checkbox"/>	Proceed to Question 7
6. If charged stormwater drainage is proposed, have suitable efforts been made to demonstrate that drainage to the street via gravity or creation of a drainage easement is not possible. <i>Note: A2.1 of Chapter G2 of Shoalhaven DCP 2014 outlines the necessary steps to be satisfied that stormwater drainage via gravity or creation of a inter-allotment drainage easement is not possible.</i>	<input checked="" type="checkbox"/>	Discuss with supervisor or development engineer	<input type="checkbox"/>	Applicant must submit information demonstrating how proposed development complies with A2.1 in Chapter G2.
7. Is on-site stormwater absorption trench proposed and is Council satisfied that all other avenues of stormwater disposal have been exhausted? <i>Note: As outlined in Chapter G2 of Shoalhaven DCP 2014 absorption trenches should only be utilised as a last resort.</i> <i>Note: In some areas (e.g. Callala Beach) it may be suitable to rely on absorption trenches as opposed to more typical drainage infrastructure.</i>	<input checked="" type="checkbox"/>	Proceed to Question 8	<input type="checkbox"/>	Does not comply - Insufficient stormwater details have been provided.
8. Have absorption trenches been shown on the plans and has the application been supported by a suitable geotechnical report for the absorption trenches?	<input checked="" type="checkbox"/>	Discuss with supervisor or development engineer	<input type="checkbox"/>	Does not comply – additional stormwater drainage details and a geotechnical report for the absorption trenches is required as per Chapter G2 of Shoalhaven DCP 2014

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G3: Landscaping Design Guidelines	
Existing/proposed landscaping is appropriate.	
G4: Tree and Vegetation Management	
Have any trees proposed to be removed been clearly shown on the site plan (where required)?	N/A
G5: Biodiversity Impact Assessment	
Is the proposal biodiversity compliant development?	Yes
G7: Waste Minimisation and Management Controls	
Has the application been supported by an appropriate waste minimisation and management plan?	No - Recommended conditions of consent will require a WMP prior to the issue of a CC/prior to the commencement of work
G11: Subdivision of Land	
<p>The proposal includes Torrens Title subdivision of the proposed dual occupancy pursuant to clause 4.1 of <i>Shoalhaven LEP 2014</i>.</p> <p>The proposed Torrens title subdivision proposes to create 2 residential lots, each with a total area of 505.85m², depth of 50.29m and width of 10.06m.</p>	
	
A79.2 in Chapter G11 of <i>Shoalhaven DCP 2014</i> states:	

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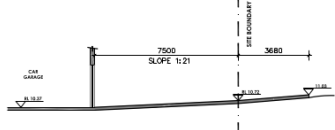
Performance Criteria	Acceptable Solutions								
General									
P79 Lots have the appropriate area and dimensions for the siting and construction of a dwelling and ancillary outbuildings, the provision of outdoor space, convenient vehicle access and parking.	<p>A78.1 Minimum standard residential lot size in any residential subdivision is 500m².</p> <p>A79.2 Lot shape and dimension:</p> <table> <tr> <td>Rectangular non-corner lots</td><td>16m square width minimum 30m minimum depth</td></tr> <tr> <td>Rectangular corner lots</td><td>Square width 20 metres Depth 30 metres</td></tr> <tr> <td>Irregular shaped lots</td><td>Square width 12m Width at building line 16m Mean width 18 m Depth 30m</td></tr> <tr> <td>Corner Splays</td><td>4m minimum</td></tr> </table>	Rectangular non-corner lots	16m square width minimum 30m minimum depth	Rectangular corner lots	Square width 20 metres Depth 30 metres	Irregular shaped lots	Square width 12m Width at building line 16m Mean width 18 m Depth 30m	Corner Splays	4m minimum
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Irregular shaped lots	Square width 12m Width at building line 16m Mean width 18 m Depth 30m								
Corner Splays	4m minimum								

The new lots each propose a width of 10.06m, providing a shortfall of 5.94m or a variation of 37.1%. Although the new lots do not meet the acceptable solution, the proposal demonstrates the ability for the new lots to allow for the siting and construction of a dwelling, ancillary development and provide private open space and vehicle access in accordance with the performance solution.

Council is satisfied that the subdivision and proposed lot size and layout is appropriate, and that the proposal is consistent with the development controls and performance criteria set out in Chapter G11 of *Shoalhaven DCP 2014*.

G12: Dwelling Houses and Other Low Density Residential Development										
See Appendix A										
G21: Car Parking and Traffic										
	Number of on-site car parking spaces required by Section 5.1 of Chapter G21	Number of car parking spaces provided		---	--		2 spaces per dwelling	2 spaces per dwelling contained within double car garage		
Have car parking spaces been clearly shown on the site plan?	Yes									
Are parking spaces and garage dimensions sufficient? *Note: Where tandem / stacked parking is proposed, a front setback of 5.5m must be provided to accommodate the vehicle wholly within the site.*	Yes									
Is the slope of any tandem / stacked parking spaces suitable? *Note: Tandem / stacked parking spaces should have a maximum longitudinal*	N/A									

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grade of 5% and a maximum crossfall of 6.25%.	
Is vehicle manoeuvring for the site adequate?	Yes
Is a new driveway access proposed/required?	Yes - Recommended conditions of consent to be applied accordingly
Is the slope of any driveway access suitable? <i>Note: The Maximum and Minimum Garage Floor Levels tool (D20/329669) can be used to calculate if the slope of a driveway access is suitable.</i>	Yes  DRIVEWAY SECTION
Does the proposed development require the provision of kerb and gutter? <i>Note: Table 3 in Chapter G21 requires that kerb and gutter be provided for dual occupancy and medium density development. There is no kerb and gutter requirement for low density residential development (e.g. alterations and additions, single dwellings, secondary dwellings)</i>	Yes - Referral to development engineers required
G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines	
Is the development suitable with regard to acid sulfate soils?	Yes
Does the application involve the erection of any buildings or structures on land with a slope >20% or on land with stability problems?	No

iii) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no planning agreements applying to this application.

iv) Environmental Planning and Assessment Regulation 2021

Clause 62	Does the application result in a change of use of an existing building but does not propose any building works?	No
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Clause 64 <i>Partial Upgrade</i>	<i>Does the application involve alterations or additions to an existing building?</i>	No
Clause 64 <i>Total Upgrade</i>	<i>Does the application involve building works and result in conversion of a building or part of a building from non-habitable to a habitable use?</i>	No

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

Any coastal zone management plan

The proposed development is consistent with applicable coastal zone management plan(s).

Other Shoalhaven Council Policies

Shoalhaven Contribution Plan 2019 & Section 64 Contributions

<i>Is the development site an “old subdivision property” identified in Shoalhaven Contributions Plan 2019?</i>	No
<i>Is the proposed development considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019?</i>	Yes - s7.11 contributions are applicable.
<i>Is the proposed development considered to increase the demand for on water and sewer services (i.e. s64 Contributions)</i>	May apply - Shoalhaven Water Development Application Notice yet to be issued.

The development is most aptly characterised as a ‘Subdivision’ development for the purpose of calculating contributions under the Plan.

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Section 7.11 ET Calculations - DA22/1847 (UPN: 21189)

Close
Reset
Print
Return Calc

☒ Residential
☐ Non-Residential

Calculation Type:
Subdivision

Subdivision

	Existing	Proposed
Lots	1	2
Total ET		1
		0

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Project	Description	Rate	Qty	Total	GST	GST Incl
03AREC0005	Planning Area 3 - Recreation facilities upgrade various locations	\$295.15	1	\$295.15	\$0.00	\$295.15
03AREC3003	Bay and Basin Leisure Centre	\$442.43	1	\$442.43	\$0.00	\$442.43
03CFAC0007	Bay & Basin Branch Library	\$586.94	1	\$586.94	\$0.00	\$586.94
03CFAC4001	Bay & Basin Community Hub	\$2,855.45	1	\$2,855.45	\$0.00	\$2,855.45
03ROAD2115	Sydney / Bowen Streets, Huskisson	\$512.34	1	\$512.34	\$0.00	\$512.34
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,640.37	1	\$2,640.37	\$0.00	\$2,640.37
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,995.55	1	\$1,995.55	\$0.00	\$1,995.55
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,348.90	1	\$1,348.90	\$0.00	\$1,348.90
CWCFAC5007	Shoalhaven Regional Gallery	\$74.05	1	\$74.05	\$0.00	\$74.05

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CWFIRE2001	Citywide Fire & Emergency services	\$145.50	1	\$145.50	\$0.00	\$145.50
CWFIRE2002	Shoalhaven Fire Control Centre	\$212.86	1	\$212.86	\$0.00	\$212.86
CWMGMT3001	Contributions Management & Administration	\$605.06	1	\$605.06	\$0.00	\$605.06

Sub Total: \$11,714.60

GST Total: \$0.00

Estimate Total: \$11,714.60

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

(c) Suitability of the site for the development

The site is suitable for the proposed development.

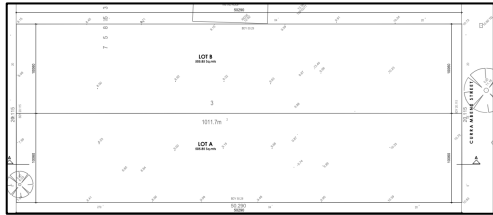
- The development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- The intended use is compatible with surrounding/adjoining land uses

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Six submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Summary of Public Submissions

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Objection Raised	Comment														
<p><u>Statement of Environmental Effects</u></p> <p><i>"The statement of environmental effects submitted is inaccurate (perhaps the same SOE they submitted in Ryde? Has the proponent truly considered the character and streetscape of Huskisson?)"</i></p>	<p>A revised Statement of Environmental Effects was provided by the Applicant to reflect the correct site and local government area.</p>														
<p><u>Subdivision</u></p> <p><i>"We are concerned that the proposal includes subdivision, especially when two dwelling can be built as compliant development on this site. We are concerned that subdivision brings the risk of denser development in the future."</i></p> <p><i>"The proposal does not meet the desired future character of Huskisson as defined by the community, and it is not sympathetic to the streetscape of the R2 zoned side of Currumbene St, which is single dwelling on large blocks. The subdivision is clearly</i></p>	<p>The proposal includes Torrens Title subdivision of the proposed dual occupancy pursuant to clause 4.1 of <i>Shoalhaven LEP 2014</i>.</p> <p>The proposed Torrens title subdivision proposes to create two (2) residential lots, each with a total area of 505.85m² depth of 50.29m and width of 10.06m.</p>  <p>A79.2 in Chapter G11 of <i>Shoalhaven DCP 2014</i> states:</p> <table border="1"> <thead> <tr> <th>Performance Criteria</th><th>Acceptable Solutions</th></tr> </thead> <tbody> <tr> <td>General</td><td></td></tr> <tr> <td>P79 Lots have the appropriate area and dimensions for the siting and construction of a dwelling and ancillary outbuildings, the provision of outdoor space, convenient vehicle access and parking.</td><td> <p>A78.1 Minimum standard residential lot size in any residential subdivision is 500m².</p> <p>A79.2 Lot shape and dimension:</p> <table border="1"> <tbody> <tr> <td>Rectangular non-corner lots</td><td>16m square width minimum 30m minimum depth</td></tr> <tr> <td>Rectangular corner lots</td><td>Square width 20 metres Depth 30 metres</td></tr> <tr> <td>Irregular shaped lots</td><td>Square width 12m Width at building line 16m Mean width 18 m Depth 30m</td></tr> <tr> <td>Corner Solays</td><td>4m minimum</td></tr> </tbody> </table> </td></tr> </tbody> </table> <p>The new lots each propose a width of 10.06m, providing a shortfall of 5.94m or a variation of 37.1%. As the proposal demonstrates the ability for the new lots to allow for the siting and construction of a dwelling, ancillary development and provide private open space and vehicle access in accordance with the performance solution.</p> <p>Council is satisfied that the subdivision and proposed lot size and layout is appropriate, and that the proposal is consistent with the development</p>	Performance Criteria	Acceptable Solutions	General		P79 Lots have the appropriate area and dimensions for the siting and construction of a dwelling and ancillary outbuildings, the provision of outdoor space, convenient vehicle access and parking.	<p>A78.1 Minimum standard residential lot size in any residential subdivision is 500m².</p> <p>A79.2 Lot shape and dimension:</p> <table border="1"> <tbody> <tr> <td>Rectangular non-corner lots</td><td>16m square width minimum 30m minimum depth</td></tr> <tr> <td>Rectangular corner lots</td><td>Square width 20 metres Depth 30 metres</td></tr> <tr> <td>Irregular shaped lots</td><td>Square width 12m Width at building line 16m Mean width 18 m Depth 30m</td></tr> <tr> <td>Corner Solays</td><td>4m minimum</td></tr> </tbody> </table>	Rectangular non-corner lots	16m square width minimum 30m minimum depth	Rectangular corner lots	Square width 20 metres Depth 30 metres	Irregular shaped lots	Square width 12m Width at building line 16m Mean width 18 m Depth 30m	Corner Solays	4m minimum
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<p><i>contradictory to the character of this zone and promotes a design outcome that is not characteristic of the existing low-density housing on the western side of Currambene Street. No other developments in the R2 zoning have subdivided in to narrow, front-to-back blocks. The proposal must be considered in terms of precedence, and we strongly advocate that the entire western side of Currambene street NOT be split in to 10m wide blocks."</i></p> <p><i>"Initial review of Chapter G11 of the Development Control Plan, item P79 would suggest this proposal does not meet the requirements for minimum lot width, of 16m square width. We would argue that allowing a sub-division to this width does not meet the desired outcomes of low density zoning, or is in anyway sympathetic to the current streetscape and existing lots."</i></p>	<p>controls and performance criteria set out in Chapter G11 of <i>Shoalhaven DCP 2014</i>.</p>
<p><u>Solar Access</u></p>	<p>Shadow diagrams provided by the applicant demonstrate that the proposed development will maintain at least 3 hours of direct sunlight between 9am and 3pm on June 21st to at least 10m² of private open space and 50% of</p>

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Extract from SEE:
"The proposal ensures that residential amenity is maintained within the locality, as it does not adversely impact upon solar access, internally or externally".

