

## Ordinary Meeting

**Meeting Date:** Monday, 08 May, 2023

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

## Attachments (Under Separate Cover)

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Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PAN-258788
<b>DA Number</b>	RA22/1004
<b>LGA</b>	Shoalhaven City Council
<b>Proposed Development</b>	Internal and external alterations and additions to refurbish the existing Bomaderry Basketball Stadium
<b>Street Address</b>	84 Cambewarra Road, Bomaderry - Lot 100 DP 1237704
<b>Applicant/Owner</b>	Applicant: Shoalhaven City Council – c/o Leo Town Planning Owner: Shoalhaven City Council
<b>Date of DA lodgement</b>	26 September 2022
<b>Total number of Submissions</b>	0 submission received.
<b>Number of Unique Objections</b>	
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021)</b>	<p><b>3 Council related development over \$5 million</b></p> <p>Development that has a capital investment value of more than \$5 million if—</p> <p>a) <u>a council for the area in which the development is to be carried out is the applicant for development consent, or</u></p> <p>b) <u>the council is the owner of any land on which the development is to be carried out, or</u></p> <p>c) the development is to be carried out by the council, or</p> <p>d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).</p>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</li> <li>• Shoalhaven Local Environmental Plan 2014</li> <li>• Shoalhaven Development Control Plan 2014</li> <li>• Environmental Planning &amp; Assessment Act 1979</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Access Assessment Report</li> <li>• Architectural Plans</li> <li>• Asbestos Report</li> <li>• BCA Assessment Report</li> <li>• Certificate of Design Intent – Electric Services</li> <li>• Certificate of Design Intent – Heating Ventilation and Air-Conditioning Services</li> <li>• Civil Design Certificate</li> <li>• Civil Engineering Drawings</li> <li>• Landscape Plans</li> <li>• Statement of Environmental Effects</li> <li>• Structural Engineer Certificate - Existing Floor framing Court 6 at Shoalhaven Indoor Sports Centre</li> <li>• Structural Engineer Certificate - Existing structures court 5&amp;6 at Shoalhaven Indoor Sports Centre</li> <li>• Survey Plan</li> <li>• Waste Management Plan</li> </ul>

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<b>Clause 4.6 requests</b>	N/A
<b>Summary of key submissions</b>	
<b>Report prepared by</b>	<b>Jack Rixon - Mecone</b>
<b>Report date</b>	19 January 2023
<b>Summary of s4.15 matters</b>	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

### Executive Summary

The subject site is located at 84 Cambewarra Road, Bomaderry. It forms part of the existing Bomaderry Basketball Stadium, located at the north-eastern corner of the Artie Smith Oval. The entire site has an approx. 400m frontage to Cambewarra Road and is fronting Bomaderry High School and Bomaderry Aquatic Centre to the north. The land is legally identified as Lot 100 in DP1237704.

The Artie Smith Oval site includes an AFL/Cricket Oval with associated amenities building, Croquet club house and courts, the Shoalhaven Indoor Sports Centre (SISC), site landscaping and car parking. The Artie Smith Oval is part of the master planned Shoalhaven Community and Recreational Precinct. The Artie Smith Oval site has a total area of approximately 7.86 ha and is zoned RE1 Public Recreation, pursuant to the provisions of *Shoalhaven Local Environmental Plan 2014*.

The site is surrounded by residential development, public recreational including the Bomaderry Aquatic Centre and Bomaderry high school. Bomaderry Train Station and town centre is located approximately 1.6 km southeast by road and Nowra CBD is located approximately 4 km south of the site.

The subject DA was lodged on the 26 September 2022. The application is described as internal and external alterations and additions to refurbish the existing Bomaderry Basketball Stadium. The works include refurbishment works, alterations and additions to the existing Basketball Stadium (further detail below).

As the capital investment value of the development is more than \$5 million and Shoalhaven City Council is the applicant and owner of the subject land, the application constitutes a regional development application, and the Southern Regional Planning Panel is the determining authority for the application in accordance with section 3 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*.

The development application has been assessed against the following relevant environmental planning instruments:

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- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Shoalhaven Local Environmental Plan 2014*

The application has also been assessed against the Shoalhaven Development Control Plan 2014 (SDCP 2014). Further details can be found at Section 2, Page 19 of this assessment report.

Council is satisfied that the proposed works comply with the relevant provisions of SDCP 2014 and no further assessment is required.

The DA was notified in accordance with the *Environmental Planning & Assessment Regulation 2021* (the EP&A Reg) and Council’s Community Consultation Policy for Development Applications on 19 October 2022 – 18 November 2022. No submissions were received during the notification period.

The site is considered suitable for the proposed development as it will provide for a continued use of the site as an indoor basketball stadium.

Approval of the proposal is recommended, subject to conditions of consent.

This report recommends that the application is approved for the reasons outlined in this report.

#### Application Details

**Applicant:** Shoalhaven City Council  
**Owner:** Shoalhaven City Council

**Capital Investment Value:** \$5,659,310

**Disclosures:** No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

#### Detailed Proposal

##### Development Application

The application as lodged seeks consent for refurbishment works, alterations and additions comprising the following works:

- Demolition works as indicated in red on drawings prepared by CM+ including:
  - All existing building elements apart from primary steel structure and game court flooring to be demolished and disposed of safely,
  - all internal and external building cladding to be demolished (may contain asbestos),
  - demolition of non-DDA compliant access ramp and slab,
  - demolition of spectator seating,
  - all existing doors and glazing to be demolished,
  - demolition of northern roof over amenities, porch including demolition of walling, fixtures and supporting structure (may contain asbestos),
  - all existing entry porch, slab and steps to be demolished,
  - all existing roofing to be removed and disposed of safely (may contain asbestos),



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- all existing building lining to be removed and disposed of safely (may contain asbestos).
- Retention of primary steel structure and associated bracing to be made good.
- Existing game court floor to be preserved and reinstated after redevelopment (to be removed, stored and reinstated, if remedial works to footing required).
- Construction of new building elements to existing structure to a proposed building height of RL 55.72 m AHD (new roofing, internal walls, new external façades, access ramps / steps, doors and windows, new internal fitouts).
- New covered walkway between Site and adjacent SISC building.
- Reinstatement of flooring to Court 5 at RL 47.27 m AHD.
- Reinstatement of flooring to Court 6 at RL46.50 m AHD.
- New internal layout to provide sanitary facilities, meeting rooms, café, official rooms and store rooms.
- Associated site works: electrical/civil/fire/mechanical/structural engineering, pathways, and lighting.
- Tree removal and additional curtilage landscaping.

**Aerial Image**



Figure 1. Aerial Image

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**Demolition Plans**

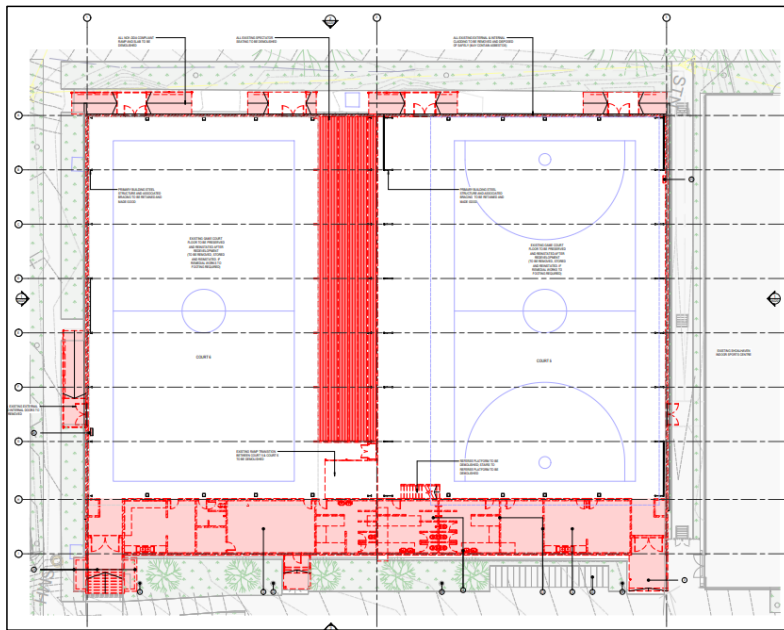


Figure 2. Demolition Plan – Ground Floor

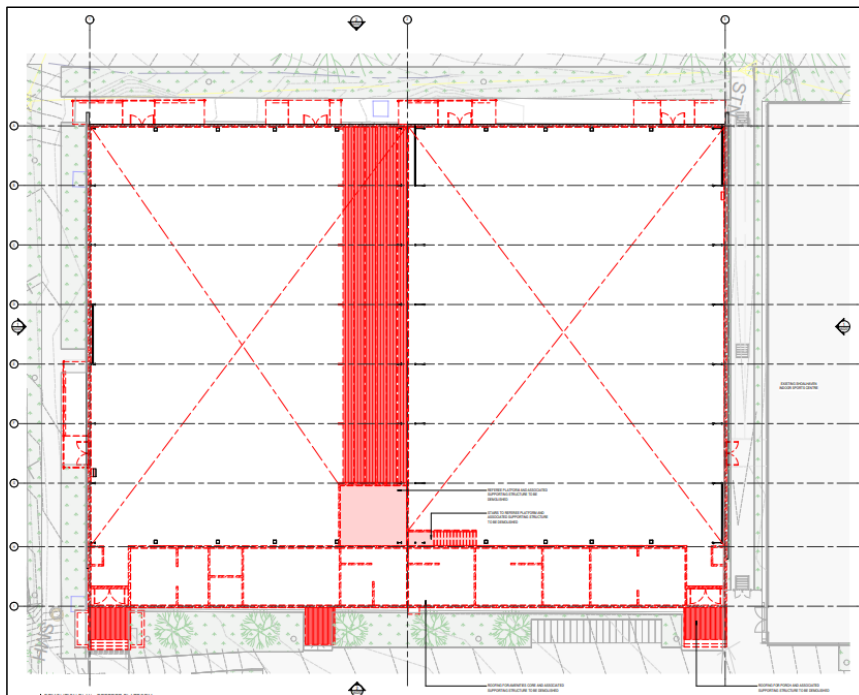


Figure 3. Demolition Plan – Referee Platform

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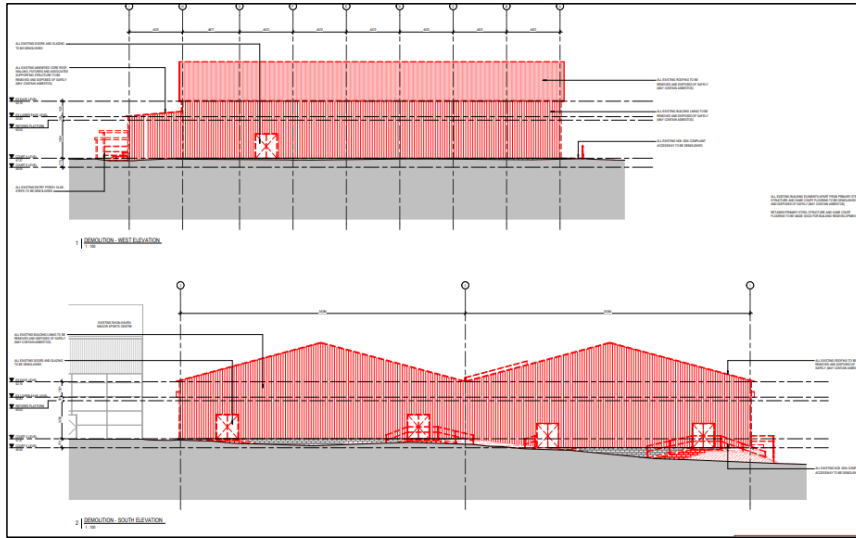