"This is clearly inaccurate as the two storey building will significantly impact solar access for its neighbouring property at 33

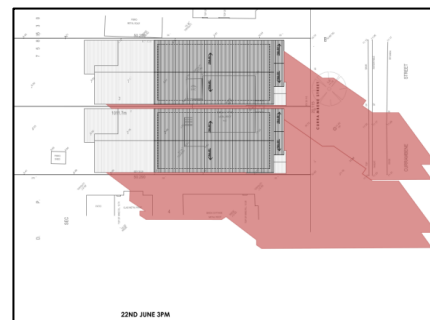
Currambene St as noted in their notification plans. We note that a report on over shadowing has not been provided. There will be

overshadowing and loss of privacy as the proposal is to build two storeys. The building will overshadow their neighbour, lot B will also overshadow lot A — this is poor design in an era when we must be requiring our houses to offer more comfort and energy efficiency."

"The design of the buildings, appearing to meet or exceed the maximum height, will create significant overshadowing of

windows and glazed doors of north facing living areas, and also north facing roofs and existing solar collectors of the adjoining dwelling to the south, most impacted by the proposal.

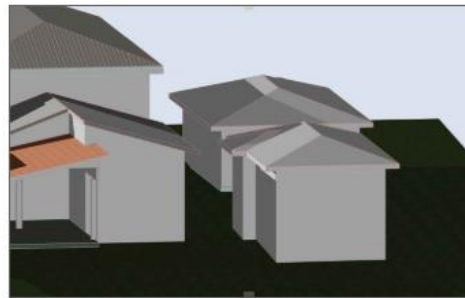
Plane shadow diagrams:



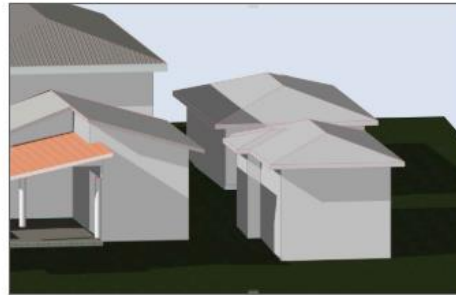
Elevated shadow diagrams were also provided to show any overshadowing on the adjoining property to the south:

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our premises and property on the southern boundary, impeding solar access to the roof and complete shadowing of the private courtyard space. We would argue the design of the buildings, with the second storey located at the front of the property does not minimise the shading of adjacent private open space, as specified in Chapter 12, P17.1/A17.2, in fact creating the worst possible outcome. Also, the difference in heights between the adjacent buildings is exacerbated by the sloping block which increases the relative height between the proposed development roof line and the adjacent buildings toward the rear of the blocks"



9AM SHADOWS

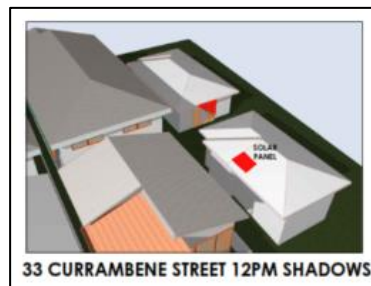


12PM SHADOWS





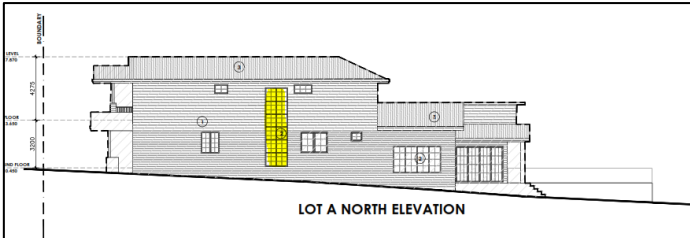
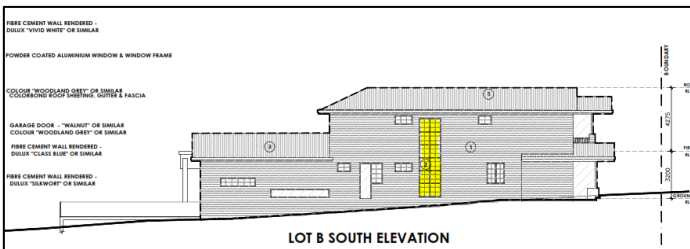
3PM SHADOWS

Elevated shadow diagrams demonstrate that the existing solar panel on the adjoining property to the south maintains at least 3 hours of direct sunlight during the winter solstice despite the development:

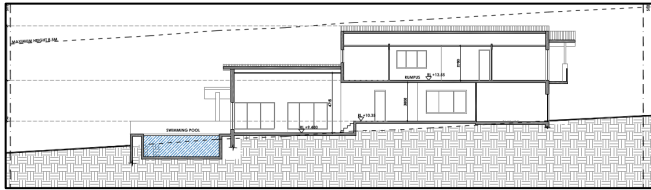


33 CURRAMBENE STREET 12PM SHADOWS

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	 <p>33 CURRAMBENE STREET 1PM SHADOWS</p>  <p>33 CURRAMBENE STREET 3PM SHADOWS</p>
<p><u>Visual Privacy</u></p> <p><i>“because of proposed height building and proximity to neighbours visual privacy is not conserved. Particularly the 2 story windows on the southern face of the building, and window directly opposite the courtyard.”</i></p> <p><i>“Also, with the elevation of the rear of the property, it will be above our existing 1.8 metre fence and cause considerable disturbance both visually and with noise from not one property but two.”</i></p> <p><i>“The positioning of the pools and living areas is in close proximity to</i></p>	<p>Appropriate privacy is maintained to adjoining properties. The openings servicing the first floor are considered “low usage” rooms such as bedrooms, bathrooms and a stairwell. Direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised by the building layout. It is acknowledged the internal staircase in each new dwelling will place people in an elevated position along the northern elevation on Lot A and the southern elevation of Lot B.</p>  <p>LOT A NORTH ELEVATION</p>  <p>LOT B SOUTH ELEVATION</p> <p>Although these overlooking impacts from the internal stairs would be only transitory, due to the elevated nature of the development, they are not insignificant. For this reason, translucent/opaque glazing will be required</p>

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<p>our own backyard....is of massive concern."</p>	<p>on the window servicing the stairwell to mitigate any potential privacy impacts.</p>
<p><u>Floor Space Ratio</u></p> <p>"The designs exceed the FSR of 50%. This value is the limit, not a guideline. That the designers have proposed something that is 'just a little bit' over is like travelling at 55km per hour in a 50km per hour zone — it's just a little bit more. Allowing these 'little bits' sets precedence, and the next request is for more."</p>	<p>The subject land is zoned R2 - Low Density Residential. Chapter G12 of Shoalhaven DCP identifies that a floor space ratio of 0.5:1 is applicable to the proposed development. Each new lot has a site area of 505.85m², therefore the maximum floor area to comply with ratio of 0.5:1 is 252.9m².</p> <p>The FSR proposed for each new dwelling is 0.51:1 or 254m² (exceedance of 1.1m²). The development exceeds a floor space ratio of 0.5:1 for the site, providing a variation of 2% to the development control. Despite the variation to the DCP control, the proposed buildings are well articulated and considered consistent with the desired future character of the area. Also, the bulk and scale of the development is compatible with the existing development in the locality.</p> <p>The minor variation to the development control has been assessed on merit and is not considered to cause any greater adverse impacts, than a compliant design. The minor variation to the FSR is considered acceptable in this instance given the proposed works are consistent with the relevant objectives and performance solutions of the development control.</p>
<p><u>Maximum Building Height</u></p> <p>"In addition the buildings propose to go over the maximum height which is 8.5 m, they propose 8.95, inaccurately stating the height limit is 9m. Again - just a little bit - a precedence. When they could have easily designed within the set parameters."</p>	<p>The applicant has provided amended plans demonstrating compliance with the maximum building height of 8.5m.</p> 
<p><u>Stormwater</u></p> <p>"The absorption put proposal is not satisfactory. We have heavy clay subsoil in which water will not disperse quickly, and not at all when"</p>	<p>Stormwater plans and a Geotechnical Investigation Report by Terra Insight, dated 22/11/2022 were provided to support the proposed onsite stormwater design.</p> <p>The proposed stormwater system has been assessed by Council's Development Engineers as being an acceptable stormwater management system for the subject site.</p>

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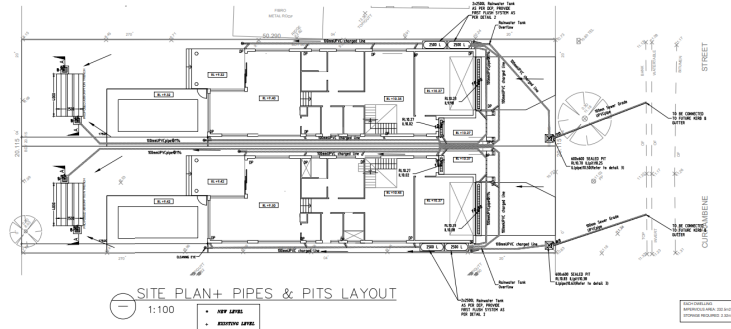
the ground is saturated (as it has been over the last 24 months). The water will quickly fill the pits then overflow onto our block and create greater water and drainage issues we should not have to deal with."

"The construction of not one but TWO swimming pools will also increase the chance of pool water flooding down the hill onto our block, particularly if there are no permanent tenants. In times of high rainfall, which we have received more regularly over the last 24 months, you may be required to undertake management of rising pool water levels late at night to avert potential flooding of property."

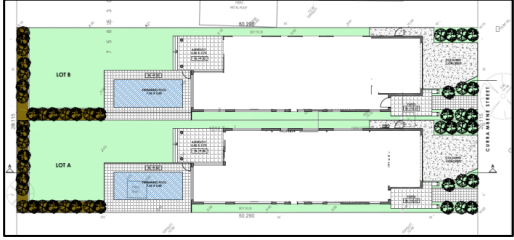
"The present stormwater system has already proved to be ineffective in managing water flow during storms due to a lack of kerb and guttering, old poorly aligned stormwater pipes and maintenance issues."

Roof stormwater overflow will be captured by an on-site detention tank and directed to Currambene Street via a charged drainage line connected to a boundary pit and discharged to the future kerb and gutter.

Stormwater overflow from driveways and impervious areas is to be directed to the absorption trenches at the rear of the dwelling houses.



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<p><i>"The owners of 16 Bowen Street are currently experiencing heavy run-off and flooding and are concerned that this development may exacerbate this condition. Their property backs onto ours at 15 Beecroft Street.....The owners of 33 Currambene Street developed their block with appropriate sign off from the SCC engineers, but in fact when they had built, run off from Currambene Street poured into our land, creating a significant bog. This was well before the recent seasons of heavy rain. The owners amicably addressed this problem."</i></p>	
<p><u>Landscaping</u></p> <p><i>"The dwellings (duplex) proposed will cover almost the entire block without room for plants and/or vegetation which would afford some privacy and noise reduction to the surrounding residents and in particular our backyard."</i></p>	<p>Chapter G12 of Shoalhaven DCP 2014 identifies that lots with an area between >450m²–600m² are required to provide a minimum landscaped area of 20% of the lot area. In this instance the lots are 505.85m², which means a landscaped area of at least 101.17m² is needed. The applicant has provided a landscape plan that demonstrates compliance with the abovementioned landscaped area requirements.</p>  <p>Each lot has 147 m² of landscaping and this is equivalent to 29%.</p>

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<p>Car Parking</p> <p><i>“Therefore the proposed developments should provide adequate off street parking or at least plan for it in the future. This would prevent developer from building out the whole block and increasing traffic congestion and parking issues in Huskisson. As it is most likely that this property will be used for rental of one, if not both dwellings, is there a requirement for this development to provide off street parking for the tenants using it as a holiday/casual rental??”</i></p>	<p>Chapter G21 of Shoalhaven DCP 2014 provides the car parking guidelines for a variety of development types. The development application proposes a new dwelling house on each new lot. The following extract from chapter G21 identifies the number of car spaces required for a dwelling house:</p> <table border="1" data-bbox="534 448 869 593"> <thead> <tr> <th>Land Use Type</th><th>Standard</th></tr> </thead> <tbody> <tr> <td>Residential</td><td></td></tr> <tr> <td>Dwelling house</td><td>2 spaces.</td></tr> </tbody> </table> <p>Each new dwelling house has incorporated a double garage into the design. The proposed development is consistent with the development controls for car parking.</p>	Land Use Type	Standard	Residential		Dwelling house	2 spaces.
Land Use Type	Standard						
Residential							
Dwelling house	2 spaces.						

(e) The Public Interest

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal is considered to be in the public interest.

Delegations

Are any clause 4.6 exceptions proposed?		No
Are any DCP performance-based solutions proposed?		Yes
Acceptable Solution	Numerical Extent of Departure	Percentage (%) Extent of Departure
Chapter G12 - A16.1 – FSR 0.5:1 or 252.9m ²	254m ² or +1.1m ²	2%
Chapter G11 – A79.2 – Lot shape and dimension (16m square width minimum)	Shortfall of 5.94m	37.1%

Guidelines for use of Delegated Authority

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<i>Variations to Development Standards</i>					
<i>Level of Delegation</i>	<i>Assessing Officer</i>	<i>Team Supervisor/ Senior Planner</i>	<i>Lead</i>	<i>Manager/ Director</i>	<i>Elected Council</i>
<i>Extent of clause 4.6 exception</i>	Nil	<2%	<5%	<10%	>10% OR non-numerical development standard
<i>DCP Performance Based Solutions</i>					
<i>Level of Delegation</i>	<i>Assessing Officer</i>	<i>Team Supervisor</i>	<i>Lead</i>	<i>Manager</i>	
Extent of DCP performance-based solutions	≤25%	≤50%	≤75%	100%	

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Cost Limits for use of Delegated Authority

Level of Delegation	Assessing Officer	Team Supervisor	Lead	Manager	Director
Cost of Development / Works Proposed	≤\$1.5 million	≤\$5 million	≤\$7.5 million	≤\$10 million	≤\$30 million

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the Notion of Motion (MIN22.729) dated 26 September 2022 the application must be determined by Council for consideration due to public interest.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that DA22/1847 be approved subject to appropriate conditions of consent.



Emily May
Development Planner
City Development
10/03/2023

Reviewers Comments

The application has been reviewed and the recommendations of the report are concurred with. Section 7.11 contributions (where applicable) have been reviewed and agreed to.



Peter Woodworth
Team Supervisor - Development Assessment
City Development
13/03/2023

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Appendix A – Assessment Checklist: Chapter G12: Dwelling Houses and Other Low Density Residential Development

Objectives of Chapter G12

The objectives of are to:

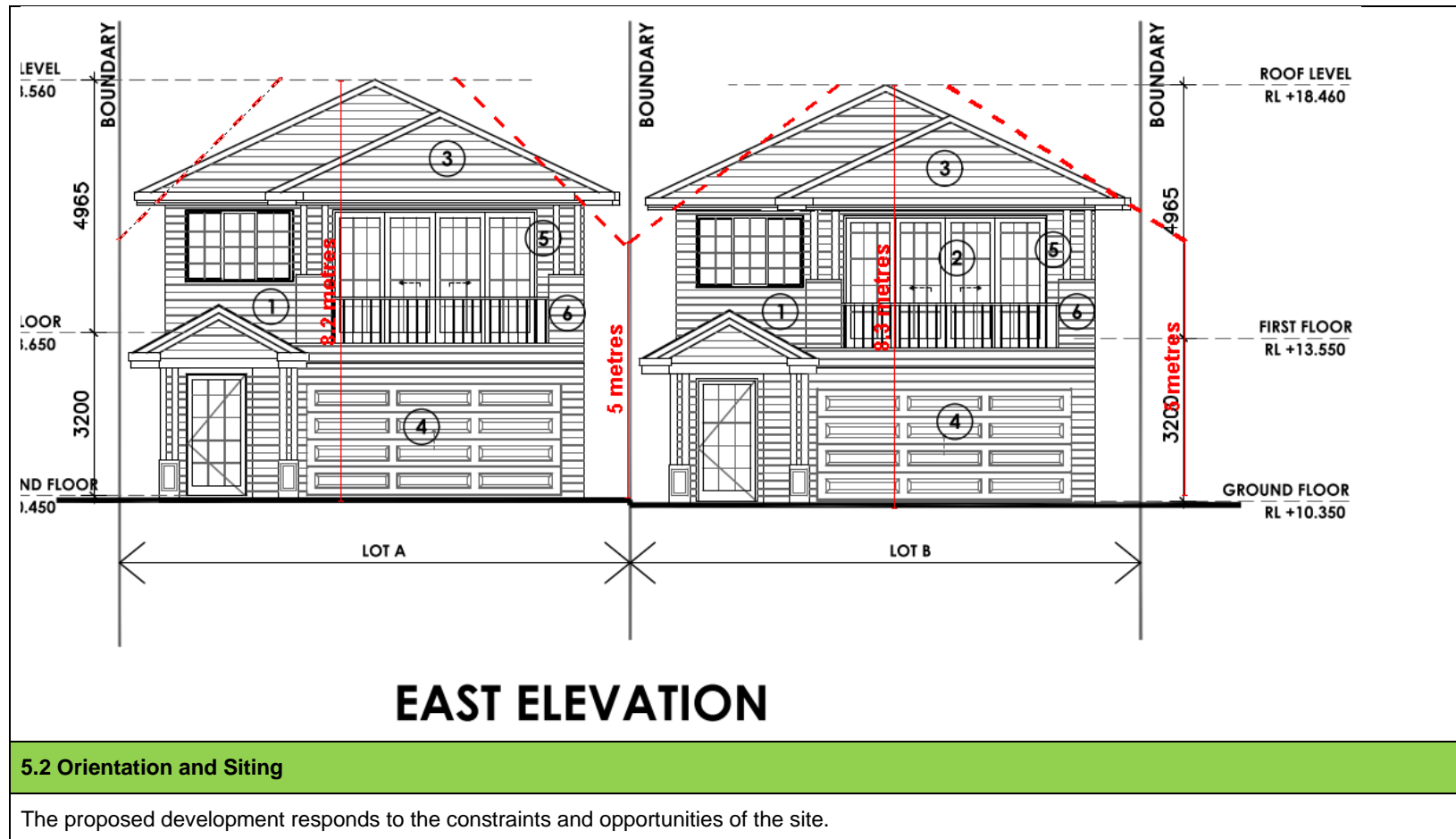
- i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.
- ii. Maintain and enhance the amenity of existing and future residential areas.
- iii. Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities.
- iv. Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space.
- v. Ensure that development has due regard and is sympathetic to the physical constraints of the site.
- vi. Allow for efficient use of existing services and facilities, including utility services transport systems and community facilities.
- vii. Promote wider and more affordable housing choice in Shoalhaven. Implement agreed strategic directions and respond to demographic needs.

5 General Controls

5.1 Building Envelope

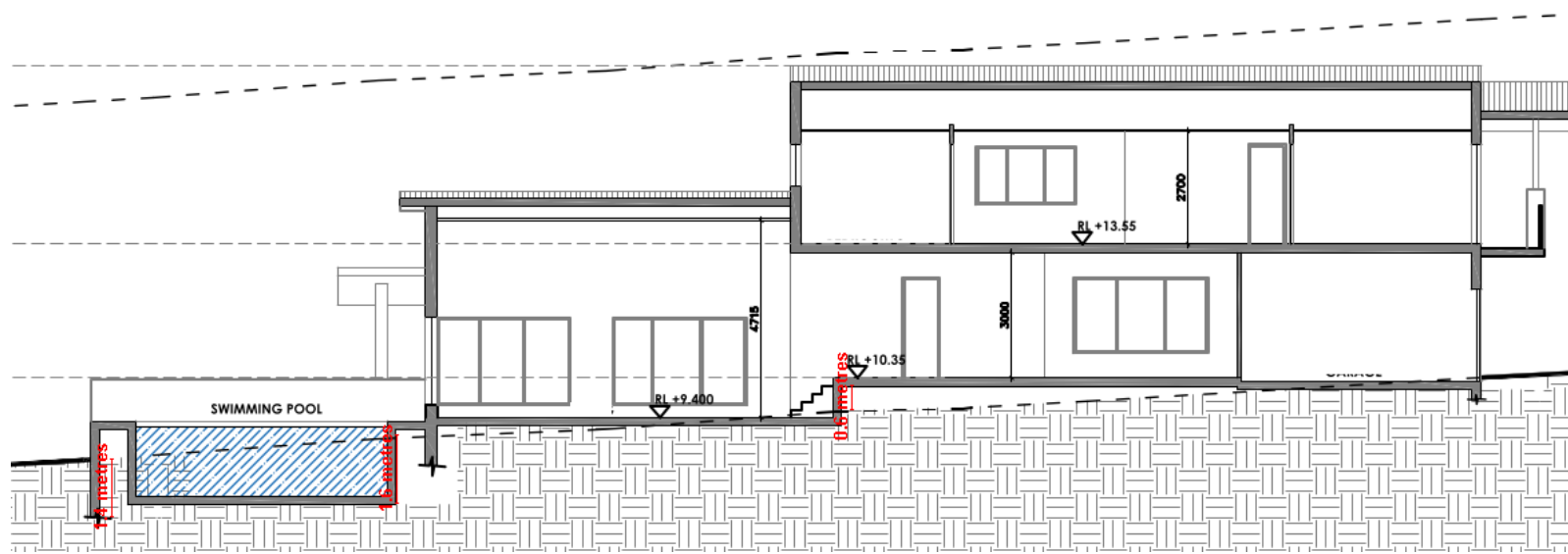
The proposed development includes some minor encroachments to the building envelope. The encroachments would not have a significant impact on the streetscape character or the amenity of adjoining properties. The minor encroachments to the building envelope are considered acceptable in this instance.

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The application includes minor earthworks. The extent of cut and fill is limited to 0.6m for the dwellings and 1.6m for the in-ground swimming pools and would not have a significant impact on the amenity of the area or adjoining properties. Cut and fill will be appropriately contained by retaining walls which will be wholly contained within the subject property or battered appropriately.



5.3 Local Character and Context







The proposed development is compatible with the residential character of the surrounding area and would not result in any significant loss of views from neighbouring properties or from the public domain.

5.4 Building Form, Design and Materials

The proposed building is appropriately design and articulated and is sympathetic to the existing streetscape character. The application has been supported by a material and colour schedule which are appropriate for the locality.

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EAST ELEVATION

	1. FIBRE CEMENT WALL RENDERED - DULUX "VIVID WHITE" OR SIMILAR
	2. POWDER COATED ALUMINIUM WINDOW & WINDOW FRAME
	3. COLOUR "WOODLAND GREY" OR SIMILAR COLORBOND ROOF SHEETING, GUTTER & FASCIA
	4. GARAGE DOOR - "WALNUT" OR SIMILAR COLOUR "WOODLAND GREY" OR SIMILAR
	5. FIBRE CEMENT WALL RENDERED - DULUX "CLASS BLUE" OR SIMILAR
	6. FIBRE CEMENT WALL RENDERED - DULUX "SILKWORT" OR SIMILAR

5.5 Visual and Acoustic Privacy

Appropriate privacy is maintained to adjoining properties. Most of the openings servicing the first floor are considered "low usage" rooms such as bedrooms, bathrooms and a stairwell. One window on the first floor northern elevation for the new dwelling on Lot B is servicing a rumpus room, which is not considered a "low usage" room. For this reason, the window will be conditioned to provide a minimum sill height of 1.5m to reduce any potential privacy impacts and ensure direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised. It is also acknowledged that the internal staircase in each new dwelling will place people in an elevated position along the northern elevation on Lot A and the southern elevation of Lot B.