Figure 4. Demolition Plan – West and South Elevations

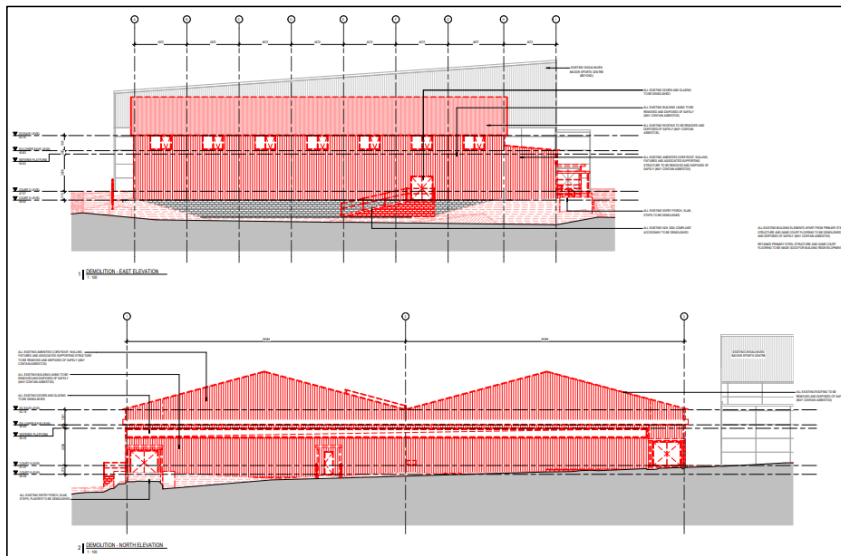


Figure 5. Demolition Plan – East and North Elevations

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**Proposed Plan**



Figure 6. Site Plan

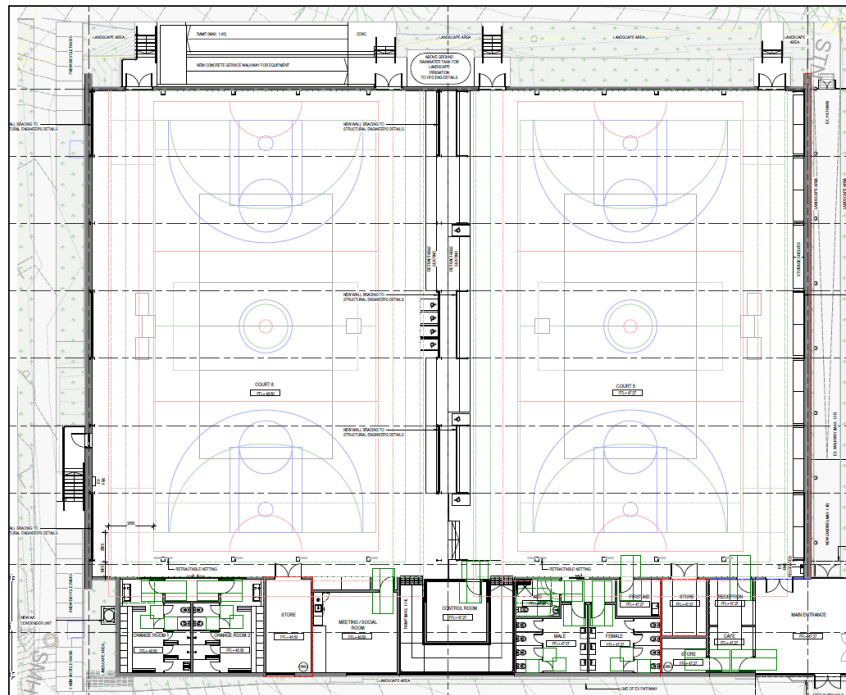


Figure 7. Plan – Overall Ground Level

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**Proposed Section**

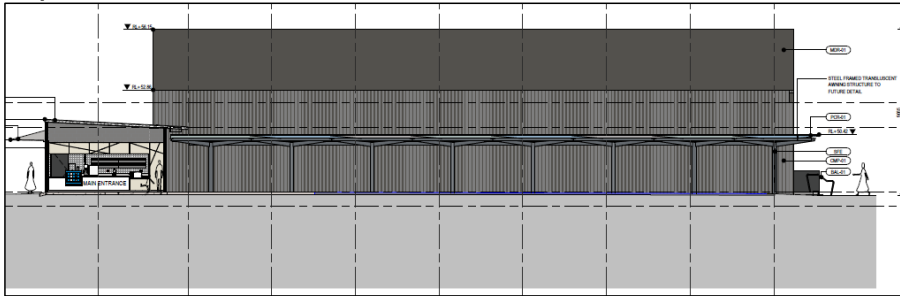


Figure 8. Proposed West Elevation

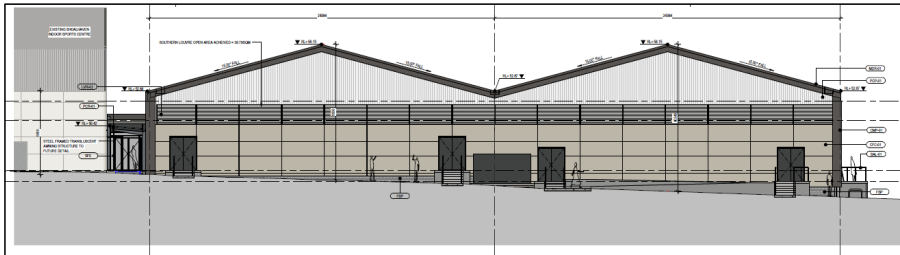


Figure 9. Proposed South Elevation

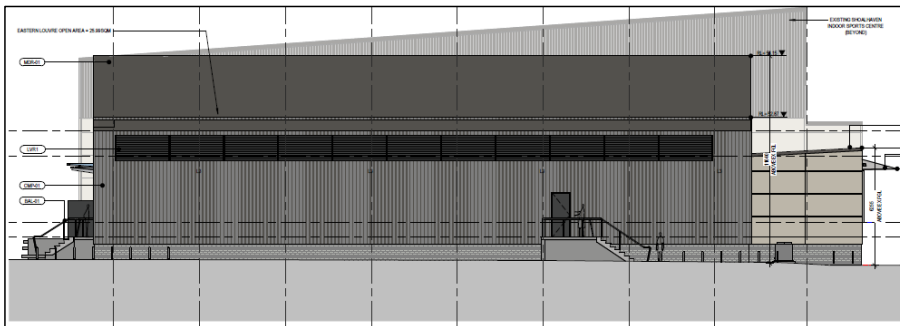


Figure 10. Proposed East Elevation

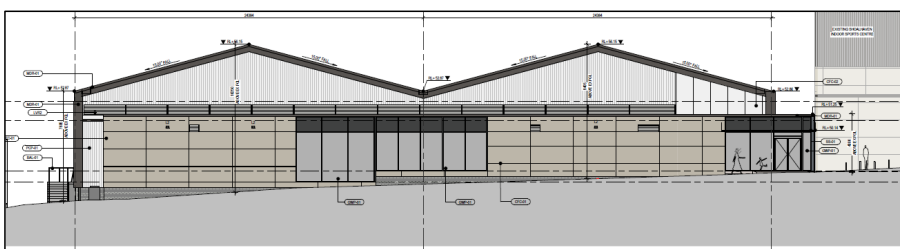


Figure 11. Proposed North Elevation

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### Subject Site and Surrounds

#### Site Description

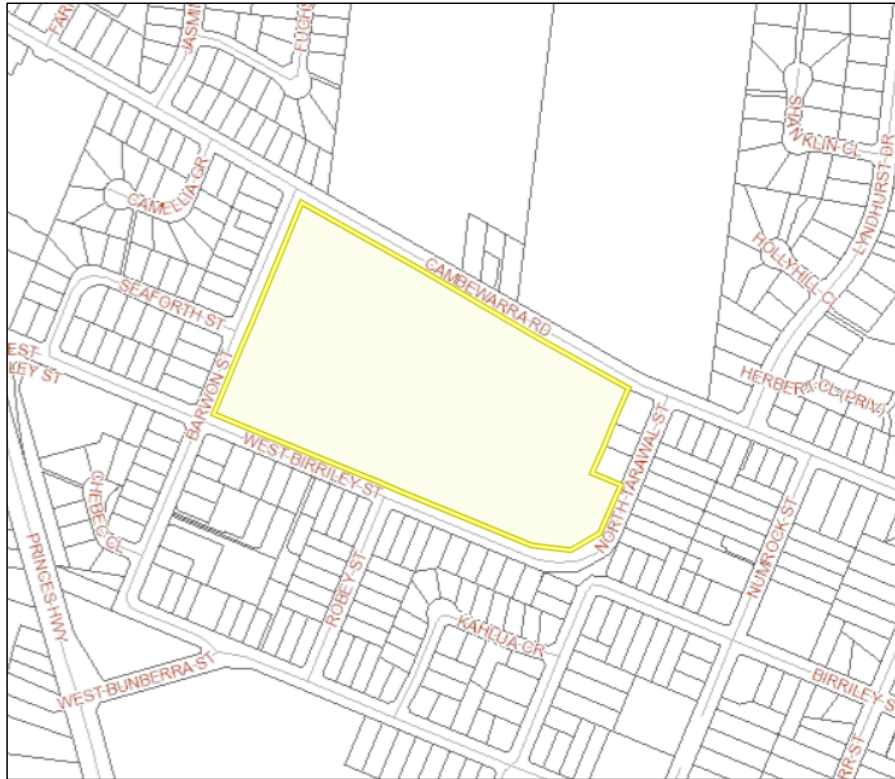


Figure 12. Site location

Street address:	84 Cambewarra Road, Bomaderry
Title details:	Lot 100 DP 1237704
Zoning:	The site is zoned RE1 Public Recreation under the <i>Shoalhaven Local Environmental Plan 2014</i> (SLEP).
Site dimensions:	The subject land is approximately 7.86ha
Topography	The site slopes to the east
Vegetation:	Vegetation within the redevelopment site consist of landscaping, shrubs and small trees (see Figure 13 below).
Existing buildings:	Basketball Stadium (indoor), Shoalhaven Indoor Sports Centre, Club House and amenity buildings.

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Figure 13. Photographs of existing entry to Basketball Stadium & affected vegetation along the eastern side of existing building

### Surrounding Site

The site is located approximately 975m to the north-west of Bomaderry (Nowra) Train Station. It adjoins residential developments to the south and west and infrastructure educational establishment development to the east and infrastructure road to the north. It is located approximately 20m south of Bomaderry High School and Bomaderry Aquatic Centre.

The surrounding development comprises of the following:

- To the north: Infrastructure Road, Public Recreation, Infrastructure Educational Establishment, Residential Developments.
- To the east: Infrastructure Educational Establishment, Residential Developments.
- To the south: Infrastructure Educational Establishment, Residential Developments.
- To the west: Residential and Business Developments.

The photographs below outline the typical typology of development in the surrounding area.



Figure 14. Shoalhaven Indoor Sports Centre adjacent to the west of the site (photo looking to the west of the site)

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Figure 15. Educational Establishment to the east of the site (photo looking to the east of the site)



Figure 16. View towards the northern side of the site -towards Bomaderry High School (photo looking to the north-west of the site)

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Figure 17. View towards the eastern side of the proposal (residential developments)



Figure 18. View toward the western side of the proposal (residential developments)

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**Background Development Application**

<b>Date(s)</b>	<b>Action(s)</b>
24/03/2017  (approved)	S96 Amendment (DS17/1014) to RA15/1001  Modification to Conditions 1, 12 and 14 of the consent to reference an updated drawing in relation to car parking and to ensure retention of all existing trees within the Cambewarra Road reserve, in accordance with the same updated drawing.
31/01/2017  (surrendered)	DA (RA12/1000)  Demolition of existing Basketball Stadium and construction of proposed four (4) x court multi-purpose stadium with associated amenities, car parking and landscaping
26/08/2016  (approved)	DA (RA15/1001)  Construction of an indoor sports centre housing four (4) multi-purpose courts, seating and ancillary facilities (comprising change rooms, toilets, storerooms, canteen/café, sports office areas, conference room, administration areas, staff area, control rooms, first aid room, drug testing room, multi-purpose spaces, etc), car parking, landscaping and associated works.
09/08/2013  (approved)	DA (DA13/1763)  Metal Awning Attached to Existing Clubhouse/Amenities Block
28/06/2013  (surrendered)	DA (DA09/1829)  Proposed three (3) court Basketball Stadium with associated amenities, refurbishment of existing Stadium and conversion to Gymnasium and associated car parking.

**Consultation and Referrals**

**Internal Referrals**

Internal referrals were provided in response to the development application as described below.

<b>Agency</b>	<b>Comments</b>
City Lifestyles - Swim Sport & Fitness Manager	No Objection. No conditions.
City Lifestyles - Community Planning & Projects Manager	No Objection. No conditions.
Shoalhaven Water	No Objection. No conditions.
Building Surveyor	No Objection. Conditions to be imposed.  See the following in the draft determination: <ul style="list-style-type: none"> <li>▪ 'Prescribed Conditions' and 'Occupation / Use' conditions under Part A;</li> <li>▪ 'Construction Certificate', 'Appointment of Principal Certifier', 'Notice of Commencement' and 'Toilet Facilities - Temporary' under Part C;</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ 'Long Service Levy', 'Retaining Walls - Design' and 'Hydraulic Engineering Details for Water, Sewer &amp; Drainage' conditions under Part D;</li> <li>▪ 'Fire Safety', 'Retaining Walls - Certification', 'Works as Executed - Stormwater Drainage', 'Section 68 of the Local Government Act' conditions under Part G;</li> <li>▪ 'Fire Safety - Annual Statement' condition under Part I.</li> </ul>
Development Engineer	<p>No Objection. Conditions to be imposed.</p> <p>See the following in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ 'Works within the Road Reserve', 'Construction Traffic Management Plan', 'Run-off and Erosion Controls' and 'Dilapidation Report' conditions under Part C;</li> <li>▪ 'Existing Infrastructure', 'Erosion and Sediment Control Plan (ESCP)' and 'Stormwater Drainage Design Standards (Urban)' conditions under Part D;</li> <li>▪ 'Works as Executed - Stormwater Drainage' condition under Part G (also recommended by Building Surveyor).</li> </ul>
Environmental Health	<p>No Objection. Conditions to be imposed.</p> <p>See the following in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ 'Noise Specific Conditions' and 'Food Business Regulations' conditions under Part A;</li> <li>▪ 'Food Business Notification' condition under Part C;</li> <li>▪ 'Mechanical Plant' condition under Part G.</li> </ul>

Internal referral comments are referred to as required in the s4.15 assessment throughout this report.

**External Referrals**

Agency	Comments
Endeavour Energy	<p>No Objection. Condition to be imposed.</p> <p>See the following in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ 'Network Connection - Endeavour Energy' condition under Part D.</li> </ul>

**1. Statutory Considerations**

This report assesses the proposed development/use against relevant Commonwealth, State, Regional and Local Environmental Planning Instruments and policies in accordance with section

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4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

**(a) Biodiversity and Conservation Act 2016**

The proposed development has been assessed under Part 7, Clause 7.2 *Development or activity “likely to significantly affect threatened species”*.

(1) *For the purposes of this Part, development or an activity is **likely to significantly affect threatened species** if—*

- (a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or*
- (b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or*
- (c) it is carried out in a declared area of outstanding biodiversity value*

The proposed works is not deemed to be likely to significantly affect threatened species and a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR) is not required as part of the application.

**(b) Environmental Planning and Assessment Act 1979**

**Section 4.36 – State Significant Development**

Pursuant to Section 4.36 of the Act, the proposal does not trigger the criteria for State Significant Development.

**Section 4.46 – Integrated Development**

The subject development is not considered integrated development as the proposal does not trigger the requirements for other separate approvals.

**Section 7.11 - Shoalhaven Contribution Plan 2019**

The proposed development is not considered to trigger Shoalhaven Contribution Plan 2019 as it is to be provided by Council for a Council project that is to provide non-profit community facilities.

**Local Government Act 1993**

Activities identified under section 68 of the *Local Government Act 1993* require prior approval from Council before the activity can be carried out, except in so far as this Act, the regulations or a local policy adopted under Part 3 allows the activity to be carried out without that approval.

The proposal includes works that require section 68 approval. A condition of consent will be imposed requiring section 68 approval to be obtained. (See ‘Hydraulic Engineering Details for Water, Sewer & Drainage’ condition under Part D of the draft determination)

**2. Statement of Compliance/Assessment**

The following provides an assessment of the submitted application against the matters for consideration under section 4.15 of the EP&A Act.

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

**i) Environmental Planning Instruments**

The following Environmental Planning Instruments apply to the assessment of the subject DA:

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- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Shoalhaven Local Environmental Plan 2014*

#### **State Environmental Planning Policy (SEPP) (Planning Systems) 2021**

The proposal is categorised as a Regional Significant Development under Schedule 6, Part 3 of the SEPP.

#### **Schedule 6 Regionally significant development**

- 3 Council related development over \$5 million  
Development that has a capital investment value of more than \$5 million if—
- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or
  - (b) the council is the owner of any land on which the development is to be carried out, or
  - (c) the development is to be carried out by the council, or
  - (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).

The proposed works are Council related development which includes a capital investment value of more than \$5 million (\$5,659,310).

As such the proposal is required to be determined by the Regional Planning Panel in accordance with Section 4.7 of the EP&A Act.

#### **State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021**

Chapter 4 Remediation of Land applies to the site.

#### Chapter 4 Remediation of land: Section 4.6 – Contamination and remediation to be considered in determining development application

The requirements of this SEPP apply to the subject site. In accordance with section 4.6(1), the consent authority must consider if the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

It is understood that the site contains asbestos material that would need to be carefully removed from the site by a licenced contractor and disposed of at a licenced landfill facility. An Asbestos Management Plan has been prepared with the development application, in order to manage any further findings/unexpected finds of asbestos.

The land use of the site will remain unchanged and continue to be for the purposes of a 'recreational facility (indoor)', specifically a basketball stadium.

Council is satisfied that the site can be made suitable for the purposes for which the development is proposed subject to conditions of consent and implementation of the Asbestos Management Plan.

A condition is recommended to be imposed requiring asbestos removal to be carried out in accordance with AS2601-2 SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-

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78415-5] and SafeWork NSW – Code of Practice, How to Safely Remove Asbestos [ISBN 978-0-642-33317-9]. (See ‘Asbestos Removal’ condition under Part F of the draft determination)

**State Environmental Planning Policy (SEPP) (Transport and Infrastructure) 2021**

Clause 2.122 *Traffic-generating development* applies to development specified in Column 1 of the table to schedule 3 and involves:

- (a) *new premises of the relevant size or capacity, or*
- (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

The alterations and additions proposed by this development do not result in any additional playing courts or an appreciable increase in floor area. As such, the proposal is not considered to result in an enlargement or extension of the existing premises of the relevant size or capacity for the development specified in Column 1 of Schedule 3.

As such, referral to Transport for NSW is not required in this case.

**Shoalhaven LEP 2014**

Land Zoning

The site is zoned RE1 – Public Recreation under the LEP as shown below.



Figure 19. Shoalhaven LEP 2014 zoning map excerpt

Characterisation and Permissibility

The proposal is best characterised as *Recreation facility (indoor)* under the SLEP 2014. The proposal is permissible in RE1 Public Recreation zone land.



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Clause 2.3 - Zone objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the RE1 Public Recreation zone are outlined below.

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The proposed development will enable the land to continue to be used for recreational purposes, whilst also providing a range of recreational activities and compatible land uses in the area. The proposal is consistent with the land use objectives and provides a direct benefit to the community.

SLEP 2014 Clauses

Clause	Comments	Compliance
<b>Part 2 Permitted or prohibited development</b>		
<b>2.6 Subdivision – Consent requirements</b>	The application does not seek consent for the subdivision of the site.	N/A.
<b>2.7 Demolition requires development consent</b>	The proposed development includes demolition works as part of the development consent.	Complies
<b>Part 4 Principal development standards</b>		
<b>4.3 Height of buildings</b>	N/A - There is no maximum building height on site.  The application does not propose any increase in the building from what was previously approved.	N/A
<b>4.4 Floor space ratio</b>	N/A – There is no maximum FSR on site.	N/A
<b>Part 5 Miscellaneous provisions</b>		
<b>5.10 Heritage conservation</b>	The site is not identified as a local heritage item or within a heritage conservation area, nor is the site located in proximity of a local heritage item or heritage conservation area.	N/A
<b>5.21 Flood planning</b>	The site is not within a flood planning area.	N/A
<b>Part 7 Additional local provisions</b>		
<b>7.1 Acid sulfate soils</b>	The site is identified as being Class 5 and is not located within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Complies
<b>7.2 Earthworks</b>	Minimal earthworks are anticipated due to the building being replacement of existing.	Complies
<b>7.11 Essential Services</b>	Essential services including supply of water, electricity and the disposal and management of sewage are available to the site.	Complies

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**ii) Draft Environmental Planning Instrument**

Not applicable.

**iii) Any Development Control Plan**

**Shoalhaven DCP 2014**

The following chapters of Shoalhaven Development Control Plan 2014 apply to the subject development application assessment:

**Generic Chapters**

- Chapter 2: General Environmental Considerations
- G1: Site Analysis, Site Design and Building Materials
- G2: Sustainable Stormwater Management and Erosion/Sediment Control
- G3: Landscaping Design Guidelines
- G7: Waste Minimisation and Management
- G21: Car Parking and Traffic
- G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines

This chapter is assessed in **Table 3** below.

*Table 1. Chapter 2 SDCP 2014 Assessment*


<b>Chapter 2 General and Environmental Considerations</b>		<b>Achieved</b>
<b>2. Potentially Contaminated Land</b>	<p>The site is within a potentially contaminated land. An Asbestos Management Plan has been prepared to educate relevant Shoalhaven City Council staff, site workers and contractors about the presence asbestos contamination at the site and assist them with management of any future site works that may disturb any unidentified ACM that may result in a risk to human health.</p> <p>Council is satisfied that the site can be made suitable for the purposes for which the development is proposed subject to conditions of consent and implementation of the Asbestos Management Plan.</p> <p>(See 'Asbestos Removal' condition under Part F of the draft determination)</p>	Yes

*Table 2. Generic chapters assessment SDCP 2014*

<b>Generic Chapters</b>	<b>Achieved</b>
<b>G1: Site Analysis, Sustainable Design and Building Materials</b>	
<p>The application is supported by a site analysis plan and survey plan which contain information regarding existing vegetation, adjoining building, services and natural hazards.</p> <p>The applicant provided information regarding proposed materials and finishes schedule which identify the exterior design of the proposed development.</p>	Yes
<b>G2: Sustainable Stormwater Management and Erosion/Sediment Control</b>	
<p>The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent.</p>	Yes, subject to conditions



Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

	(See 'Referrals' Section of this report)
<b>G3: Landscaping Design Guidelines</b>	
<p>The applicant provided a Landscape Plan which details the proposed plantings, trees, shrubs and groundcovers. Landscaping is proposed within the front setback, towards Cambewarra Road and part of the western setback.</p> <p>The Landscape Plan provides detail of the location, height and species of what is proposed on site.</p>	Complies
<b>G4: Tree and Vegetation Management</b>	
<p>The proposal will require the removal of 3 trees on site. It includes removal of 2 trees on to the east side for the new loading area and waste enclosure, as well as 1 tree to the northern-east side due to the tree being at risk to the existing building structure. These trees have been identified on the revised site plan with photos provided below from the applicant.</p>  <p>These trees have been inspected by Council and are not identified as significant.</p> <p>The development proposes planting of five (5) additional trees to the south of the redevelopment site to compensate for the loss of trees proposed as part of the proposal.</p> <p>The provisions of this chapter have been considered and Council raise no objection to the removal the 3 trees identified in the site plan.</p>	Yes
<b>G7: Waste Minimisation and Management Controls</b>	
<p>A Waste Management Plan has been submitted with the application. The WMP provides information regarding demolition, construction and ongoing use, as per Shoalhaven WMP guidelines.</p>	<p>Yes, subject to conditions.</p> <p>(See 'Waste Management Plan' condition under Part F of the draft determination)</p>
<b>G21 Car Parking and Traffic</b>	
<p>The proposed development includes a combined car parking area with the adjoining development of the Shoalhaven Indoor Sport Centre.</p>	Yes

Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

<p>In accordance with Chapter G21: Car Parking and Traffic, 15 spaces are to be provided per Indoor Cricket/Netball/Soccer Court. The proposal is for alterations and additions to the existing basketball stadium, inclusive of two basketball/multi-purpose courts. As such, 30 spaces are required.</p> <p>Parking on the site has previously been considered as part of the adjoining DA (RA15/1001) for the Shoalhaven Indoor Sport Centre (SISC) which considers the cumulative car parking capacity for the wider site, including Artie Smith oval and the existing basketball stadium (the subject site). A total of 198 car parking spaces has been provided for the site which far exceeds the 150 spaces required under RA15/1001.</p> <p>The proposal will require the removal of 2 car parking spaces, for the new loading area and waste enclosure. Council's Development Engineer's have reviewed the proposal and raise no objection to removal of these car spaces. The site retains sufficient car parking spaces to service the SISC, Artie Smith Oval and the site.</p>	
<p><b>G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines</b></p>	
<p>The site is located within Class 5 of Acid Sulfate Soils.</p> <p>The proposed development will not trigger requirements to prepare an Acid Sulfate Soil assessment.</p>	<p>N/A</p>

**iiia) 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**

None applicable.

**iv) Environmental Planning and Assessment Regulation 2021**

<b>Clause</b>	<b>Comment</b>
cl. 23 Persons who may make development applications	The proponent for the DA at lodgement was Shoalhaven City Council.

**v) REPEALED**

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

<b>Head of Consideration</b>	<b>Comment</b>
Natural Environment	<p>Three trees and associated landscape vegetation are required for removal. These trees are not identified as significant.</p> <p>The proposal is unlikely to have impacts on significant elements of the natural environment.</p>
Built Environment	<p><u>Acoustic</u></p> <p>An Environmental Noise Assessment (ENA) report prepared by Resonate has been provided in support of the development application. The report concludes that:</p>

Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

Head Consideration	of Comment
	<p><i>Operational noise emissions from the Bomaderry Basketball Stadium have been calculated to nearby noise sensitive receivers and compliance is expected with the NPI with no additional mitigation measures during the day and evening periods provided mechanical services recommendations detailed in Section 5.1 are adopted.</i></p> <p>The proposed basketball stadium is to operate from 7:00am to 11:00pm seven (7) days a week.</p> <p>The ENA Report has flagged the issue of <u>night-time</u> use of the stadium between 10:00pm and 11:00pm where more stringent compliance with the NPI (New South Wales Environmental Protection Authority's <i>Noise Policy for Industry</i>, 2017) is required.</p> <p>The consultant expects that noise levels will be achieved at the most affected residential receivers and adjoining Department of Education building during the night-time period; however, a +5 dB penalty will need to be applied to account for annoying characteristics of noise emissions, causing non-compliance with the NPI after 10:00pm.</p> <p>Section 5.3 of the ENA report recommends that acoustic/operable louvres be installed on the north, east and southern facades. Operable louvres are required to be closed during the night time period.</p> <p>A condition of consent will be imposed specifying hours of operation and requirement for acoustic or operable louvres, and operational noise management measures (operable louvres to be closed during night time period) to be provided in accordance with recommendations of the ENA report. (See 'Noise Specific Conditions' condition under Part A and 'Operational Requirements' condition under Part I of the draft determination)</p> <p><u>Asbestos</u></p> <p>It is understood that the site contains asbestos material that would need to be carefully removed from the site by a licenced contractor and disposed of at a licenced landfill facility.</p> <p>A condition is recommended to be imposed requiring asbestos removal to 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]. (See 'Asbestos Removal' condition under Part F of the draft determination)</p> <p><u>Views/Overshadowing</u></p> <p>The proposal will replace the existing basketball stadium and maintain the primary steel structure of the existing building. As such, no adverse impacts to existing views and overshadowing are expected to result from the proposal.</p> <p>All built environmental considerations can be appropriately managed subject to consent conditions.</p>
Social Impacts	The proposal will generate positive social impacts as it will improve the existing recreation facility on site and will provide for new amenity for the community.
Economic Impacts	The proposal will generate positive economic impacts with regard to construction works and ongoing use of the site for recreational purposes.
Other Impacts	<u>Plan of Management</u>

Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

<b>Head of Consideration</b>	<b>Comment</b>
	<p>A plan of management has not been submitted as part of the Development Application.</p> <p>Correspondence from the operator and delegate of the basketball stadium and SISC has confirmed that there is no existing/current Plan of Management or the noted "Generic Plan of Management – Sports Ground" from the approved RA15/1001 documents.</p> <p>It is recommended that a condition of consent be imposed for the preparation of an Operational Plan of Management document.</p> <p>(See 'Operational Plan of Management' condition under Part G of the draft determination)</p>

### **(c) Suitability of the site for the development**

The site is considered suitable for the proposed development for the following reasons:

- The proposal is compliant with objectives and requirements of SLEP 2014.
- Consistent with objectives and acceptable solutions outlined in SDCP 2014.
- The proposal is compatible with surrounding land uses and does not propose a change of use.
- The works will enable an improved recreation facility in the area which is considered compatible with the adjoining Shoalhaven Sport Centre facility.