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LOT A NORTH ELEVATION

LOT B SOUTH ELEVATION

FIBRE CEMENT WALL RENDERED -
DULUX 'VOIVE WHITE' OR SIMILAR

POWDER COATED ALUMINIUM WINDOW & WINDOW FRAME

COLOUR 'WOODLAND GREY' OR SIMILAR
COLOUR 'WOODLAND GREY' OR SIMILAR

GARAGE DOOR - 'WALNUT' OR SIMILAR
COLOUR 'WOODLAND GREY' OR SIMILAR

FIBRE CEMENT WALL RENDERED -
DULUX 'CLASS BLUE' OR SIMILAR

FIBRE CEMENT WALL RENDERED -
DULUX 'SEAWORT' OR SIMILAR

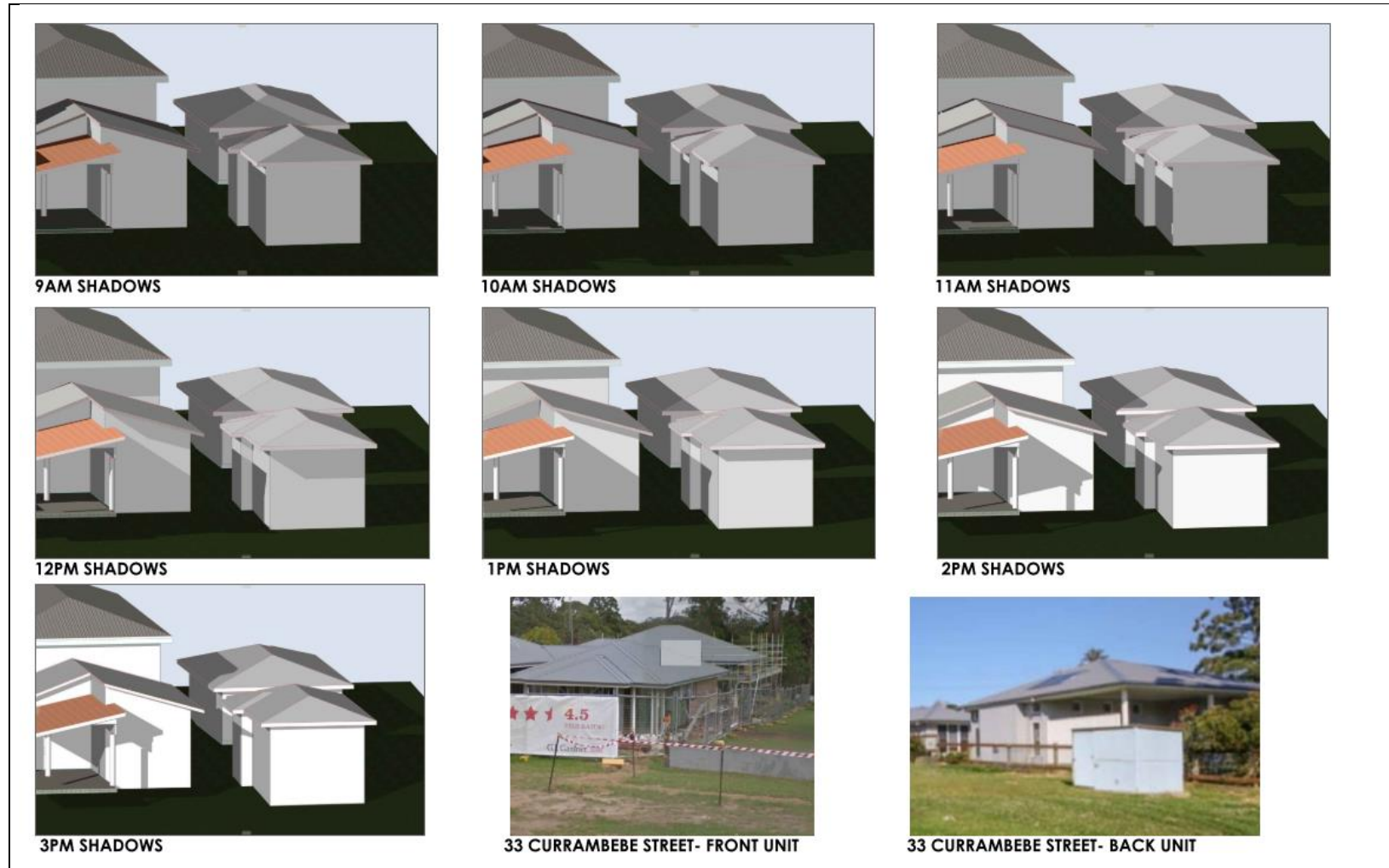
Although these overlooking impacts from the internal stairs would be only transitory, due to the elevated nature of the development, they are not insignificant. For this reason, translucent/opaque glazing will be required on the window servicing the stairwell to mitigate any potential privacy impacts. Generally, direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised by the building layout.

External plant equipment is appropriately located on the site to minimise noise and acoustic impacts to neighbouring properties. Any recommended conditions of consent will ensure the noise level generated by plant will not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary.

5.6 Solar and Daylight Access

The proposed development will maintain at least 3 hours of direct sunlight between 9am and 3pm on June 21st to at least 10m² of private open space and 50% of windows and glazed doors of north facing living areas, and also north facing roofs and existing solar collectors of adjoining dwellings.

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The application has been supported by an appropriate BASIX certificate which details thermal and energy efficiency.
5.7 Vehicle and Pedestrian Access
<p>The proposed building design provides adequate all-weather pedestrian access from the street to the dwelling.</p> <p>Council's development engineer noted:</p> <p>Driveway Location</p> <p>Typically, a shared driveway would be mandatory for this type of development. However, due to the location of the existing and well-established street tree, two separate driveways will be acceptable. DAO to condition that the street tree remains.</p> <p>It will be conditioned that any driveway is to not be located within the structural root zone of any existing or proposed street tree.</p> <p>It will be conditioned that any driveway will have a minimum clearance of 300mm from any power pole or Telstra box.</p> <p>Kerb and Gutter</p> <p>Per the DCP, kerb and gutter is required along the entire property frontage for a dual occupancy. This has not been shown in the revised plans. This will be conditioned.</p>
5.8 Trees and Vegetation
The proposal does not include any tree removal and proposed landscaping is appropriate.
5.9 Servicing
All essential services are available to the site.
5.10 Water Management and Conservation
The application has been supported by an appropriate BASIX certificate which details water efficiency. The proposed dwelling has been designed with appropriate water conservation measures.

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BASIX Certificate
Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1322115S_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Monday, 30 January 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.

 Planning,
Industry &
Environment

Project summary		
Project name	Lot A 31 CURRAMBENE STREET, HUSKINS_02	
Street address	31 CURRAMBENE STREET HUSKINSSON 2540	
Local Government Area	Shoalhaven City Council	
Plan type and plan number	deposited 758530	
Lot no.	3	
Section no.	-	
Project type	separate dwelling house	
No. of bedrooms	5	

Project score		
Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 80	Target 50

Certificate Prepared by

Name / Company Name: ecomathomes

ABN (if applicable): 22805208126


BASIX Certificate
Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1322203S_03

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Monday, 30 January 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.

 Planning,
Industry &
Environment

Project summary		
Project name	Lot B 31 CURRAMBENE STREET, HUSKINS_03	
Street address	31 CURRAMBENE STREET HUSKINSSON 2540	
Local Government Area	Shoalhaven City Council	
Plan type and plan number	deposited 758530	
Lot no.	3	
Section no.	-	
Project type	separate dwelling house	
No. of bedrooms	5	

Project score		
Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 81	Target 50

Certificate Prepared by

Name / Company Name: ecomathomes

ABN (if applicable): 22805208126

Stormwater from the building roof and hardstand areas, and overflow from rainwater tanks/on-site detention systems will be directed to the street and appropriately sited on-site absorption trenches. Recommended conditions of consent will ensure stormwater is not directed onto adjoining properties.

5.11 Waste Management – Demolition and Construction

Recommended conditions will require a waste management plan be submitted to the Certifier for approval prior to the issue of a Construction Certificate / prior to the commencement of works. Where applicable, recommended conditions of consent will require all demolition work be carried out in accordance with relevant standards and requirements.

6 Dwelling Houses, Rural Worker's Dwellings and Associated Development

6.1 Principal Controls

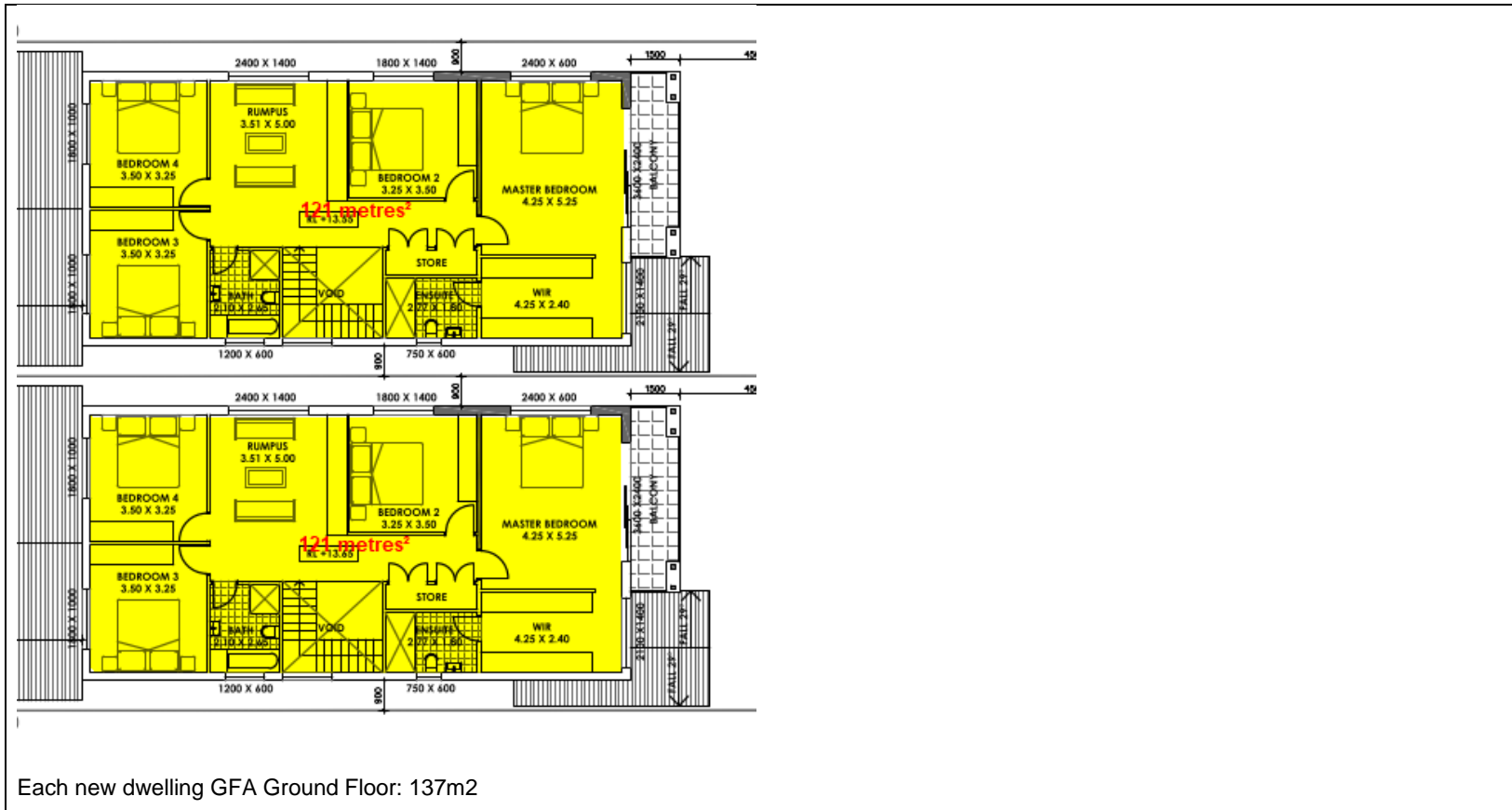
6.1.1 Density

The subject land is zoned R2 - Low Density Residential.

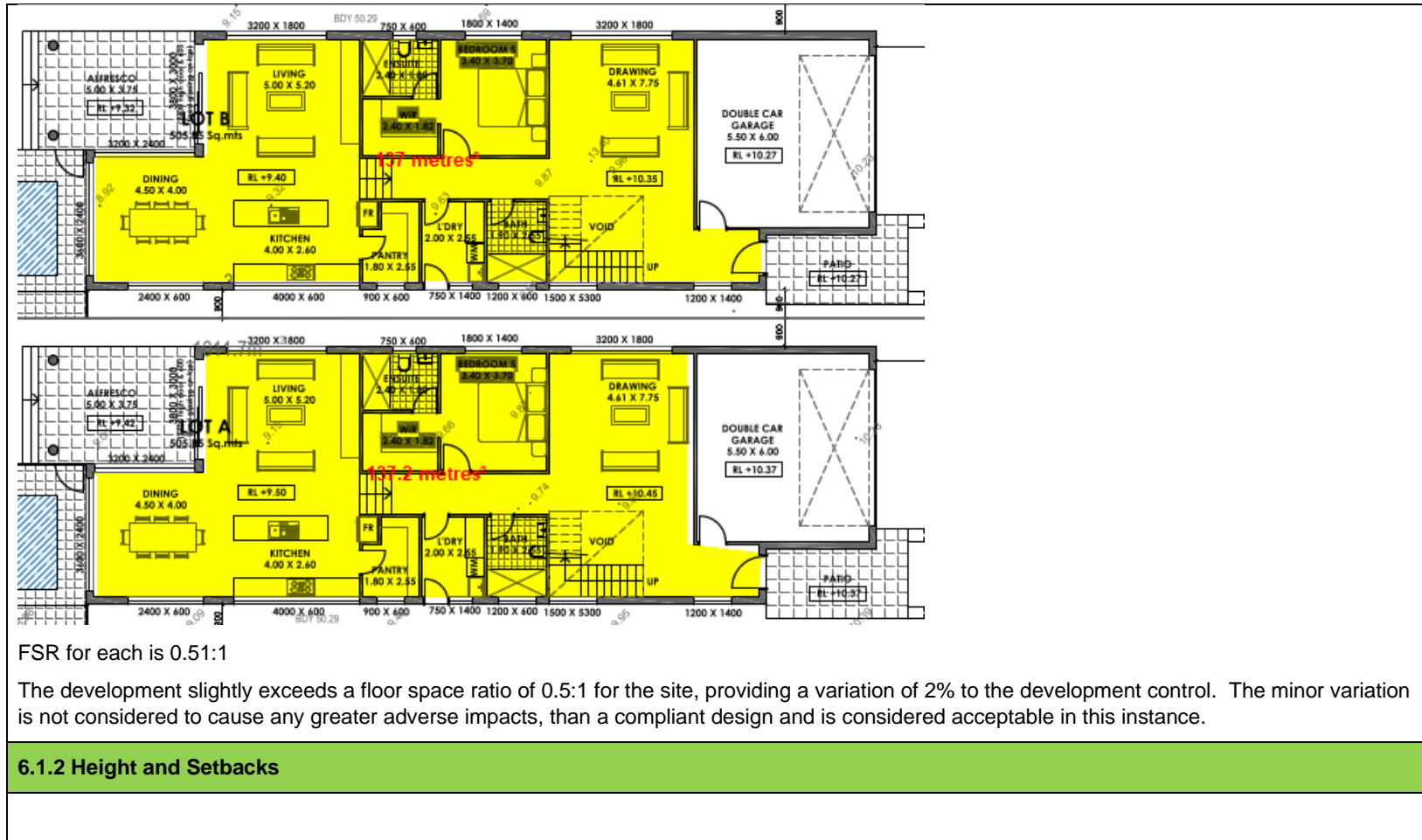
Each new lot has a site area of 505.85m²

Each new dwelling GFA First Floor: 121m²

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Zone	R2 - Low Density Residential			
Lot size	505.85m ²			
	Acceptable Solution		Proposed	
Building height (peak building height)	8.5m		8.4m	
Front setback				
	Front setback (to verandahs, awnings and patios)	4m	Front setback (to verandahs, awnings and patios)	4.2m (Lot A & B)
	Front setback (to dwellings)	5m	Front setback (to dwellings)	6m (Lot A & B)
Predominant building line setback	Predominant Building line setback is approximately: 7.5m		Complies - new dwellings are consistent with predominant building line setback of 7.5m	

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Side setback (s)	0.9m	0.9m (Lot A & B)
Rear setback	3m	16.9m (Lot A & B)
The proposed development complies with the acceptable solutions and performance criteria. It is considered that the proposal has been appropriately designed and the bulk and scale of the building is compatible with adjoining development and the surrounding area.		
6.2 Amenity		

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6.2.1 Landscaping

Minimum Landscaped Area	Acceptable Solution	Proposed														
<div><p>Note: The landscaped area excludes any encroachments (i.e. any part of a building or structure), hardstand areas and any areas used for storage, clothes drying, and water tanks.</p></div> <div><p>Table 3: Minimum landscaped area</p><table><tr><th>Lot Area</th><th>Minimum Landscaped Area (of lot area)</th></tr><tr><td>200m²–300m²</td><td>10%</td></tr><tr><td>>300m²–450m²</td><td>15%</td></tr><tr><td>>450m²–600m²</td><td>20%</td></tr><tr><td>>600m²–900m²</td><td>30%</td></tr><tr><td>>900m²–1,500m²</td><td>40%</td></tr><tr><td>>1,500m²</td><td>45%</td></tr></table></div>	Lot Area	Minimum Landscaped Area (of lot area)	200m ² –300m ²	10%	>300m ² –450m ²	15%	>450m ² –600m ²	20%	>600m ² –900m ²	30%	>900m ² –1,500m ²	40%	>1,500m ²	45%	20% or 101.17m2	29% (approx. 147m ² per lot)
Lot Area	Minimum Landscaped Area (of lot area)															
200m ² –300m ²	10%															
>300m ² –450m ²	15%															
>450m ² –600m ²	20%															
>600m ² –900m ²	30%															
>900m ² –1,500m ²	40%															
>1,500m ²	45%															

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6.2.2 Private Open Space
At least 50m ² of accessible and useable private open space is provided on site.
6.2.3 Storage and Laundry Facilities
The proposed dwelling/s include appropriate laundry and clothes drying facilities as well as appropriate storage areas.
6.2.4 Car Parking
Appropriate car parking is provided on site.
6.3 Configuration and Design
6.3.1 Building Form, Design and Materials
The proposed building is appropriately designed and garages have been appropriately integrated into the building design. Garage dominated architecture is avoided.
6.3.2 Detached Habitable Rooms and Studios
N/A – the application does not include the construction of a detached habitable room/studio.
6.3.3 Relocation of Second-Hand Dwellings
N/A – the application does not include relocation of a second-hand dwelling
6.3.4 Fences and Walls
N/A – the application does not include the erection of any front boundary fencing.
6.3.5 Universal Design

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N/A – Principles of universal design are not applicable to the proposed development		
6.3.6 Waste Management – Bin Storage, Presentation and Collection		
Appropriate areas available for bin storage and kerbside collection.		
7 Secondary Dwellings		
N/A – the application does not include the construction of a secondary dwelling.		
8 Ancillary Structures and Non-Habitable Structures on Vacant Land		
The application includes the construction of: <ul style="list-style-type: none"> An above-ground swimming pool for each new lot 		
8.1 Density, Height and Setbacks		
Zone	R2 - Low Density Residential	
Lot size	505.85m ² (each lot)	
	Acceptable Solution	Proposed
Building height (peak building height)	8.5m	Each swimming pool will have a height above natural ground (including the pool fence) of 1.8m.
Side setback (s)	0.9m	1.3m
Rear setback	3m	9.5m

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The proposed development complies with the acceptable solutions and performance criteria. It is considered that the proposal has been appropriately designed and the bulk and scale of the building is compatible with adjoining development and the surrounding area.

8.2 Building Form and Design

The proposed building is appropriately designed and is compatible with the existing dwelling house and adjoining properties.

8.3 Swimming Pools

The proposed swimming pool is located >1.2m (horizontally) from the outside edge of any building walls and foundations.

Pool plant and equipment is appropriately located to minimise noise impacts to adjoining properties. Recommended conditions of consent will ensure the noise level generated by plant will not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary.

Recommended conditions of consent will require that the swimming pool shall comply with the relevant Australian Standards and other mandatory requirements.

8.4 Use of Non-Habitable Structures

N/A – the application does not propose to locate a non-habitable structure on vacant land.

Shoalhaven Arts Foundation Ltd Constitution

ACN xx

A not- for profit public company limited by guarantee

The Shoalhaven's art and culture has been thriving for millennia. The Shoalhaven is replete with rich First Nation's art and culture. Local and internationally recognised artists of all disciplines, performers and craft workers have made their home in the Shoalhaven. There is a strong tradition of musical, literary, visual, heritage and performing arts. The Shoalhaven Arts Foundation supports the development and growth of the arts across the whole of the Shoalhaven.

Draft for Discussion Purposes
Commercial in Confidence

CL23.167 - Attachment 1

DRAFT for discussion Commercial in Confidence

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Name and Purpose of the Foundation**1. Name**

- 1.1 The name of the Foundation is Shoalhaven Arts Foundation Ltd. It is referred to in this Constitution as the Foundation. It is a not-for-profit Company limited by guarantee.

2. Charitable Purpose

- 2.1 The Foundation has the public charitable purpose of promoting and advancing literature, music, performing arts, visual arts, craft, design, film, video, television, radio, movable cultural heritage, community arts, arts or languages of Indigenous (First Nations) persons (**Purpose**).
- 2.2 To achieve its Purpose the Foundation may conduct a range of activities and services that may include:
- a) establish philanthropic programs to support the development and sustainability of arts and culture in the Shoalhaven;
 - b) actively participate in identifying and cultivating prospective donors for the purpose of raising funds for the development of arts and culture in the Shoalhaven;
 - c) act as a philanthropic role model, stimulating and motivating other supporters to become involved in the Foundation's philanthropic programs;
 - d) attract and receive donations, gifts, bequests, endowments, trusts and other forms of financial assistance for the benefit of artists and arts participation across the region;
 - e) encourage the continuing interest and financial support of government, business and wider community for arts and culture in the Shoalhaven;
 - f) developing the broad base of artistic endeavour in the communities of the Shoalhaven;
 - g) developing strategy and policy to promote the arts in the Shoalhaven;
 - h) establishing By-laws to guide development and implementation of policy;
 - i) implementing policy, planning and promotion for the arts within existing resources and seeking expanded resources by appeal to government of all levels and to the public; and
 - j) co-opting, when appropriate, a panel of peers for professional advice.
 - k) harness the resources of the community in support of the Purpose;
 - l) establish advisory groups, working parties and sub-committees in support of the Purpose;

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- m) establish and maintain affiliations and information exchange with other organisations having objects similar to the Purpose;
- n) act as trustee of any trust the purpose of which relates to the Purpose;
- o) promote the Purpose identifying and advocating on national issues in art appreciation and education, training and research; and
- p) creating alliances with individuals, organisations and arts foundations, nationally and internationally.
- q) undertake fundraising events and initiatives that raise the profile of the arts, artists, art-based infrastructure, collections, exhibitions, performances, and art education in the Shoalhaven;
- r) provide financial support including giving guarantees to arts and culture generally across the Shoalhaven in furtherance of the Purpose;

Governance**3. Constitution**

- 3.1 This is the Foundation's Constitution and describes its essential governance rules and the fundamental principles by which the Foundation is managed and conducted.
- 3.2 The replaceable rules set out in the Corporations Act do not apply to the Foundation.
- 3.3 This constitution comprises a contract between:
 - a) the Foundation and each Member;
 - b) the Foundation and each Director;
 - c) the Foundation and the Secretary; and
 - d) a Member and each other Member.
- 3.4 Without limiting the Directors' duties under common law and legislation (see Clause 41) the board should organise the Foundation to meet to the following principles:
 - a) Lay solid foundations for management and oversight;
 - b) Structure the board to be effective and add value;
 - c) Instil a culture of acting lawfully, ethically and responsibly;
 - d) Safeguard the integrity of corporate reports;
 - e) Make timely and balanced disclosure;
 - f) Recognise and manage risk;

DRAFT for discussion Commercial in Confidence**4. Exercising Powers**

- 4.1 The Foundation has:
- a) the legal capacity and powers of an individual; and
 - b) all the powers of a company limited by guarantee under the Corporations Act.
- 4.2 Despite this, the Foundation has those capacities and powers only to the extent:
- a) necessary, or convenient, to carry out the Foundation's Purpose; or
 - b) incidental to carrying out that Purpose.
- 4.3 The Foundation must not exercise any power or do or fail to do anything that might result in the Foundation losing its Charity or DGR status.

Members' Liability

Application of Income and Property**5. No Distribution**

- 5.1 All of the Foundation's income and property must be applied solely towards the promotion of the Foundation's Purpose.
- 5.2 The Foundation must not distribute any income or assets directly or indirectly to its Members as Members.
- 5.3 Clause 5.1 does not stop the Foundation from doing the following things, provided they are done in good faith:
- a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Foundation;
 - b) making a payment to a Member in carrying out the Foundation's Purpose; and
 - c) paying premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this constitution.

6. Payments to Directors

- 6.1 The Foundation must not pay fees to a Director for acting as a Director or for providing professional services to the Foundation.
- 6.2 The Foundation may reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Foundation.
- 6.3 Any payment made under clause 6.2 must be
- (a) approved by the Board; and

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- (b) in accordance with procedures adopted by the Board to regulate the incidence of any conflict of interest.
- 6.4 The Foundation may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this constitution.

7. Loans and leases from Members

- 7.1 The Foundation may pay:
- a) interest on money borrowed from any Member; and
 - b) reasonable and proper rent for premises a Member leases to the Foundation.
- 7.2 For the purposes of clause 7.1b), if a Member pays the Foundation a deposit, bond or other security for the payment of fees and charges levied under the Constitution, then that payment is not a loan from the Member.