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

No submissions were received.

### **(e) The Public Interest**

The public interest has been taken into consideration, including assessment of the application against applicable planning controls, public notification to the proposed development, internal referrals, and consideration of relevant policies. The assessment identified that the development is in the public interest.

## **3. Delegations**

### **Guidelines for use of Delegated Authority**

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 proposal is regionally significant development under Schedule 6 of SEPP (Planning Systems) 2021, the application must be determined by the Southern Regional Planning Panel.

## **4. Recommendation**

This application has been assessed having regard for section 4.15 (Evaluation) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Development Application No. RA22/1004 be approved subject to appropriate conditions of consent.

Recommendation for approval includes the following reasons (as per section 4.15 of the Act):

Planning Report – S4.15 Assessment – Island Point Rd, ST GEORGES BASIN - Lot 1 DP 1082382

1. The application is compliant with the respective environmental planning instruments applying to the site.
2. The proposed development complies with development standards of SLEP 2014.
3. The proposed development meets the zone objectives of the SLEP 2014 RE1 Public Recreation zone.
4. The proposed development is generally consistent with SDCP.
5. The proposed development is not expected to have any additional significant impact on the surrounding developments, including residential developments.
6. The site is suitable for the development as proposed.
7. The development is in the public interest.



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

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)     

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

Environmental Planning and Assessment Act, 1979  
RA22/1004

**TO:**

Shoalhaven City Council

**being the applicant(s) for RA22/1004 relating to:**

84 Cambewarra Road, Bomaderry - Lot 100 DP 1237704

**APPROVED USE AND OR DEVELOPMENT:**

Alterations and Additions to Bomaderry Basketball Stadium

**DETERMINATION DATE:**

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

**CONSENT TO OPERATE FROM:**

**CONSENT TO LAPSE ON:**

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

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

**DETAILS OF CONDITIONS:**

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

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**PART A: GENERAL CONDITIONS**

1. **General**

The consent relates to **Alterations and Additions to Bomaderry Basketball Stadium** 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.	Revision	Prepared by	Dated
Demolition Plan - Ground Level	Project No. 21030 Sheet No. DA0101	H	CM+	12/09/2022
Demolition Plan - Referee Platform	Project No. 21030 Sheet No. DA0102	H	CM+	12/09/2022
Demolition Elevations - Sheet 1	Project No. 21030 Sheet No. DA0201	H	CM+	12/09/2022
Demolition Elevations - Sheet 2	Project No. 21030 Sheet No. DA0202	H	CM+	12/09/2022
Plan - Site	Project No. 21030 Sheet No. DA0901	I	CM+	12/09/2022
Plan - Overall	Project No. 21030 Sheet No. DA1000	Q	CM+	12/01/2023
Plan - Ground Level	Project No. 21030 Sheet No. DA1001	K	CM+	12/09/2022
Plan - Roof Level	Project No. 21030 Sheet No. DA1021	H	CM+	12/09/2022
Elevations - Sheet 1	Project No. 21030 Sheet No. DA2001	M	CM+	12/09/2022
Elevations - Sheet 2	Project No. 21030 Sheet No. DA2002	M	CM+	12/09/2022
Sections - Sheet 1	Project No. 21030 Sheet No. DA2101	I	CM+	12/09/2022
Sections - Sheet 2	Project No. 21030 Sheet No. DA2102	G	CM+	12/09/2022
Schedule - Finishes - Sheet 1	Project No. 21030 Sheet No. DA6001	G	CM+	12/09/2022
Schedule - Finishes - Sheet 2	Project No. 21030 Sheet No. DA6002	G	CM+	12/09/2022

CL23.144 - Attachment 2

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Waste Enclosure - Demolition Plan	Project No. 21030 Sheet No. DA7001	C	CM+	12/09/2022
Waste Enclosure - Plan	Project No. 21030 Sheet No. DA7101	K	CM+	12/01/2023
Waste Enclosure - Elevations	Project No. 21030 Sheet No. DA7201	C	CM+	12/09/2022
Waste Enclosure - Sections	Project No. 21030 Sheet No. DA7211	C	CM+	12/09/2022
Civil Engineering Plan	Drawing No. 21F14_DA_C101	05	Henry & Hymas	10/01/2023.
Landscape Sketch Plan	Drawing No. SQ1-BBS-100	D	Square One Landscape Architects	14/09/2022
Environmental Noise Assessment Report	Reference No. S210612RP1	C	Resonate Consultants	13/09/2022
Waste Management Plan	-	-	Shoalhaven City Council	09/11/2022

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

**2. Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 2 Subdivision 1, Environmental Planning and Assessment Regulation 2021, as applicable.

**3. Noise Specific Conditions**

The development must comply with the recommended acoustic controls within Section 5.3 (Option 1) of the Environmental Noise Assessment Report by Resonate Consultants (Reference No. S210612RP1, Revision C, dated 13/09/2022).

Specifically, engineering noise control measures in the form of acoustic or operable louvres, and operational noise management measures, as recommended in Section 5.3 of the report, are to be adopted in order to comply with the NSW Environmental Protection Authority's *Noise Policy for Industry*, 2017 during the night-time period.

Should attenuation measures as prescribed above not be employed, all court activities (Courts 5 & 6) are to cease operation by 10:00pm.

**4. Food Business Regulations**

Any premises used for the preparation and storage of food for sale to the general public must (where relevant) comply with:

- a) [Shoalhaven City Council's Food Premises Policy](#)



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- b) [Chapter 3 of the Australia/New Zealand Food Standards Code](#)
- c) [Food Act 2003 \(NSW\)](#)
- d) [Food Regulation 2015](#)
- e) AS 4674 Construction and fit out of food premises
- f) AS 1668.2 The use of ventilation and air conditioning in buildings-Mechanical ventilation in buildings

**5. Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Part 4 Division 2, *Environmental Planning and Assessment Regulation 2021*, as applicable.

**6. Occupation / Use**

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

**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**

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. Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under section 138 of the Roads Act, 1993.

The following details must be submitted to Council as part of the application:

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- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

**11. Construction Traffic Management Plan**

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.

Details must include, but are not limited to:

- a) Stabilised site construction access location.
- b) Proposed haulage routes for delivery of materials to the site.
- c) Proposed haulage routes for spoil disposal from the site.
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction.
- e) Parking arrangements for construction employees and contractors.
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance.
- g) Loading / unloading areas.
- h) Requirements for construction or work zones.
- i) Pedestrian and cyclist safety.
- j) Speed zone restrictions.

**12. Run-off and Erosion Controls**

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

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

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**13. 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 0.9 metres 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.

**14. Food Business Notification**

Prior to commencing any food handling operations, a '[Food Business Registration Form](#)' available on Councils' website will need to be submitted to Council as part of the NSW Food Partnership and for the purposes of regular food hygiene inspection.

**15. Toilet Facilities - Temporary**

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

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

**16. Public Safety and Protection of Public Property - Hoarding**

Prior to the commencement of works a Class A temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

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

**17. Evidence**

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

**18. Long Service Levy**

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 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.

**19. Existing Infrastructure**

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

**20. Erosion and Sediment Control Plan (ESCP)**

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

All implemented measures must:

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

**21. Stormwater Drainage Design Standards (Urban)**

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

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 10% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with the concept civil engineering plan by Henry & Hymas (Drawing No. 21F14\_DA\_C101, Revision 05, dated 10/01/2023).

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- d) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:
  - i) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- e) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

**22. Network Connection – Endeavour Energy**

Prior to the issue of a Construction Certificate, an appropriate application will need to be submitted to Endeavour Energy based on the maximum demand for electricity for connection of load.

**23. Retaining Walls - Design**

Prior to the issue of a Construction Certificate for approved retaining walls exceeding 0.6m in height above ground level (existing) and/or within 1m of a property boundary, detailed design plans must be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

- a) For retaining walls exceeding 0.6m in height above natural ground level (existing) a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- b) For retaining walls less than 0.6m in height above natural ground level (existing) the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load.
- c) Retaining walls, footings and drainage must be contained wholly within the development site.
- d) Construction within a registered easement is prohibited.

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

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

Prior to the issue of a Construction Certificate, an approval to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993. The application is to include hydraulic designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and stormwater drainage for the development. The hydraulic detail must reference, without limitation, the following:

- a) The relevant National Construction Code such as - NCC 2019 Volume 1, 2 & 3 (as relevant) Amendment 1;
- b) Relevant Australian Standard/s and correct standard years;
- c) Must also reference the relevant AS 1170 suit of standards.
- d) List Signatory Qualification and Accreditation details;
- e) Must be National Engineers Register (NER) or NSW Fair Trading Registered Engineer

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- f) The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm discharge pit connected to an approval disposal point to enable the line to be flushed. This is to prevent the line becoming blocked.

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

NIL

#### PART F: DURING WORKS

25. **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.

26. **Demolition**

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.

27. **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 10m<sup>2</sup> of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m<sup>2</sup>.

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.

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**28. Excavation**

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

**29. Aboriginal Objects Discovered During Excavation**

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

- a) All excavation or disturbance of the area must stop immediately.
- b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.
- c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

**30. Archaeology Discovered During Excavation**

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

- a) All work must stop immediately in that area.
- b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- c) In accordance with the Heritage Act 1997, the Heritage NSW must be advised of the discovery.

**31. 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).*

**32. 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.

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- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved 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.

**33. Tree Removal**

Trees approved for removal (in accordance with the site plan by CM+ , Project No. 21030, Sheet No. DA0901, Revision I, dated 12/09/2022) must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.

**PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

**34. 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).

**35. Mechanical Plant**

When mechanical plant has been selected for the approved development and prior to the issue of an Occupation Certificate, a suitably qualified noise consultant must conduct a noise assessment for all mechanical plant.

**36. Operational Plan of Management**

Prior to the issue of an Occupation Certificate, an Operational Plan of Management must be submitted for approval to Council which addresses all operational and management procedures to be employed for the Bomaderry Basketball Stadium, including the following (but not limited to):

- a) Hours of operation.
- b) Noise mitigation.
- c) Waste management.
- d) Management and coordination of major events.
- e) Staff numbers.

**37. Works as Executed - Stormwater Drainage**

Works as Executed Plans and certification must be submitted to the Council by a licenced plumber/ registered surveyor / professional engineer (as defined in the National Construction Code)



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certifying compliance of all drainage works with the approved design plans and the National Construction Code.

The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations and sizes of all pipelines.

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

**38. Fire Safety**

Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire & Rescue NSW by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates:

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

**39. 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 plan.

**40. Retaining Walls – Certification**

Prior to the issue of a full Occupation Certificate, the Certifier must be satisfied that all retaining walls have been constructed in accordance with the relevant retaining wall plans and specifications, and in accordance with the requirements of any other conditions of this consent.

*Note: This condition does not prevent a partial occupation certificate to be issued for the parts of the development that have been completed.*

**41. Section 68 of the Local Government Act**

All the conditions under the approval of Section 68 of the Local Government Act 1993 are to be complied with prior to the issue of an occupation certificate.

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

NIL

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

**42. Fire Safety – Annual Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the

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Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

*Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has:*

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building.
- b) Inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 3 of Part 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

*Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.*

#### 43. Operational Requirements

- a) The hours of operation of the approved development are restricted to between 7.00am and 11.00pm seven days a week. There must be no activity occurring within the approved building after 11.00pm, unless otherwise agreed to by Council in writing.
- b) Notwithstanding a) above, should noise attenuation measures as prescribed in Condition 3 not be employed, all court activities (Courts 5 & 6) are to cease operation by 10:00pm.
- c) The operation of the development must be in accordance with the approved Operational Plan of Management. The Plan of Management must be:
  - i) kept current and onsite at all times;
  - ii) reviewed and updated if there are any operational changes, and a copy supplied to Council.