Register of Cultural Organisations**8. Register of Cultural Organisations (ROCO)**

- 8.1 If the Foundation is listed on ROCO. The Foundation must:
- a) maintain its registration with Australian Charities and Not-for-Profit Commission (ACNC);
 - b) not change or expand its Purpose without first notifying the Minister;
 - c) provide evidence of its key activities as required by the Minister;
 - d) establish and maintain a public fund as described in clause 11, to which the public will be invited to contribute;
 - e) deposit contributions into the public fund listed on ROCO. These monies will be kept separate from other funds of the Foundation and will only be used to further the Purpose of the Foundation. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the ATO; and
- 8.2 The Department responsible for the administration of the Register of Cultural Organisations must be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.

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- a) If the Australian Taxation Office endorses the Foundation as a “deductible gift recipient” under subdivision 30-BA of the Income Tax Assessment Act 1997 (Tax Act), then the Foundation must maintain a gift fund:
 - i) called the “Shoalhaven Arts Foundation Fund” (Gift Fund); and
 - ii) that complies with section 30-130 of the Tax Act.
- b) The Gift Fund must be a public fund.

10. Rules Applying to the Gift Fund

- 10.1 The following rules apply to any Gift Fund established and maintained by the Foundation:
 - a) The Gift Fund must have a name.
 - b) The Foundation must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.
 - c) The Foundation must maintain a separate bank account for the Gift Fund. Donations will be deposited into the Gift Fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the Foundation and will only be used to further the principal purpose of the Foundation. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the ATO. The Board will develop a By-law or By-laws to
 - i) formulate any policies, rules, regulations or schemes for the investment and distribution of the Gift Fund and may prescribe and publish such policies, rules, regulations and schemes in connection with the administration operation and distribution of the Gift Fund , and
 - ii) revoke, add to, amend or alter such policies, rules, regulations and schemes and formulate others.
 - d) The Foundation may accept into the Gift Fund any gifts of money or property (including non-fungible art works) or contributions.
 - e) Any gift received into the Gift Fund must be used only for the Foundation's Purpose.
 - f) The public will be invited to contribute to the Gift Fund.
 - g) The Gift Fund is managed by the Board of Directors, a majority of whom because of their tenure of some public office or their professional standing, have an underlying community responsibility.

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- 10.2 The Foundation must comply with any rules that the Federal Treasurer or the Federal Minister for the Arts (or any Department, authority or commission which assumes their functions) make to ensure that gifts made to the Gift Fund will only be used for the Principal Purpose.
- 10.3 The Foundation must provide to the relevant Department, authority or commission statistical information on the gifts made to the Gift Fund every 6 months or as otherwise required.
- 10.4 The Foundation must not pay any of its profits or financial surplus, or give any of its property, to its members, beneficiaries, controllers or owners (as appropriate).
- 10.5 Without limiting clause 11.4, no monies/assets in the Gift Fund will be distributed to members or office bearers of the organisation, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- 10.6 Receipts for gifts to the public fund must show:
 - a) the name of the Gift Fund and the gift is made to the Gift Fund;
 - b) the ABN;
 - c) the fact that the receipt is for a gift;
 - d) any other matter to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.

11.Accounting procedures for the Gift Fund

- 11.1 The Foundation must manage the Gift Fund so that:
 - a) All gifts of
 - i) money or
 - ii) property (including non-fungible art works) or
 - iii) contributions in relation to fundraising eventsfor the Foundation's Purpose must be paid into the Gift Fund.
 - b) The Gift Fund must be credited with any money received because of such gifts or contributions, including interest and the proceeds from the sale of such property.
 - c) The Gift Fund must not receive any other money or property.
 - d) The Gift Fund must be used only for the Foundation's Purpose.
 - e) Proper accounting records and procedures must be kept and used for the Gift Fund.

12.Winding up of Gift Fund

- 12.1 If the Gift Fund is wound up or if the endorsement of the Foundation as a "deductible gift recipient" is revoked (whichever occurs first), any surplus assets of the Gift Fund remaining after any liabilities attributed to it are satisfied must be transferred to a deductible gift recipient endorsed

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charity or charities with objects similar to the Purpose and to which income tax deductible gifts can be made including:

- a) gifts of money or property for the principal purpose of the organisation;
- b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation; and
- c) money received by the organisation because of such gifts and contributions.

- 12.2 The recipient under clause 12.1 may be determined by the directors acting with the approval of the Founding Member. If the directors do not wish to decide, or do not decide, the Voting Members by ordinary resolution must decide. Such decision must also have the approval of the Founding Member. If the Voting Members do not make this decision, the Foundation may apply to the Supreme Court to make this decision.

MEMBERSHIP**13.Membership criteria**

- 13.1 Members comprise:
- a) The Founding Member;
 - b) the people who, with their consent, were listed on the application for registration of the Foundation; and
 - c) any person who, or organisation that, supports the Purpose and is admitted to membership by the Board in its absolute discretion.
- 13.2 There will be one class of membership namely Ordinary Members;
- 13.3 Ordinary Membership is open to the Founding Member and any adult who:
- a) has a demonstrated interest in the Foundation;
 - b) consents to be a member and director: and
 - c) satisfies any further criteria as prescribed by the Board and set out in the By-laws.
- 13.4 The Founding Member must nominate one individual as its representative (**Founding Member Representative**) to represent it as a member in the Foundation.
- 13.5 A Founding Member Representative must consent to the nomination in writing.
- 13.6 The Board may from time to time determine additional requirements for admission as a Member and/or as a Member in a particular category of membership.

DRAFT for discussion Commercial in Confidence**14. Rights and obligations of Members**

- 14.1 Ordinary Members have the following rights:
- a) to receive notices of and to attend General Meetings;
 - b) to nominate a candidate for election as a Director; and
 - c) to vote at General Meetings and on resolutions put to the membership and on the election of Directors.
- 14.2 A Member who has not paid any fees payable under clause 16 by the due date will not be entitled to exercise their rights while the fee remains unpaid.
- 14.3 The rights of a Member are not transferrable.
- 14.4 The rights of Members are not to be taken as being varied by the admission of more Members or the addition or deletion of classes or categories of membership.
- 14.5 Members shall conduct themselves in accordance with this constitution and any By-laws.
- 14.6 A Member must promptly notify the Secretary of any change to their details as recorded in the register of Members.

15. Application for Membership

- 15.1 An application for membership of the Foundation must be in a form prescribed by the Board.
- 15.2 The Board may approve or reject an application of membership.
- 15.3 The Board is not required to give a reason for the rejection of any application for membership.
- 15.4 The Board may delegate the consideration and determination of any membership application.
- 15.5 Once made, written notice of the Board's decision will be sent to the applicant.
- 15.6 The acceptance of an applicant to be a Member is subject to payment of any applicable fees and is void if payment is not made in accordance with this constitution or the By-laws.
- 15.7 If the applicant is not admitted to membership, then any moneys paid by them for membership will be returned to them.
- 15.8 Subject to payment of fees, an applicant becomes a Member and is entitled to exercise the rights and privileges of membership when their name is entered in the register of Members.

16. Membership fees

- 16.1 The Board may set any application or membership fees and may determine different fees:
- a) for different classes or categories of membership;

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- b) within classes or categories of membership; or
 - c) for different Members.
- 16.2 The Board may in its discretion set no application or membership fee or waive or vary the amount of any application or membership fee.
- 16.3 If any membership fee remains unpaid for a period of 1 month after it becomes due, written notice will be given to the Member of that fact. If any fee remains unpaid more than 1 month after the date of the notice, the Member's membership is terminated unless the Board resolves, either before or after that date, otherwise.

17.Ceasing to be a Member

- 17.1 A member ceases to be a member if the member:
- a) no longer meets the qualification requirements;
 - b) ceases to be a Director or fails for a period of 30 days to have a representative as a director;
 - c) resigns as a member by giving written notice to the Foundation;
 - d) if an individual, dies; or
 - e) if the member commits an act of bankruptcy or is insolvent or is or takes steps to become an Externally Administered Body Corporate.
- 17.2 Subject to law, the rights or privileges of membership may be reinstated at the absolute discretion of the board.
- 17.3 Membership is personal to the member and is not transferable.
- 17.4 Upon ceasing to be a Member, the Member's name will be removed from the register of Members.
- 17.5 Any Member ceasing to be a Member:
- a) remains liable for any money owing by that Member to the Foundation and, if the Foundation is wound up within one year of the date the Member ceases to be a Member, the Guarantee;
 - b) shall not be entitled to any refund, in full or part, of any membership fees paid; and
 - c) shall not be eligible to be readmitted as a Member until all unpaid moneys outstanding at the time they ceased to be a Member are paid including any interest or other charges levied on any outstanding moneys.

18.Suspension or expulsion of a Member

- 18.1 The Board may suspend or expel a Member if the Board considers that the Member:
- a) has failed to comply with this constitution or the By-laws;
 - b) has acted in a manner prejudicial to the interests of the Foundation;
- or

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- c) in any other way, has acted in a manner that renders it undesirable that the Member continues to be a Member.
- 18.2 At least 28 days before the Board suspends or expels a Member, the Secretary must notify the Member in writing that:
- a) the Board is considering disciplinary action which shall be specified, and the date place and time that such proposed disciplinary action will be considered by the Board;
 - b) the reason for such proposed disciplinary action; and
 - c) that the Member may explain or defend themselves by:
 - i) sending the Board a written explanation; and/or
 - ii) speaking at a meeting of the Board convened for that purpose (but the Member may not be present during Board deliberations or voting on the resolution unless the Board allows).
- 18.3 After considering any explanation, the Board may:
- a) take no further action;
 - b) warn the Member;
 - c) suspend the Member's rights as a Member for a period of no more than 12 months;
 - d) expel the Member;
 - e) refer the decision to an unbiased, independent person on the condition that the person can only make a decision that the Board could have made; or
 - f) require the matter to be determined at a General Meeting.
- 18.4 The Secretary must give written notice to the Member of the decision promptly.
- 18.5 There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause.
- 18.6 Subject to clause 18.7, a Member may request the Board to reconsider any action it takes under clause 18.3.
- 18.7 A Member to be expelled in accordance with clause 18.3d);
- a) may appeal against that resolution. Such an appeal must be made in writing and must be received within 14 days after the date of the notice of expulsion or such longer time as the Board may decide in their complete discretion (Appeal Notice).
 - b) If an Appeal Notice is received by the Board within the required timeframe:
 - i) the Board must ensure that (within two months after receipt of the Appeal Notice) a resolution to overturn the expulsion is considered by the Voting Members at a General Meeting to consider this resolution only, with such resolution to be approved by at least 75% of the Voting Members present by

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- representative or by proxy and entitled to vote on that resolution;
- ii) the Member must be given a reasonable opportunity to make representations in relation to the decision of the Board to expel that Member (which may include making representations in writing prior to the General Meeting or addressing the General Meeting or both, in accordance with the policies and procedures of the Foundation in relation to such matters); and
 - iii) the Member's membership will be taken to be suspended as at the date of the notice of expulsion, pending the outcome of the General Meeting.
- c) If the resolution to expel the Member is not overturned by the Foundation's Members at the General Meeting, the Member's expulsion takes effect from the date of the notice of expulsion. If the Voting Members overturn the expulsion, then the Member's membership continues in full effect, with the suspension lifted from the date of the General Meeting.

GENERAL MEETINGS**19. Calling a General Meeting****20. Documents at a Virtual Meeting**

- 20.1 If virtual meeting technology is used in holding a General Meeting and a document is required or permitted to be tabled at the meeting, the document is taken to have been tabled at the meeting if the document is:
- a) given to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) before the meeting; or
 - b) made accessible to the persons attending the meeting (whether physically or using virtual meeting technology) during the meeting.

21. Notice of a General Meeting

- 21.1 Notice of a General Meeting must be given to:
- a) each Member;
 - b) each Director; and
 - c) the auditor, if any.
- 21.2 Notice of a General Meeting must include:
- a) the time, date and place of the General Meeting or the technology, or both, that will be used to facilitate the General Meeting;
 - b) if virtual meeting technology is to be used in holding the meeting—sufficient information to allow the Members to participate in the meeting by means of the technology;

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- c) the general nature of the General Meeting's business;
 - d) if applicable, that a special resolution is to be proposed and the words of the proposed resolution;
 - e) a statement that Members have the right to appoint a proxy.
- 21.3 Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- 21.4 Notice of a General Meeting may be provided less than 21 days before the meeting if:
 - a) for an Annual General Meeting, all the Voting Members entitled to attend and vote at the Annual General Meeting agree beforehand; or
 - b) for any other General Meeting, Voting Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.5 Notice of a General Meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - a) remove a Director;
 - b) appoint a Director in order to replace a Director who was removed; or
 - c) remove an auditor.
- 21.6 The accidental failure to give notice of any General Meeting to, or the non-receipt of notice of a General Meeting by, any Member entitled to receive notice will not invalidate the proceedings at or any resolution passed at the General Meeting.
- 21.7 A Member's attendance at a General Meeting waives any objection that that Member may have to a failure to give notice, or the giving of a defective notice, of the General Meeting.

22. Quorum at a General Meeting

- 22.1 A quorum for a General Meeting is one-half of the members entitled to vote, which must include the Founding Member present at the meeting. Members may be present in person including by their representative or by proxy.
- 22.2 No business may be conducted at a General Meeting if a quorum is not present.
- 22.3 If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
 - a) if convened by or on requisition of Members – the meeting is dissolved; and
 - b) in any other case, the meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the meeting.
- 22.4 At an adjourned meeting, if a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

DRAFT for discussion Commercial in Confidence**23. Chair of a General Meeting**

- 23.1 Usually, the Chair will chair any General Meeting.
- 23.2 If at a General Meeting:
- a) there is no Chair, or
 - b) the Chair is absent from a General Meeting, or is unable or not willing to act as chair of the meeting or of part of the meeting,
- then the Deputy Chair (if there is one) will act as chair of that meeting or part of it until such time as the Chair joins the General Meeting or can resume the role of chair (as applicable).
- 23.3 If at a General Meeting:
- a) there is no Chair or Deputy Chair or if the Deputy Chair present, or they or either of them is present but unable or not willing to act as chair of the meeting or of part of the meeting,
- then the Directors present may elect one of their number present to be chair of that meeting or part of it until such time as the Chair or Deputy Chair joins the General Meeting or can resume the role of chair.
- 23.4 If
- a) there are no Directors present at the General Meeting or
 - b) the Directors are unable or not willing to act as chair of the meeting or of part of the meeting,
 - c) then the Voting Members present may elect a person present to be chair of that meeting or part of it until such time as the Chair or Deputy Chair joins the General Meeting or can resume the role of chair (as applicable).
- 23.5 The chair of a General Meeting is responsible for the conduct of the meeting. Any question arising at a General Meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the General Meeting whose decision is final.
- 23.6 The chair of a General Meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the meeting:
- a) impose a limit on the time that a person may speak on a motion or other item of business, question, motion or resolution being considered by the meeting;
 - b) terminate debate or discussion; and
 - c) adopt any procedures for casting or recording votes at the meeting whether on a show of hands, on the voices or a poll.
- 23.7 The chair of a General Meeting may at any time during the course of a General Meeting, and must if so, directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

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- 23.8 When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

24. Decisions at a General Meeting

- 24.1 Unless otherwise required by this Constitution or the Corporations Act or the ACNC Act, questions arising at a General Meeting are to be decided by a simple majority of the votes cast.
- 24.2 Each member entitled to vote has one vote. The vote may be exercised in person, by the Founding Member Representative, by proxy or when applicable by direct vote.

25. Methods of voting at a General Meeting

- 25.1 A resolution put to the vote of a General Meeting shall be decided on a show of hands unless a poll is required under this constitution or the Corporations Act, or demanded by:
- a) the chair of the meeting;
 - b) at least 5 Members entitled to vote on the resolution; or
 - c) Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 25.2 Proxies shall not be counted on a vote by a show of hands.
- 25.3 A proxy holder must be a Member with a right to vote.
- 25.4 A proxy appointment may specify the way the proxy must vote on a particular resolution.
- 25.5 The proxy holder must vote on a proposed resolution in accordance with a direction, if any.
- 25.6 Proxy forms must be received by the Foundation at least 48 hours before a meeting at the address (which may be an electronic address) stated in the notice.

26. Votes in Writing

- 26.1 A poll requested on a resolution at a General Meeting must be taken in the manner and at the time and place the chair of the meeting directs.
- 26.2 The result of a poll requested and taken on a resolution of a General Meeting is a resolution of that meeting.

27. Direct Voting

- 27.1 A Member entitled to vote at a General Meeting may vote by direct vote using electronic means where such an option is offered by the Board.
- 27.2 The Board may prescribe By-laws in relation to direct voting, including specifying the form, method and timing of giving a direct vote in order for the vote to be valid.
- 27.3 An objection to the qualification of a Member to vote at a General Meeting:

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- a) must be raised before or at the meeting at which the vote objected to is given or tendered; and
- b) must be referred to the chair of the meeting whose decision on the qualification to vote is final.

28.Cancellation or postponement of a General Meeting

- 28.1 The Board in its discretion may cancel, postpone or change the venue of an upcoming General Meeting, by giving notice of the changes.

29.Members' resolutions

- 29.1 Voting Members with at least 5% of the votes that may be cast on a resolution may give:
 - a) written notice to the Foundation of a resolution they propose to move at a General Meeting, such resolution being one that may be properly considered at a General Meeting (Members' resolution); and/or
 - b) a written request to the Foundation that the Foundation give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (Members' statement).
- 29.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 29.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 29.5 The percentage of votes that Members have is to be worked out as at midnight before the request or notice is given to the Foundation.
- 29.6 If the Foundation has been given notice of a Members' resolution, the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.
- 29.8 If the Foundation has been given a notice or request under this clause:
 - a) in time to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the Foundation's cost; or
 - b) too late to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Foundation in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a General Meeting, the

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Members may pass a resolution that the Foundation will pay these expenses.

- 29.9 The Foundation does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:
- a) it is more than 1,000 words long;
 - b) the Board considers it may be defamatory;
 - c) clause 29.8b) applies, and the Members who proposed the resolution or made the request have not paid the Foundation enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members; or
 - d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

30. Written resolutions of Members

- 30.1 Subject to clause 30.3, the Board may put a resolution to the Voting Members to pass a resolution without a General Meeting being held (a written resolution).
- 30.2 The Board must notify the auditor (if any) as soon as possible that a written resolution has or will be put to Members, and set out the wording of the resolution.
- 30.3 Written resolutions cannot be used:
- a) for a resolution to remove an auditor, appoint a Director or remove a Director;
 - b) for passing a special resolution; or
 - c) where the Corporations Act or this constitution requires a General Meeting to be held.
- 30.4 A written resolution is passed if all the Voting Members entitled to vote on the resolution sign or agree to the written resolution in the following manner:
- a) Members may sign:
 - i) a single document setting out the written resolution and containing a statement that they agree to the resolution; or
 - ii) separate copies of that document, as long as the wording is the same in each copy;or
 - b) The Foundation may send a written resolution by email to Voting Members who may agree by sending a reply email to that effect, including the text of the resolution in their reply.

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BOARD OF DIRECTORS**31. Board composition**

- 31.1 The Board will have a maximum of 9 Directors, one of whom will be the Founding Member Representative.
- 31.2 Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to less than 3 Directors, in which case the continuing Directors may act only:
 - a) to appoint Directors for the purpose of increasing the number of Directors to 3 or higher;
 - b) to convene a General Meeting: or
 - c) in an emergency.
- 31.3 If the Founding Member Representative ceases being a director for any reason the Founding Member may appoint a replacement for the balance of that Founding Member Representative's term as if it was a casual vacancy.
- 31.4 To be eligible for election or appointment as a director under rule 8.2(b), an individual must:
 - i) be a member of the company;
 - ii) be supportive of the objects of the company; and
 - (iii) not be an employee [or Councillor?] of the Founding Member.

32. Skills based board

- 32.1 Subject to this Constitution, the Foundation will be governed by a skills-based board comprising Directors who collectively have the skills, knowledge and experience to effectively govern and direct the Foundation.
- 32.2 The Board will develop and maintain an up-to-date By-law describing a skills matrix to guide the development of Board membership.
- 32.3 Without limiting the skills matrix to be developed by the board from time to time, the skills and attributes required of the Directors include:
 - a) governance skills (that is, skills directly relevant to performing the Board's key functions) including the ability to think strategically;
 - b) relevant industry and professional skills;
 - c) personal attributes or qualities that are generally considered desirable to be an effective Director.
- 32.4 In addition, the Board as a whole should also strive to encompass diversity in aspects such as gender, age, social background and different

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perspectives including of First Nations peoples relative to the skills and attributes needed by the Foundation.

33. Automatic appointment of members to the board

- 33.1 Subject to a person providing their written consent to act as a director, an individual automatically becomes a Director in their own right on being admitted by the board as a member.

34. Term of office for Directors

- 34.1 The term of office of a Director commences at the conclusion of the Annual General Meeting at which their election (or in the case of the Founding Member Representative, appointed) is declared or announced and ends at the conclusion of the third following Annual General Meeting. If eligible, a retiring Director may be re-elected.
- 34.2 The maximum continuous period for which a person may hold office as a Director is 9 years.
- 34.3 A person who has held office as a Director for the maximum continuous period is eligible for re-election or reappointment after a period 2 years from the date that the person last held office as a Director.
- 34.4 The maximum continuous period of 9 years does not include any period of a person's appointment to fill a casual vacancy.

35. Eligibility of Directors

- 35.1 A person is eligible for election or appointment as a Director if they:
- a) are over the age of 18 years;
 - b) give the Foundation their signed consent to act as a Director of the Foundation;
 - c) are not ineligible to be a Director under law, including the Corporations Act and the ACNC Act;
 - d) meet the requirements established in guidelines/ By-laws for the appointment and maintenance of a skills based Board; and
 - e) are not an employee of the Foundation.

36. Casual vacancies on the Board

- 36.1 If a casual vacancy in the position of a Director occurs, the Board may appoint an eligible individual satisfying the criteria in clause 35 to fill the vacancy until the end of the predecessor's term.

37. Ceasing to be a Director

- 37.1 In addition to any other way a Director ceases to be a Director, a Director ceases to be a Director if they:
- a) stop being a member of the Foundation;

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- b) in the case of the Founding Member Representative, loses the confidence of the Founding Member (which shall be notified in writing to the Secretary);
- c) resign by written notice to the Secretary;
- d) are subject to any of the circumstances prescribed by the Corporations Act or the ACNC Act or Regulations resulting in the ending or vacating of the office;
- e) become of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health unless (in the opinion of a majority of Directors) the Director can fully participate in the governance of the Foundation, despite their mental incapacity;
- f) die;
- g) become bankrupt or make any arrangement or composition with their creditors generally, unless, subject to the Corporations Act, the Board resolves otherwise;
- h) are convicted on indictment of an offence, and the Board does not at the next meeting of the Board after that conviction resolve to confirm the Director's appointment to the office of Director;
- i) are absent from all meetings of the Board held during a period of 3 months unless at the next meeting of the Board, the Board resolves otherwise;
- j) fail to disclose a material personal interest in breach of the law unless at its next meeting the Board resolves otherwise;
- k) are removed as a Director by ordinary resolution of the Foundation in General Meeting; or
- l) are found guilty by a tribunal, industrial commission, court of competent jurisdiction or other similar authority of engaging in discriminatory conduct or harassment towards employees of the Foundation or other Members or their employees.

38.No alternate Directors

38.1 Directors are not entitled to appoint alternate Directors.

39.Office bearers

39.1 The Board will appoint from amongst the Directors the following office bearers:

- a) a Chair;
- b) a Deputy Chair; and
- c) a chair of the Finance and Audit Committee (see clause 58.2).

39.2 Subject to clause 39.3, the Board may determine the period for which a Director is Chair, Deputy Chair or chair of the Finance and Audit Committee.

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- 39.3 The maximum continuous period that a Director may be Chair is 6 years. After serving 6 consecutive years as Chair, a Director may be re-elected as Chair only after a period of 1 year from when they last ceased to be Chair.
- 39.4 Each office bearer has such powers and duties as specified in this constitution, as required by law and as determined by the Board.
- 39.5 Office bearers will not hold office beyond their retirement or removal from the Board as a Director.

40. Powers of the Board

- 40.1 The business of the Foundation is to be managed by or under the direction of the Board who may exercise all the powers of the Foundation that are not required by the Corporations Act or by this constitution to be exercised by the Foundation in General Meeting.

41. Duties of Directors under common law and legislation

- 41.1 The Directors must comply with their duties as Directors under legislation and common law.
- 41.2 Without limiting clause 41.1 the Directors must comply with the following duties:
- a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Foundation;
 - b) to act in good faith in the best interests of the Foundation and to further the Purposes of the Foundation;
 - c) not to misuse their position as a Director;
 - d) not to misuse information they gain in their role as a Director and to maintain the confidentiality of information received in their role as a Director;
 - e) to disclose any perceived or actual material personal interest in the manner set out in this constitution;
 - f) to ensure that the financial affairs of the Foundation are managed responsibly; and
 - g) not to allow the Foundation to operate while it is insolvent.

42. Delegation of powers

- 42.1 The Board may delegate any of its powers to:
- a) a committee;
 - b) a Director;
 - c) an employee of the Foundation; or
 - d) any other person,
- and may revoke that delegation.

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- 42.2 The delegate must exercise the powers delegated in accordance with any directions, terms and conditions as set by the Board.

43. By-laws

- 43.1 The Board may from time to time may make, amend, or repeal such By-laws as it determines are appropriate for the purposes of giving effect to any provision of this constitution or to govern the procedures and activities of the Foundation. Any such By-law:
- a) must not be inconsistent with any law or provision in this constitution; and
 - b) when in force is binding on all Directors and Members.