Note: Changes to the Plan of Management must remain consistent with the approved conditions of this consent.

The contact details of the nominated contact person responsible in responding to any issues or complaints raised by the community or Council are to be always displayed in a publicly visible location at the premises.

#### 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.

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- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

#### **Public notification**

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

#### **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.

#### **Impacts of the Development**

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

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

### **PART L: RIGHTS OF REVIEW AND APPEAL**

#### **Determination under Environmental Planning and Assessment Act, 1979**

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

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

### **PART M: GENERAL ADVICE**

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

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**Disability Discrimination Act 1992**

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

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

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

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

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

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

**DBYD Enquiry - 'Dial Before You Dig'**

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

**SIGNED** on behalf of Shoalhaven City Council:

Planning Report – S4.15 Assessment – 192-198 Kerry Street, SANCTUARY POINT Lots 944-947 DP 27857, Paradise Beach Road SANCTUARY POINT Lot 3 DP 806393 & Kerry Street, SANCTUARY POINT Lot 4 DP 806393

COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSTH-142
<b>DA Number</b>	RA22/1001
<b>LGA</b>	Shoalhaven City Council
<b>Proposed Development</b>	Demolition of existing structures, removal of trees, construction of two-storey public library building, associated landscaping works and extension of adjacent Council-owned car park.
<b>Street Address</b>	192 Kerry Street, SANCTUARY POINT – Lot 944 DP 27857 194 Kerry Street, SANCTUARY POINT – Lot 945 DP 27857 196 Kerry Street, SANCTUARY POINT – Lot 946 DP 27857 198 Kerry Street, SANCTURAY POINT – Lot 947 DP 27857 Paradise Beach Road, SANCTUARY POINT – Lot 3 DP 806393 Kerry Street, SANCTUARY POINT – Lot 4 DP 806393
<b>Applicant/Owner</b>	Applicant: Shoalhaven City Council c/- Premise Owner: Shoalhaven City Council
<b>Date of DA lodgement</b>	9 February 2022
<b>Total number of Submissions</b> <b>Number of Unique Objections</b>	Nil
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021)</b>	Schedule 6 Section 3(b) – Council related development over \$5 million The development has a capital investment value (CIV) of more than \$5 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Shoalhaven Local Environmental Plan 2014</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• Shoalhaven Development Control Plan 2014</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment 1 - Section 4.15 Assessment Report Attachment 2 - Determination Document – Approval subject to conditions Attachment 3 - Plans
<b>Section 4.6 requests</b>	N/A
<b>Summary of key submissions</b>	N/A
<b>Report prepared by</b>	<b>Consultant Planners: Planning Ingenuity</b>
<b>Report date</b>	1 March 2023

<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative sections requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	<b>Yes</b>

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**Section 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*



Planning Report – S4.15 Assessment – 192-198 Kerry Street, SANCTUARY POINT Lots 944-947 DP 27857, Paradise Beach Road SANCTUARY POINT Lot 3 DP 806393 & Kerry Street, SANCTUARY POINT Lot 4 DP 806393

### **Executive Summary**

The subject site is located on the southeast corner of the intersection with Kerry Street and Paradise Beach Road, Sanctuary Point.

The land is legally identified as Lots 944 to 947 DP 27857 (known as 192-198 Kerry Street, Sanctuary Point), Lot 3 DP 806393 (known as Paradise Beach Road, Sanctuary Point) and Lot 4 DP 806393 (known as Kerry Street, Sanctuary Point).

The subject DA, Development Application No. RA22/1001, initially sought approval for the following works:

- (a) Demolition of existing structures and features on the site including removal of trees,
- (b) Construction of a two-storey public library building including foyer, customer service area, multi-purpose room, kitchen, store, amenities, children's library and lending library, technology space, internal courtyard, lift, lunchroom, public meeting room, copy centre, youth area, research area, outdoor terrace and plant room.
- (c) Reconfiguration and extension of at-grade parking adjacent to Francis Ryan Reserve from 64 spaces to 142 spaces.
- (d) Construction of new at-grade parking along the Kerry Street frontage of the library including mobile library parking bay,
- (e) Construction of stairs and accessible pathway for new outdoor public connection link and public open space area, and
- (f) Associated site works, including civil works, landscaping and earthworks.

During the assessment of the development application, the proposal has been amended to reconfigure the at-grade parking adjacent to Francis Ryan Reserve from 64 spaces to 106 spaces in order to protect a number of significant native trees located in this area and optimise parking including parking for buses and accessible parking spaces.

The land is zoned B2 Local Centre and RE1 Public Recreation under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), under which "community facilities" are permitted with development consent.

The application is regionally significant development as the development involves a capital investment value (CIV) of more than \$5 million and the applicant, owner and developer of the development application is Shoalhaven City Council (per section 3(a), (b) and (c) of Schedule 6 of State Environmental Planning Policy (SEPP) (Planning Systems) 2021). Accordingly the Southern Regional Planning Panel ('the Panel' or SRPP) is the determining authority for the application.

The development application has been assessed against the following relevant environmental planning instruments and demonstrates compliance with the relevant provisions:

- *Shoalhaven Local Environmental Plan 2014*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*

The application has been assessed against the following chapters of the Shoalhaven Development Control Plan 2014 (SDCP 2014):

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- G2: Sustainable Stormwater Management and Erosion/Sediment Control
- G3: Landscaping Design Guidelines
- G4: Tree and Vegetation Management
- G5: Biodiversity Impact Assessment
- G7: Waste Minimisation and Management Controls
- G11: Subdivision of Land
- G18: Streetscape Design for Towns and Village Centres
- G21: Car Parking and Traffic
- N22: Sanctuary Point Local Centre

The development demonstrates general compliance with each chapter of SDCP 2014. In relation to Chapter N22 Sanctuary Point Local Centre, the proposed development is not consistent with the Structure Plan within Local Centre Map for Sanctuary Point with the proposed building located within an area designated for a future car park. Despite this however the assessment has concluded that the proposal is considered to support the objectives of the DCP with the development creating a multi-purpose community facility and shared public parking complementary to the business centre of Sanctuary Point. The scale of the building is in keeping with the anticipated built form, with adequate car parking and pedestrian links to improve amenity within the shopping centre.

The DA was notified in accordance with the Environmental Planning and Assessment Regulation 2000 (EP&A Regs) and Council's Community Consultation Policy for Development Applications. The notification period was from 23 February 2022 to 25 March 2022. No submissions were received in response to notification.

The site is suitable for the proposed development in its present form and is in the public interest. The assessment concludes that the proposal is considered worthy of support and recommends that the application be approved in accordance with the reasons for approval and recommended conditions provided with this report.

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### 1. Detailed Proposal

The proposal initially submitted involved the demolition, tree removal and the construction and operation of the new two storey Sanctuary Point library, including:

- Demolition of all existing structures
- Removal of trees;
- Two storey library building and associated facilities;
- Reconfiguration and extension of at-grade car park adjacent to Francis Ryan Reserve from 64 to 142 spaces;
- Construction of new at-grade parking area at the front of the library including mobile library parking bay; and
- Construction of stairs and accessible pathway for public connection link and public open space;
- New landscaping.

Refer to **Attachment B** for a copy of the DA plans.



Figure 1. Ground Floor Plan

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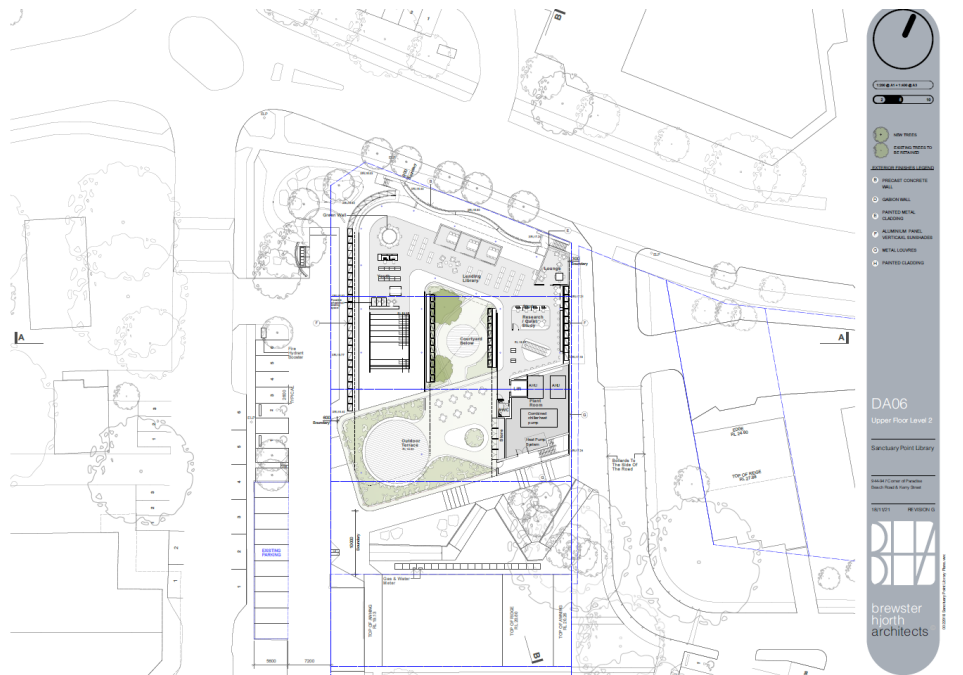


Figure 2. First Floor Plan

## 2. Subject Site and Surrounds

The subject site:

- Is within the Sanctuary Point local centre.
- Is zoned B2 Local Centre and RE1 Public Recreation.
- Is not mapped as Bushfire Prone Land or affected by any flood hazard.
- Surrounding land to the east and west is zoned B2 Local Centre. Properties to the northwest of the site are zoned R2 Low Density Residential.

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Figure 3. Location Map

The site comprises both:

- land for the proposed library building; and
- the land adjacent to Francis Ryan Reserve which will provide for additional carparking spaces to offset those that will be displaced by construction of the library building; and
- publicly accessible vehicle routes (not public roads) used to access public parking, Francis Ryan Reserve and commercial premises fronting Paradise Beach Road and Kerry Street .

The site contains several native trees of various species and ages including Water gum, Swamp oak, River oak, Spotted gum, Bloodwood, Sydney peppermint, White stringybark and Scribbly gum. A large number of these trees are of high and medium retention value, particularly Tree 7 which is a visually prominent Spotted gum adjacent to Paradise Beach Road.

Figure 4 indicates the location of the existing trees on the site and their respective retention values. Further discussion on the assessment of tree removal and retention is provided later in this report.



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Figure 4. Tree Retention Values

### 3. Background

#### Pre-Lodgement

Shoalhaven City Council exhibited a Concept Design for the Sanctuary Point District Library between 31 March and 30 April 2021.

Council held community consultations and information sessions to receive feedback in addition a 'Get Involved' [webpage](#)<sup>1</sup> to inform the public on the new proposed Regional Library. Information received to this consultation was used to provide input into the final design of the Sanctuary Point Regional Library to be submitted for development consent.

The public exhibition identified the key issues for the community with this project. Despite significant support for the library project, a major concern was the loss of public carparking within the Sanctuary Point local centre. The Concept Design provided for the replacement of all carparking displaced by creating an extension to the carparking area adjacent to Francis Ryan Reserve and retaining all car parking spaces located near Kerry Street.

#### Post-Lodgement

- This subject application was lodged on 9 February 2022. The description of the application at lodgement was as follows:

<sup>1</sup> <https://getinvolved.shoalhaven.nsw.gov.au/sanctuarypoint-library>



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*“Construction of the new two storey Sanctuary Point Library including:*

- *Demolition including existing car park and associated structures, including removal of 33 trees.*
- *Construction of Sanctuary Point Library which consists of:*
  - *Two Storey Library Building and associated facilities.*
  - *Reconfiguration and Extension of at-grade parking adjacent to Francis Ryan Reserve from sixty-four spaces to 142 spaces.*
  - *Construction of new at-grade parking at the front of the library including Mobile Library Parking Bay including vehicular access point from Kerry Street.*
  - *Construction of stair and accessible pathway for new public connection link.*
  - *Green trellis art-wall.*
- *Associated site works including Civil works comprising drainage works and adjustment/augmentation of existing services; Landscaping; and Earthworks.”*

The property description was Lots 944-947 DP 27857 (known as 192-198 Kerry Street Sanctuary Point and Lots 3-4 DP 806393 Paradise Beach Road Sanctuary Point).