44. Material Personal Interest

- 44.1 The Board must adopt and maintain update from time to time a By-law the establishes a procedure for identifying and handling and monitoring material personal interest/ conflict of interests.
- 44.2 A Director who has a material personal interest in a matter that relates to the affairs of the Foundation must give the Board notice of the interest.
- 44.3 The material personal interest may be a pecuniary or non-pecuniary interest. The interest will be pecuniary if the Director has a reasonable likelihood or expectation of appreciable financial gain or loss in a matter. The interest may be non-pecuniary if a reasonable and informed person would perceive that the Director could be influenced by a private interest when carrying out their functions as a director in relation to a matter.
- 44.4 The notice required by clause 44.1 must:
- a) include details of:
 - b) the nature and extent of the interest; and
 - c) the relation of the interest to the affairs of the Foundation; and
 - d) be given at a Board meeting as soon as practicable after the Director becomes aware of his or her interest in the matter, the details of which must be recorded in the minutes of the meeting.
- 44.5 A Director who has a material personal interest in a matter that is being considered at a Board meeting shall not be present while the matter is being considered at the meeting or vote on the matter unless:
- a) the other Directors on the Board who do not have a material personal interest in the matter pass a resolution that:
 - i) identifies the Director, the nature of their interest in the matter and its relation to the affairs of the Foundation; and
 - ii) states that the Board is satisfied that the interest should not disqualify the Director from voting or being present;
 - b) their interest arises because they are a Member of the Foundation, and the other Members have the same interest;

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- c) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Foundation;
 - d) their interest relates to a payment by the Foundation in respect of an indemnity provided for in this constitution, or any contract relating to an indemnity that is allowed under the Corporations Act; or
 - e) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter.
- 44.6 A Director who votes when not otherwise authorised to do so under this clause shall have their vote discounted.
- 44.7 A Director with a material personal interest in a matter may give the Board standing notice of the nature and extent of this interest.
- 44.8 No contract made by a Director with the Foundation and no contract or arrangement entered into by or on behalf of the Foundation in which any Director may be in any way interested is voided or rendered voidable merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office.
- 44.9 The disclosure of a material personal interest by a Director must be recorded in the minutes of the meeting.
- 44.10 For the purpose of this clause “material personal interest” and “conflict of interest” shall be treated as interchangeable.

45. Personal Benefit

- 45.1 Directors should avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from the Director or from the Foundation, through the provision of gifts, benefits or hospitality of any kind to the Director or someone personally associated with them. The receipt of a benefit must be reported as if it gave rise to a material personal interest.

46. Frequency and mode of Board meetings

- 46.1 The Board shall meet together (including by technological means) no less than four times per year for the despatch of business and adjourn and otherwise regulate its meetings as frequently and in the manner it sees fit.

47. Calling a Board meeting

- 47.1 A Director may at any time, and, upon the request of a Director, the Secretary, must convene a Board meeting.

48. Notice of a Board meeting

- 48.1 Unless special circumstances apply, at least 48 hours' notice must be given to each Director of the place, date and time of a Board meeting.

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- 48.2 Notice of a Board meeting must be given by such means as have been agreed by the Directors.
- 48.3 Non-receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.

49. Chair of a Board meeting

- 49.1 The Chair is entitled to chair all Board meetings.
- 49.2 In the absence of the Chair, the Deputy Chair is entitled to chair Board meetings.
- 49.3 In the absence of the Chair and Deputy Chair, the Directors at a Board meeting may choose a Director to be the chair.

50. Quorum at a Board Meeting

- 50.1 The quorum for a meeting of the Board shall be the number that is a majority of the Directors currently in office [and must include the Founding Member's Representative??].
- 50.2 No business may be transacted at a Board meeting unless a quorum of Directors is present during the time the business is dealt.

51. Decisions of the Board

- 51.1 A resolution of the Board must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.
- 51.2 The Board may pass a resolution, without a meeting of the Board being held if the proposed resolution is sent to the Directors and a majority of Directors, assent to the resolution in writing. The resolution is taken to have been passed on the date the resolution was assented to by the last Director who constituted the majority of Directors in favour.

52. Validity of acts of Directors

- 52.1 All acts done at any meeting of the Board or by any individual acting as a Director shall be valid even if it is later discovered that there was a defect in the appointment of an individual as a Director or the individual not being entitled to vote.

ADMINISTRATIVE MATTERS**53. Secretary**

- 53.1 The Board must appoint at least one Secretary.
- 53.2 The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines.
- 53.3 The Board may remove any Secretary so appointed, subject to the terms of any contract and the law.

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- 53.4 The Secretary has such powers and duties as specified in this constitution, as required by the Corporations Act, and as determined by the Board.

54.Minutes

- 54.1 The Foundation must keep minute books (which may be in electronic form) in which it records:
- a) proceedings and resolutions of General Meetings;
 - b) written resolutions passed by the Members;
 - c) proceedings and resolutions of Board meetings;
 - d) proceedings of committee meetings; and
 - e) resolutions passed by the Board without a meeting.
- 54.2 The Foundation must ensure that the minutes of a meeting are signed within a reasonable time after the meeting (usually within 1 month) by the chair of the meeting at which the proceedings were held, or by the chair of the next succeeding meeting.

55.Inspection of records

- 55.1 The Board must ensure that the minute books for General Meetings of the Foundation are available for inspection by Members in accordance with the Corporations Act.
- 55.2 A Member other than a Director does not have the right to inspect any books, records or documents of the Foundation except as provided by law or authorised by the Board.

56.Time for service of notices

- 56.1 Where a notice is sent by post, service of the notice is taken to be effected three (3) days after it is posted.
- 56.2 Where a notice is sent by email or other electronic means, service of the notice is taken to be effected on the day it is sent or on the day the Member is advised via the electronic contact address that the notice is accessible electronically.

57.Method for service of notices

- 57.1 The Foundation may give a notice to a Member:
- a) by serving it on the Member personally;
 - b) by sending it by post to the Member's address as shown in the register of Members;
 - c) by sending it to an electronic contact address (such as an email address) that the Member has supplied to the Foundation or using which the Member has contacted the Foundation in the past; or

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- d) by making a copy of it accessible electronically (for example on a website of, or related to, the Foundation, or using a hyperlink or other technology) and advising the Member of its availability via the electronic contact address.

58.Accounts and audit

- 58.1 The Foundation must make and keep written financial records that:
 - a) correctly record and explain its transactions and financial position and performance; and
 - b) enable true and fair financial statements to be prepared and to be audited (if required).
- 58.2 The Board will establish a Finance and Audit Committee. The terms of reference for such a committee will be set out in the By-laws.

59.Indemnity and insurance

- 59.1 The Foundation indemnifies each officer of the Foundation out of the assets of the Foundation, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Foundation.
- 59.2 In this clause, 'officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.
- 59.3 In this clause, 'to the relevant extent' means:
 - a) to the extent that the Foundation is not precluded by law (including the Corporations Act) from doing so; and
 - b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 59.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Foundation:
- 59.5 To the extent permitted by law the Foundation may:
 - a) purchase and maintain insurance; or
 - b) pay or agree to pay a premium for insurance,against any liability incurred by the officer as an officer including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal.

60.Changes to the constitution

- 60.1 Any amendment to this constitution must be approved by:
 - (a) a Special Resolution at a meeting of the members; or
 - (b) a circular resolution signed by all of the members,which in both cases must include the support of the Founding Member.

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- 61.1 A Director has a right of access to the financial records of the Foundation at all reasonable times.
- 61.2 If the Board agrees, the Foundation must give a Director or former Director access to:
 - a) certain documents, including documents provided for or available to the Directors; and
 - b) any other documents referred to in those documents.

62. Winding Up

- 62.1 If the Foundation is wound up, any surplus assets must not be distributed to a Member or a former Member of the Foundation, unless that Member or former Member is a charity described in clause 62.2.
- 62.2 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the Foundation is wound up must be distributed to one or more charities:
 - a) with charitable purpose(s) similar to, or inclusive of, the Purposes; and
 - b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Foundation; and
 - c) if the Foundation is an endorsed deductible gift recipient just before the winding up of the Foundation, then such charity or charities must be endorsed as deductible gift recipient/s.
- 62.3 The decision as to the charity or charities to be given the surplus assets must be made by the Voting Members at or before the time of winding up and must have the approval of the Founding Member. If the Voting Members do not make this decision, the Foundation may apply to the Supreme Court to make this decision.
- 62.4 Subject to clause 14, if the Foundation is endorsed as a deductible gift recipient (either as a whole or for the operation of a gift fund) and such endorsement is revoked (whether or not the Foundation is to be wound up), any surplus assets arising from deductible gifts or of the gift fund must be transferred to a deductible gift recipient endorsed charity or charities determined by the Voting Members. If the Voting Members do not make this decision, the Foundation may apply to the Supreme Court to make this decision.

63. Initial Members and Board

- 63.1 The initial Voting Members are those named as Members in the application for registration of the Foundation.
- 63.2 Despite any contrary provisions in the constitution, the initial Board will comprise those Directors named in the application for registration of the Foundation.
- 63.3 To implement staggered rotational terms of Directors:

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- a) at the Foundation's first Annual General Meeting, one-third of the initial Directors (rounded down if not a whole number) will retire. The Directors to retire will be decided by agreement amongst the Directors and if they cannot agree the drawing of lots will determine which Directors are to retire;
- b) the Directors retiring at the Foundation's first Annual General Meeting may be nominated for re-election if eligible. If elected, for the purposes of clause 34.2, the counting of the term limit commences from the end of the first Annual General Meeting.
- c) at the Foundation's second Annual General Meeting, half of the remaining initial Directors will retire. The Directors to retire will be decided by agreement amongst the Directors and if they cannot agree the drawing of lots will determine which Directors are to retire;
- d) the Directors retiring at the Foundation's second Annual General Meeting may be nominated for re-election if eligible. If elected, for the purposes of clause 34.2, the counting of the term limit commences from the end of the second Annual General Meeting;
- e) in conjunction with the Foundation's third Annual General Meeting, the remaining initial Directors will retire, but if eligible may be nominated for re-election. If elected, for the purposes of clause 34.2, the time served up to the end of the Foundation's third Annual General Meeting will count as 3 consecutive years;

64. Definitions

64.1 In this constitution, capitalised terms have the following meanings:

- a) **ACNC** means the Australian Charities and Not-for-profits Commission;
- b) **ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth) and regulations;
- c) **Board** means some or all of the Directors acting as the board of directors of the Foundation;
- d) **By-law** means the rules and regulations made by the Board in accordance with clause 43.1;
- e) **Chair** means the Director holding the office of Chair in accordance with clause 39.1a);
- f) **Corporations Act** means the Corporations Act 2001 (Cth);
- g) **Director** means an individual appointed or elected as Director of the Foundation;
- h) **Externally Administered Body Corporate** has the meaning given in s9 of the Corporations Act;
- i) **Foundation** means Shoalhaven Arts Foundation Ltd;
- j) **Founding Member** means the Council of the City of Shoalhaven;

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- k) **General Meeting** means a duly constituted meeting of the Members and includes an Annual General Meeting;
- l) **Minister** means the Federal Minister for the time being having responsibility for the Arts, and includes the office, if any, which takes on the functions of the Minister if the duties and responsibilities of ROCO are transferred out of the Arts portfolio;
- m) **Founding Member Representative** means an individual appointed by the Founding Member to be its representative;
- n) **ROCO** means the Register of Cultural Organisations;
- o) **Secretary** means the individual appointed as the Foundation's secretary under clause 53.1;
- p) **Shoalhaven** means the land and community in the New South Wales Local Government Area of the City of Shoalhaven;
- q) **Voting Members** comprise Full Individual Members who owe no money to the Foundation.

65. Interpretation

- 65.1 The following rules of interpretation apply unless any contrary intention appears in this constitution, or the context requires otherwise:
- a) a word or expression that is defined or used in the Corporations Act or the ACNC Act or Regulations and covering the same subject has the same meaning in this constitution;
 - b) reference to an act includes every amendment, re-enactment, or replacement of that act and any subordinate legislation made under that act such as regulations;
 - c) a reference to a clause or sub-clause is to a clause or sub-clause of this constitution;
 - d) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;
 - e) reference to a person is a reference to an individual, company, any other body corporate, partnership, joint venture, association or other body whether or not incorporated;
 - f) the words 'writing' and 'written' include any mode of representing or reproducing, including electronically, words, figures, drawings or symbols in a visible or communicable form;
 - g) the words 'including', 'for example', or similar expressions do not limit what may be included or the examples given;
 - h) use of "they", "them" and "their" and similar terms apply equally to individuals if the context permits;
 - i) a gender includes all genders;
 - j) singular includes plural and vice versa;

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- k) where a document is required to be signed by a person under this constitution, the signature may be in electronic form.
- l) Headings are for convenience only and do not affect the interpretation of this constitution.

END OF CONSTITUTION

CL23.167 - Attachment 1