- Council briefed the SRPP on 25 May 2022. There were a number of issues discussed, including:
  - (a) Accuracy of the Landscape Plan,
  - (b) Tree removal from the site,
  - (c) Retention of bus bay to service sports fields,
  - (d) Lighting and security for users of the new building and the adjoining open space and car park,
  - (e) Accessibility of the building including provision of storage space in building entry foyer.
- Request for Further Information (No 1) was sent to the applicant on 4 March 2022. The letter requested the applicant provide the following information:
  - “1. *Written response and documentation addressing Council’s Development Engineer requirements and referral comments (D22/59817), accessible via Council’s DA Tracking System.*
  2. *Long section of the existing sewer that highlights the bottom level of the building slab and its offset to the existing sewer. If the slab is impacting on the sewer, then either a sewer re-alignment will be required or building levels adjusted.*
  3. *Revised owners consent to be completed by a council officer with delegation to sign”*
- Request for Further Information (No 2) was sent to the applicant on 2 June 2022. The letter requested the applicant provide the following information:
  - “1. *Landscape Plan*
  2. *Impacts on Tree and Vegetation and consideration of tree retention*
  3. *Safety and Security*
  4. *Relationship between site and adjoining properties*
  5. *Accessible car parking*
  6. *External design*

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7. *Internal design*
8. *Electricity infrastructure*
9. *Consolidation plan*
10. *Other matters”.*

In particular, the applicant was requested to consider an alternative design that could enable the retention of Trees #9, #10 and #11 located adjacent to Paradise Beach Road.

A response to this request was provided on 20 June 2022.

The response indicated that the retention of Trees #9, #10 and #11 was considered during the design phase of the development where it was identified that these trees could not be retained due to a number of project constraints including:

- reconfiguration of the internal vehicle routes, swept paths for larger vehicles such as buses which require a wider turning circle and unavoidable impacts on the TPZ and SRA of these trees due to road pavement and footpath construction. Noting that internal vehicle routes include the need for a safe movement route to the southern boundaries of commercial properties with frontage to Paradise Beach Road as well as vehicle routes for the new public car parking area;
- installation of utilities and services and limitations to the location of the vehicle crossing point in Paradise Beach Road due to the separation distances from the intersection with Kerry Street and the pedestrian crossing refuge.

The response concluded that for the reasons outlined above, the removal of the trees is essential and replacement of these three trees is a viable alternative. Swept path analyses and critical turning paths for buses were considered by Council's Development Engineer as well as alternative designs for the vehicle crossing and crossing location. It was determined that the engineering design requirements for vehicle access and egress require the removal of the trees.

A design with a basement car parking area was cost-prohibitive and beyond the scope of the design brief.

- Request for Further Information (No 3) was sent to the applicant on 11 August 2022. The letter requested the applicant provide information regarding the following items:

- “1. *Impacts on trees and vegetation and consideration of retaining trees,*
2. *Safety and Security, and*
3. *Accessible car parking”*

In particular, the applicant was requested to consider an alternative design that could enable the retention of Trees #7, #9-11 and #57. The applicant was advised that the Panel was concerned that insufficient justification has been provided for the extent of tree removal that is proposed.

The applicant was requested to reduce the footprint of the rear carpark to avoid impact to trees (particularly Tree #57). In respect of Tree #7, Council's assessment indicates that its location and size make it non-viable to retain in proximity to the building footprint.

A response to this request was provided by the applicant on 14 October 2022.

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The response provided further justification for the removal of the specific trees. The response states that alternative design options were considered to facilitate the retention of Trees #9 to #11 in consultation with the project arborist. Based on the advice of the arborist with respect to the Tree Protection Zones, tolerance for disturbance and consideration of alternative design options for vehicle access and movement routes, installation of utilities and services including stormwater drainage management of the paved surfaces, the removal of these trees was found to be the most feasible outcome.

The applicant advised Council that two (2) alternative design options for the rear carpark were developed and assessed. The first option involved the reduction of the southern end of the carpark to provide adequate distance from Tree #57. This option involves the loss of 8 car spaces compared to the original proposed layout, a 17.7% encroachment of the Tree Protection Zone (TPZ) and no encroachment of the Structural Root Zone (SRZ) of Tree #57.

A second option was also considered that involved the southern end of the carpark being retracted north to provide sufficient distance from Tree #57. This option would result in the loss of 18 car spaces compared to the original proposed layout and a 17.7% encroachment of the TPZ and no encroachment of the SRZ.

The assessment found Option 1b was the preferred option to provide protection of Trees #49, 56 and 57 and maintain appropriate carparking numbers. Council's support for this option would require the retention of the bus parking space adjacent to the amenities building of Francis Ryan Reserve.

- Request for Further Information (No 4) This was sent to the applicant on 2 December 2022. The letter requested the applicant provide the following information:

1. *Rear lane access to adjacent shops facing Kerry Street*
2. *Retaining trees at Southern end of new carpark*
3. *Replacement trees near Paradise Beach Road*

In particular, the applicant was requested to retain a bus parking space adjacent to the amenities building at Francis Ryan Oval by requiring the amendment of the car park plan without loss of car parking capacity and without any further loss of trees.

The applicant was also requested to demonstrate that the proposed development would not prevent vehicle access to the rear of the commercial properties at Nos. 200 to 206 Kerry Street. Plans were requested demonstrating that satisfactory service vehicle access could be maintained to these properties without restriction from the proposed development as well as adequate space for future vehicle access and egress with future redevelopment of these sites.

A response to this request was provided on 22 February 2023.

The response provided an updated design that retained Trees #56 and #57 and included the bus bay adjacent to the north of Francis Ryan Reserve amenities building. It also facilitates the provision of 106 car spaces within the main carpark and an additional 0.5m apron at the southern end of the carpark for a bus/waste vehicle to make a three-point turn.

The applicant's response regarding rear access to the commercial properties on Kerry Street was that such access would not be prevented. Plans indicating adequate dimensions available in setback to the rear of these properties for a 10m long waste vehicle have been provided including

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maintaining vehicle crossing laybacks and maintaining accessible pedestrian pathways to the edge of the new parking area.

All outstanding matters particularly tree retention, on-site parking and vehicle access and egress for buses and waste vehicles and future vehicle access for adjoining commercial premises with frontage to Kerry Street have been investigated and satisfactorily addressed by the applicant.

#### 4. Consultation and Referrals

Internal Referrals		
Referral	Recommendation Summary	Comment
Development Engineer	No objections subject to recommended conditions of consent (dated 5/04/2022).	<p>Conditions to be imposed.</p> <p>See the following conditions in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part B: 'Private Use of Public Parking Spaces';</li> <li>▪ Part C: 'Works within the Road Reserve', 'Construction Traffic Management Plan', 'Run-off and Erosion Controls' and 'Dilapidation Report';</li> <li>▪ Part D: 'Design Standards - Works Within Road Reserve', 'Existing Infrastructure', 'Soil and Water Management Plans (SWMP)', 'Road Design Standards (Urban) – Development', 'Access Driveway Design Standards – Urban', 'Cycleway and Footpath Design Standards', 'Car Parking Design Standards', 'Design Standards – Traffic Committee Referral', 'Lighting Design - Internal Driveway and Carparking', 'Stormwater Drainage Design Standards (Urban)', 'WSUD Measures – Water Quality, Retention and Reuse', 'Water Sensitive Urban Design Operation and Maintenance Manual', 'Water Sensitive Urban Design Checklists';</li> <li>▪ Part F: 'CCTV Inspection of Stormwater Pipes' and 'Redundant Driveways and Crossings'.</li> <li>▪ Part G: 'Works as Executed Plans', 'Works in the Road Reserve - Evidence of Completion', 'Maintenance Period of WSUD Devices' and 'Handover of WSUD Assets to Council'.</li> </ul>
Environmental Health Officer	No objections subject to recommended conditions of consent (dated 7/04/2022).	<p>Conditions to be imposed.</p> <p>See the following conditions in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part D: 'Noise' and 'Noise Management'.</li> </ul>
Building Surveyor	No objections subject to recommended conditions of	<p>Conditions to be imposed.</p> <p>See the following conditions in the draft determination:</p>

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	consent (dated 19/02/2022).	<ul style="list-style-type: none"> <li>▪ Part A: 'Prescribed Conditions' and 'Occupation / Use';</li> <li>▪ Part C: 'Construction Certificate', 'Appointment of Principal Certifier', 'Notice of Commencement' and 'Toilet Facilities - Temporary';</li> <li>▪ Part D: 'Long Service Levy', 'Retaining Walls - Design' and 'Hydraulic Engineering Details for Water, Sewer &amp; Drainage';</li> <li>▪ Part G: 'Fire Safety', 'Retaining Walls - Certification', 'Works as Executed - Stormwater Drainage', 'Section 68 of the Local Government Act' and 'Accessible Carparking';</li> <li>▪ Part I: 'Fire Safety - Annual Statement' and 'Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater'.</li> </ul>
City Services (Waste, Trees, Property)	No objections subject to recommended conditions of consent (dated 17/02/2022).	<p>Conditions to be imposed.</p> <p>See the following conditions in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part C: 'Tree Management'</li> <li>▪ Part D: 'Amended Landscape Design Plans'</li> <li>▪ Part F: 'Waste Management Plan';</li> <li>▪ Part I: 'Site Maintenance – Commercial/Industrial Development'.</li> </ul>
Shoalhaven Water	Notice provided (dated 24/05/2022).	<p>Conditions to be imposed.</p> <p>See the following conditions in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part A: 'Shoalhaven Water - Certificate of Compliance';</li> <li>▪ Part C: 'Shoalhaven Water – Prior to the Commencement of Any Works';</li> <li>▪ Part G: 'Shoalhaven Water – Certificate of Compliance'.</li> </ul>
City Futures	No objections.	<p><u>General comments</u></p> <p>DCP Chapter N22 envisages this prominent site as a 'focal point' (landscaped pedestrian court) in Sanctuary Point village centre, however, the site is an ideal location for this proposed major community facility. It will draw people into the village centre, helping to activate and revitalise it, and will help to consolidate uses in the village centre in line with the objectives of the DCP. Despite this inconsistency in intended use of the site, we consider that the proposal meets the overall intent of DCP N22.</p> <p>The proposal is well designed, incorporating innovative and interesting architectural features befitting this prominent site in the village centre. We support the inclusion of good quality landscaping in the spaces around the building to soften its appearance and complement the natural vegetated character of Sanctuary Point.</p>

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		<p><u>Rear service lanes</u></p> <p>Acceptable solution A1.1 in DCP Chapter N22 generally requires retail and commercial premises in Sanctuary Point Local Centre to be provided with rear service access. The proposal appears to remove the ability for retail/commercial premises on Kerry Street to be serviced with a rear lane in the future as shown in Supporting Map 1 – Sanctuary Point Local Centre. The proposal appears to remove an existing service access for the premises at 204 and 206 Kerry St. We accept that more recent community-led plans deviate from the village centre masterplan in Supporting Map 1, however the implications of the proposal on rear access and servicing needs to be considered in the DA assessment.</p>
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External Referrals		
Agency	Recommendation	Comment
Endeavour Energy	No objections subject to recommendations and comments (dated 09/03/2022).	<p>Conditions and advisory note to be imposed.</p> <p>See the following conditions in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part D: 'Asset Relocation – Endeavour Energy' and 'Network Connection – Endeavour Energy'</li> </ul>
NSW Police	Recommended approval subject to conditions of consent relating to lighting, CCTV, removal of graffiti and placement of landscaping.	<p>Conditions to be imposed.</p> <p>See the following in the draft determination:</p> <ul style="list-style-type: none"> <li>▪ Part D: 'Crime Prevention'.</li> </ul>

#### 5. Other Approvals

There are no other approvals required.

#### 6. Statutory Considerations

This report assesses the proposed development and 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 (EP&A Act). The following planning instruments and controls apply to the proposed development:

- Shoalhaven Local Environmental Plan 2014
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

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- *State Environmental Planning Policy (Planning Systems) 2021*

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

## **7. Statement of Compliance/Assessment**

### **Environmental Planning and Assessment Act 1979**

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

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

##### **i) Environmental planning instrument**

###### SEPP (Planning Systems) 2021

The proposal, being Council related development having a capital investment value of more than \$5 million, is triggered as regionally significant development for the following reasons:

- Council is the applicant for the development,
- The Council is the owner of the land, and
- The development is to be carried out by the Council.

The application is therefore referred to the SRPP for determination.

###### SEPP (Transport and Infrastructure) 2021

Section 2.48(1)(b)(iii) (formerly clause 45(1)(b)(iii) of SEPP (Infrastructure) 2007) is applicable and the application was referred to the *electricity supply authority for the area* (Endeavour Energy) on 10/03/2021 for comment.

A response was provided (as detailed under the 'Referrals' section of this report) and has been considered. The response provided by Endeavour Energy does not raise any significant issues and all matters raised have been adequately addressed by conditions of consent.

###### SEPP (Biodiversity and Conservation) 2021

This SEPP contains the mechanism for the removal of vegetation in a non-rural area. Council may issue a permit or development consent for the clearing of vegetation within a non-rural zone under Part 2.3 of the SEPP.

In this instance, vegetation to be removed is being considered ancillary to this development proposal and is subject to relevant controls contained within Chapters G4 and G5, Shoalhaven DCP 2014, addressed later in this report.

The requirements of the Biodiversity and Conservation SEPP are satisfied by the proposed development with regard to tree removal and retention as discussed above.



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SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is situated within the Coastal Environment Area and as such clause 2.10 applies. The proposed development is acceptable having regard to each of the relevant matters for consideration within this clause.

Chapter 4 – Remediation of Land

The requirements of this SEPP apply to the development. In accordance with Section 4.6(1), the consent authority must consider if the land is contaminated, and if the land is contaminated, it must be satisfied that the land is suitable in its contaminated state or will be suitable, after remediation, for the purpose for which the development is proposed to be carried out. If the land requires remediation in order to be made suitable for the development to be carried out, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose. The following table outlines the assessment of these requirements:

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?		Proceed to Question 3
2. Does the proposal result in a change of use (that is the establishment of a new use)?	X	Proceed to Question 3
3. Does the application proposed a new: <ul style="list-style-type: none"> <li>▪ Childcare facility</li> <li>▪ Educational use</li> <li>▪ Recreational use</li> <li>▪ Health care use</li> <li>▪ Place of public worship</li> <li>▪ Residential use in a commercial or industrial zone</li> </ul>		Proceed to Question 5
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?		Proceed to Question 5
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?		Request contaminated site assessment

Shoalhaven LEP 2014

**Land Zoning**

The land for the proposed library building is zoned B2 Local Centre and the land to be used for the extension of the carpark is zoned RE1 Public Recreation under the SLEP 2014.

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**Characterisation and Permissibility**

The proposal fits the definition of a *Community Facility* under the SLEP 2014. The proposal is permitted within the B2 Local Centre zone with the consent of Council. Carparks are a permissible land use within Zone RE1 Public Recreation.

Overall, the proposal is permitted within both zones with development consent.

**B2 Zone objectives**

Objective	Comment
<ul style="list-style-type: none"> <li>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</li> </ul>	Satisfies the nominated objective as a new community use will be provided.
<ul style="list-style-type: none"> <li>To encourage employment opportunities in accessible locations.</li> </ul>	Satisfies the nominated objective. The proposal will support employment in the local community.
<ul style="list-style-type: none"> <li>To maximise public transport patronage and encourage walking and cycling.</li> </ul>	Satisfies the nominated objective. The proposal will encourage library patrons to walk and cycle where possible with new accessible pathways connecting to the building and storage for bicycles and prams.

**RE1 Zone objectives**

Objective	Comment
<ul style="list-style-type: none"> <li>To enable land to be used for public open space or recreational purposes.</li> </ul>	Satisfies the nominated objective. Work within the RE1 zone is limited to the extension of the public carparking that will be shared between users of the public reserve and library and to replace public parking located within the works footprint for the new library and open space link.
<ul style="list-style-type: none"> <li>To provide a range of recreational settings and activities and compatible land uses.</li> </ul>	Not applicable.
<ul style="list-style-type: none"> <li>To protect and enhance the natural environment for recreational purposes.</li> </ul>	Satisfies the nominated objective. The proposal will retain some mature native trees and other vegetation where possible. The continuous rows of mature trees along the southern and eastern edges of the site will be retained. Conditions are recommended for compensatory planting of equivalent species.

**SLEP 2014 Sections**

Section	Comments	Complies/Consistent
<b>Part 2 Permitted or prohibited development</b>		
2.7 Demolition requires development consent	Consent sought as part of this application.	Yes

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Part 4 Principal development standards		
<b>4.3</b> Height of buildings	The subject site has a maximum permitted building height of 11m as per sub-section (2A).  The proposed development does not exceed the height limitation.	Yes
Part 7 Additional local provision		
<b>7.1</b> Acid sulfate soils	The subject site is identified as Class 5 land and the works proposed to facilitate the development are not likely to lower the watertable. Accordingly, an acid sulfate soils management plan not required.	N/A
<b>7.2</b> Earthworks	The provisions of subsection (3) have been considered.  The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent.	Yes
<b>7.11</b> Essential services	All essential services are available.	Yes
<b>7.20</b> Development in the Jervis Bay region	The proposal satisfies the objectives of this section. The natural and cultural values of the Jervis Bay region are protected.	Yes

**ii) Draft Environmental Planning Instrument**

None relevant.

**iii) Any Development Control Plan**

Shoalhaven DCP 2014

Generic Chapters
<a href="#">G2: Sustainable Stormwater Management and Erosion/Sediment Control</a>
<p><b>Satisfactory.</b></p> <p>The provisions of this chapter have been considered and Council's Engineers have raised no objections in relation to the proposed stormwater management, ongoing and construction erosion and sediment control measures, subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report).</p> <p>The submitted stormwater plan is acceptable and would be conditioned with any consent granted (refer Development Engineering comments at Part 4 of this report).</p>

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**G3: Landscaping Design Guidelines**

**Satisfactory subject to conditions.**

The submitted landscape plan prepared by TaylorBrammer has been considered and is satisfactory subject to amendments being made to include details of required replacement and compensatory trees with a new landscaping plan and updated planting schedules around the perimeter of the facility, within the new public open space area south of the library building and new street trees. (See 'Amended Landscape Design Plans' condition under Part D and 'Landscaping Compliance' under Part G of the draft determination).

**G4: Tree and Vegetation Management**

**Satisfactory subject to conditions.**

The proposal requires the removal of 33 trees from the site (refer Figure 4 below) to accommodate the proposed library building and the additional carparking spaces in Francis Ryan Reserve. Through the recommended conditions of consent (see comment above), the proposal will provide sufficient compensatory tree planting to offset the removal of these trees.

The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report) and as shown in the recommended draft conditions of consent.



Figure 4 – Tree Removal and Retention Plan (Arboricultural Report & Tree Protection Specification (Moore Trees, 23/2/2023))

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<p>It is noted that the Landscape Concept Plan shows tree replacement planting, with the applicant noting that trees are to be replaced at a ratio of 2:1 including:</p> <ul style="list-style-type: none"> <li>• 18 x Spotted Gum trees to replace trees T7, T9, T10, T11, T14, T36, T37, T39 and T49.</li> <li>• 4 x Water Gum trees to replace trees T1 &amp; T2.</li> </ul> <p>Recommended condition 'Amended Landscape Design Plans' in Part D of the draft condition includes a requirement for replacement planting in accordance with this proposed ratio.</p>
<p><b>G5:</b> Biodiversity Impact Assessment</p>
<p><b>Satisfactory.</b></p> <p>The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report).</p>
<p><b>G7:</b> Waste Minimisation and Management Controls</p>
<p><b>Satisfactory subject to conditions.</b></p> <p>A Waste Management Plan (WMP) prepared by <i>Brewster Hjorth</i> was provided with this application. Demolition and construction waste materials will be removed from the site for recycling or disposal at landfill.</p> <p>A formal WMP is to be submitted with the Construction Certificate regarding the waste management of the development and ongoing waste collection and subject to a condition of consent being imposed. The conditions included in the recommended draft consent, require this prior to the issue of a Construction Certificate.</p> <p>(See 'Waste Management Plan' condition under Part D of the draft determination)</p>
<p><b>G11:</b> Subdivision of Land</p>
<p><b>Satisfactory subject to conditions.</b></p> <p>The development application indicates that consolidation of the individual parcels comprising the subject site is being undertaken separate to the development application. In June 2002, Council wrote to the applicant requiring consolidation of the lots to ensure any built development sits over a single allotment. The applicant's response indicated that amalgamation of lots was under consideration and will be finalised prior to an Occupation Certificate being issued. As the permissibility of the development is not reliant on lot consolidation occurring, it is appropriate to require this as a condition of consent prior to Occupation Certificate (refer 'Lot Consolidation' condition under Part G of the draft determination).</p>
<p><b>G18:</b> Streetscape Design for Towns and Village Centres</p>
<p><b>Satisfactory subject to conditions.</b></p> <p>The DCP requires development to improve the quality of the streetscape in nominated town and village centres and subject streets. Additional landscaping and other streetscape works are to be provided surrounding the new building and car parking areas to enhance the streetscape, subject to a condition of consent being imposed.</p>

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(See 'Streetscape Works' condition under Part D of the draft determination)

**G21: Car Parking and Traffic**

**Satisfactory.**

A Traffic and Parking Assessment has been provided with the application. Preparation of this report involved undertaking parking surveys of the site to determine an appropriate level of carparking needed for the proposed development.

The report indicated that the proposal would provide 35 car spaces to meet the parking needs of both library staff and visitors. It will also replace the 43 spaces displaced by closure of the public carpark where the library will be developed.

The initial DA plans indicate that this was to be achieved by the provision of an additional 78 spaces within a carparking area adjacent to Francis Ryan Reserve increasing the capacity of the carparking area to 142 spaces in total (combining the existing parking to the sports field with the 78 spaces arising from the library development).

During the course of the assessment of the DA, the plans have been amended to reflect the need to retain significant existing trees, maintain bus access to Francis Ryan Reserve and allow for continued service vehicle access to the commercial properties on Kerry Street and to the rear of those commercial premises fronting Paradise Beach Road. The resulting car parking layout and vehicle movement spaces and ancillary accessible pathways provides for 106 car spaces in the rear carpark plus one bus parking space and a further 5 spaces (of which 4 are accessible spaces) on the Kerry Street side of the library with a dedicated space for the mobile library van. Condition 'Vehicle Access to Rear of 204 and 206 Kerry Street' in Part F of the draft consent has been recommended to ensure access to adjacent priorities during construction.

Based on a target to provide for 138 car spaces (targeting "no net loss of publicly accessible off-street parking"), the proposed development provides a total of 111 car spaces, being a shortfall of 27 spaces compared to the target "no net loss".

Having regard to the overall availability of carparking in the precinct surrounding the proposed development, the anticipated carparking is considered unlikely to result in adverse impacts. The proposal significantly increases the quality of the car parking area including pavement design and swept path manoeuvrability compliant with Australian Standards, accessible parking spaces and safe grade-separated pedestrian pathways. Accordingly, the proposed development will provide an acceptable level of carparking necessary to comply with the general objectives of the DCP.

**N22: Sanctuary Point Local Centre**

**Satisfactory.**

While the development is consistent with the aims and objectives under the DCP, the proposed development is not consistent with the Structure Plan within Chapter N22 Local Centre Map for Sanctuary Point (see Figure 5). This Structure Plan in the DCP identifies the subject site as being a 'future public car park'. Notwithstanding this, the proposal is generally consistent with the requirements of this DCP in terms of the spatial movement pathways and access arrangements of the precinct, building height and streetscape design and any future works and vehicle access proposed with the redevelopment of commercial properties south of the site.

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The proposal is consistent with the 5.1 General Requirements of the DCP with the development providing the village focal point with a publicly accessible multi-functional building and a landscaped open space and through link to the south of the library building. The building design allows for visual corridors to the west and water views to St Georges Basin. While the building as proposed is not envisaged in the DCP, it will contribute to the gateway elements of 5.1.4 of the DCP with the architecture of the building reinforcing the natural character of the area through the choice of materials and finishes and landscaped setting of the building. The view corridors and viewpoints from the building and the open central courtyard space are available to the general public.



Figure 5 – Sanctuary Point Local Centre – Chapter N22

Section 5.1.3 of the DCP requires a two-storey maximum height and encourages buildings to reduce the apparent mass when viewed from the street. The proposal complies with this through the varying materials and angles within the built form and large areas of glazing allowing visual links to and from the building to the public realm.

The proposal has been considered against 5.2.5 *Traffic* and 5.2.6 *Servicing and building egress requirements*. Traffic and Access has been assessed by Council's City Futures Directorate (refer Part 4 of this report) and is supported.

5.2.8 *Water quality, waste water and storm water drainage* has furthermore been assessed by Council's Development Engineers who have recommended conditions under Part D and G of the consent (refer Part 4 of this report for specific conditions).

Overall, the proposal is considered to support the objectives of the DCP with the development creating a multi-purpose community facility and shared public parking complementary to the business centre of Sanctuary Point. The scale of the building is in keeping with the anticipated built form, with adequate car parking and pedestrian links to improve amenity within the shopping centre.

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

Nil



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**iv) Environmental Planning and Assessment Regulation 2021**

It is noted per Schedule 6 of the EP&A Regs 2021 that “the 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.”

No parts of the EP&A Regulation 2000 are specifically applicable. No areas of concern are raised as a result of a review of the Regulations.

**v) Any coastal zone management plan**

Not applicable.

**Section 7.11 - Shoalhaven Contribution Plan 2019**

The proposed development is not considered to trigger Shoalhaven Contribution Plan 2019 as it is to be provided by Council for a Council project that is to provide non-profit community facilities.

**(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	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the natural environment. The proposal will have a balanced and acceptable impact on the natural environment with compensatory tree planting and improvements to the quality of landscaped open space and stormwater management.
Built Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the built environment. The proposal significantly improves the standard of vehicle and pedestrian movement pathways, the quality of stormwater management and the quality and ease of long-term maintenance of landscaped areas. Adequate separation distances and vehicle access and egress points have been provided to maintain and account for future changes to the use of adjoining commercial sites to the south along Kerry Street and to the northeast along Paradise Beach Road.
Social Impacts	It is considered that there will be net positive social impacts. The development of a contemporary library facility with multi-use spaces in the Sanctuary Point/Sussex Inlet area has been identified by Council as a much-needed item of community infrastructure.
Economic Impacts	It is considered that there will be no adverse economic impacts. The proposal will have positive economic impacts with regard to construction and economic development and potential increased quality and diversity of visitation to the Sanctuary Point village centre.

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#### **(c) Suitability of the site for the development**

The proposal is for a community facility and ancillary car parking in an established town centre. The proposal has been subject to extensive strategic review of its design and location and community engagement prior to the submission of the DA. With regard to site suitability, the DA is compliant with the relevant site analysis and location requirements of Shoalhaven DCP 2014 and a more efficient and high value use of public space within the Sanctuary Point Town Centre than envisaged by the DCP Chapter N22. Subject to recommended conditions of consent, it is considered that the site is suitable for the development.

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

The DA was notified in accordance with the Environmental Planning and Assessment Regulation 2000 (EP&A Regs) and Council's Community Consultation Policy for Development Applications from 23 February 2022 to 25 March 2022.

No submissions were received by Council in response to the notification of the development application.

#### **(e) The Public Interest**

The proposed development generally complies with the provisions of SLEP 2014 and is broadly consistent with the SDCP 2014. Subject to conditions of consent the development is not expected to have any unacceptable negative impacts on the environment, or the amenity of the locality as detailed in this report that would warrant refusal of the development.

The proposal will provide an important community facility for the Sanctuary Point community.

#### **Delegations**

##### **Guidelines for use of Delegated Authority**

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 proposal is regionally significant development as satisfying the criteria of section 3(b) of Schedule 6 of SEPP (Planning Systems) 2021, the application must be determined by the Panel.

#### **Recommendation**

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979.

This application has been subjected to detailed analysis of the main issues identified in this report. These issues have been resolved during assessment of the application including the submission of amended documentation by the applicant and detailed investigation of design and layout options for improved tree retention. Conditions are recommended for new landscaping to demonstrate the provision of replacement trees at a ratio of 2:1 matching species and planted to reach appropriate height at maturity.

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The current proposal is considered to meet the provisions of relevant state environmental planning policies and the relevant provisions and objectives under SLEP 2014 applying to the site.

The departure from the Structure Plan contained within Chapter N22 of the DCP is supported as it will achieve an improved outcome in terms of the delivery of a high value, multi-functional community facility and relocate carparking behind the building which provides a positive streetscape impact. Potential impacts have been adequately addressed via conditions of consent.

Design changes that have been made during the course of the assessment have reduced the capacity of the carpark at the rear of the site from 142 to 106 spaces. Despite this shortfall, the project provides for an acceptable balance between the need to provide sufficient off-street carparking for the community and the retention of significant native trees. It is noted that the proposal will encourage the use of alternative transport options including bus, bicycle and walking.

The application is considered capable of support as there are no substantive planning reasons to warrant refusal. As such, it is recommended that Development Application No. RA22/1001 be approved subject to appropriate conditions of consent.



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

Environmental Planning and Assessment Act, 1979  
RA22/1001

**TO:**

Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

**being the applicant(s) for RA22/1001 relating to:**

192 Kerry St, SANCTUARY POINT - Lot 944 DP 27857  
194 Kerry St, SANCTUARY POINT - Lot 945 DP 27857  
196 Kerry St, SANCTUARY POINT - Lot 946 DP 27857  
198 Kerry St, SANCTUARY POINT - Lot 947 DP 27857  
Paradise Beach Rd, SANCTUARY POINT - Lot 3 DP 806393  
Kerry Street, SANCTUARY POINT - Lot 4 DP 806393

**APPROVED USE AND OR DEVELOPMENT:**

Demolition of existing structures, tree removal, construction and use of a public library (community facility) and associated car parking spaces, landscaping and public open space

**DETERMINATION DATE:**

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

**CONSENT TO OPERATE FROM:**

**CONSENT TO LAPSE ON:**

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

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

**DETAILS OF CONDITIONS:**

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

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**PART A: GENERAL CONDITIONS**

1. **General**

The consent relates to **Demolition of existing structures, tree removal, construction and use of a public library (community facility) and associated car parking spaces, landscaping and public open space** 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
Demolition Sheet 1 Plan	Drawing No. DA02	Brewster Architects Hjorth	20/02/2023 (Revision F)
Demolition Sheet 2 Plan	Drawing No. DA03	Brewster Architects Hjorth	20/02/2023 (Revision D)
Site and Roof Plan (Option 1b)	Drawing No. DA04	Brewster Architects Hjorth	20/02/2023 (Revision J)
Ground Floor Level 1 Plan	Drawing No. DA05	Brewster Architects Hjorth	16/06/2022 (Revision I)
Upper Floor Level 2 Plan	Drawing No. DA06	Brewster Architects Hjorth	09/12/2021 (Revision G)
Elevations Sheet 1	Drawing No. DA07	Brewster Architects Hjorth	03/02/2022 (Revision B)
Elevations Sheet 2	Drawing No. DA08	Brewster Architects Hjorth	03/02/2022 (Revision B)
Sections	Drawing No. DA09	Brewster Architects Hjorth	03/02/2022 (Revision D)
Landscape Concept Plan	Drawing No. 02	Taylor Brammer Landscape Architects	19/11/2021
Stormwater Drainage Plan	Drawing No. 20606/C21	Westlake Punnett	23/02/2023 (Revision H)
Arboricultural Report & Tree Protection Specification	-	Moore Trees Arboricultural Services	23/02/2023

*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.*

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2. **Prescribed Conditions**

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 2 Subdivision 1, Environmental Planning and Assessment Regulation 2021, as applicable.

3. **Occupation / Use**

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

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

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

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

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

NIL

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

5. **Construction Certificate**

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

6. **Appointment of Principal Certifier**

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

7. **Notice of Commencement**

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

8. **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:

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

9. **Works within the Road Reserve**

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

10. **Construction Traffic Management Plan**

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.

Details must include, but are not limited to:

- a) Stabilised site construction access location
- b) Proposed haulage routes for delivery of materials to the site
- c) Proposed haulage routes for spoil disposal from the site
- d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- e) Parking arrangements for construction employees and contractors
- f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- g) Loading / unloading areas
- h) Requirements for construction or work zones
- i) Pedestrian and cyclist safety
- j) Speed zone restrictions.

11. **Run-off and Erosion Controls**

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

- a) diverting uncontaminated run-off around cleared or disturbed areas.



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- 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 \(POEO\)](#).

**12. 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 0.9 metres 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.

**13. Shoalhaven Water – Prior to the Commencement of Any Works**

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.

**14. Public Safety and Protection of Public Property - Hoarding**

Prior to the commencement of works a Class A temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

**15. Private Use of Public Parking Spaces**

Prior to the commencement of works, any temporary use of on-street or off-street public parking spaces during construction is to be approved by Council in accordance with Council's Policy – "Private use of public parking". The [application form](#) is available on Council's website. Fees apply.

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**16. Tree Management**

Prior to the commencement of works, all trees to remain on the site and surrounding the work zone must be identified, managed and protected by the installation of Tree Protection Zones as per the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

These trees are to be identified, monitored including the installation of Tree Protection Zones by an independent consulting arborist AQF Level 5 prior to the commencement of works and throughout the construction period up to the issue of the Occupation Certificate.

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

**17. Evidence**

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

**18. Long Service Levy**

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 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.

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

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

**20. Existing Infrastructure**

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

**21. Soil and Water Management Plans (SWMP)**

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier.

All implemented measures must:

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

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**22. Streetscape Works**

All required streetscape works for the development along the Kerry Street and Paradise Beach Road frontages are to be provided in accordance with the *Streetscape Technical Manual* as required by Chapter G18, Shoalhaven Development Control Plan 2014. Crime Prevention Through Environmental Design (CPTED) principles are also to be considered in the provision of these works.

Details of this must be shown on the engineering plans and submitted to Council for approval prior to the issue of a Construction Certificate.

**23. Road Design Standards (Urban) – Development**

Prior to the issue of a Construction 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) Councils Engineering Design Specifications Sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.
- b) AUSTRROADS Design Requirements and Specifications.
- c) Relevant Australian Standards.
- d) The existing raised threshold on Kerry Street is to be located a minimum 6 metres away from the proposed driveway either by relocating the threshold or relocating the driveway, or
- e) The existing raised threshold on Kerry Street is to be extended further south along Kerry Street and into the site to provide a raised intersection treatment and incorporate any associated drainage requirements. The design is to be generally in accordance with the existing raised threshold design.

**24. Access Driveway Design Standards - Urban**

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The access driveway and footpath crossing design must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 150mm compacted road base with centrally placed slab of minimum 150mm 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.

**25. Cycleway and Footpath Design Standards**

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

- a) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) The locations shown on the approved architectural and engineering plans.

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- c) All paths to be a minimum 1.2 metres and constructed of concrete, unless otherwise approved by Council to provide improvement of amenity.
- d) All relevant Australian Standards.

**26. Car Parking Design Standards**

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

The car parking and access design must comply with the following:

- a) Australian Standard AS2890 where relevant.
- b) The approved architectural and engineering plans.
- c) A minimum number of 111 spaces must be provided onsite.
- d) Constructed in accordance with the following:
  - i) with a concrete pavement designed and constructed for a minimum traffic loading of  $1 \times 10^6$  ESA, or
  - ii) with an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of  $1 \times 10^6$  ESA.
- e) Bordered in accordance with Council's Standard Drawings by:
  - i) concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.

**27. Design Standards – Traffic Committee Referral**

Prior to the issue of a Construction Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

*Note: This process can take six to eight weeks.*

**28. Amended Landscape Design Plans**

Prior to the issue of a Construction Certificate, amended landscaping design plans and specifications must be prepared by a suitably qualified person and approved by Council's Director of City Development or delegate.

The landscape design plans must:

- a) Include details of replacement trees:
  - i) at a ratio of 2:1.
  - ii) with a potential mature height of 15m.
  - iii) with a minimum size of 45 litre containers.
- a) Update the types of shrubbery/trees planted around the perimeter of the facility. Plantings of larger trees that may be climbed to provide access to inside the perimeter should not be used. Plantings that do not impede sightlines within the facility should be considered.

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**29. Lighting Design - Internal Driveway and Carparking**

Prior to the issue of a Construction Certificate, lighting design plans are to be submitted to Council for approval. Lighting is to be provided to the internal driveway and car parking area in accordance with *AS/NZS 1158.3.1 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*.

**30. Noise**

Prior to the issue of a Construction Certificate, to minimise noise transmission and impact, the design is to ensure all glazing along the facades of the building is fitted with minimum 6.38mm laminate glazing, with both glass and frame to achieve a minimum Rw rating of 31.

**31. Noise Management**

Prior to the issue of a Construction Certificate, a detailed acoustic review of mechanical plant is required to determine if acoustic treatment is required to ensure noise emissions do not impact nearby sensitive receivers.

**32. Asset Relocation – Endeavour Energy**

Prior to the issue of a Construction Certificate, an application will need to be submitted to Endeavour Energy for an asset relocation / removal to determine possible solutions to the developer's requirements.

**33. Network Connection – Endeavour Energy**

Prior to the issue of a Construction Certificate, an appropriate application will need to be submitted to Endeavour Energy based on the maximum demand for electricity for connection of load.

**34. Stormwater Drainage Design Standards (Urban)**

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

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 10% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with the concept stormwater drainage plan by Westlake Punnett (Drawing No. 20606/C21, Revision H, dated 23/02/2023).
- d) Where a pipe drains a public road or carpark through land adjoining the road, the pipe is to be designed to cater for the 1% AEP event with an overland flow path to provide for bypass/surcharge in the event of the pipe or pit inlet being 50% blocked.
- e) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:

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- i) existing drainage systems through lots draining public roads are to be upgraded where necessary to contain flows in accordance with Council's Engineering Design Specifications - Section D5.04.
  - ii) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- f) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

**35. WSUD Measures – Water Quality, Retention and Reuse**

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and is to be approved by Council. Specifications can be found on Council's website.

The Integrated Water Cycle Management Strategy must be updated to ensure that stormwater treatment, retention and reuse design must comply with the following:

- a) The concept stormwater drainage plan by Westlake Punnett (Drawing No. 20606/C21, Revision H, dated 23/02/2023).
- b) The stormwater treatment train must comprise of a gross pollutant trap for each sub-catchment.
- c) The GPT design is to include a design compliance statement from the manufacturer ensuring that the GPT has been sufficiently designed for the site.
- d) The GPT is to be sized to include a sump capacity sufficient to hold 12 months of expected sediment and gross pollutants from the contributing catchment.
- e) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than 10mm for increases in all impervious surfaces compared to the pre-development condition.

**36. Water Sensitive Urban Design Operation and Maintenance Manual**

Adopted WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to Council prior to issue of the Construction Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the objectives and criteria identified in the approved Integrated Water Cycle Management Plan.

**37. Water Sensitive Urban Design Checklists**

Compliance checklists are to be prepared by the WSUD Designers and submitted to Council prior to issue of the relevant Construction Certificate. The checklists must incorporate all checks and certifications that are required to be carried out during the civil construction phase, asset protection phase, landscape practical completion phase and final compliance inspection prior to final handover.

**38. Retaining Walls - Design**

Prior to the issue of a Construction Certificate for approved retaining walls exceeding 0.6m in height above ground level (existing) and/or within 1m of a property boundary, detailed design plans must

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be prepared and submitted to the Certifier for approval. The retaining walls must satisfy the following:

- a) For retaining walls exceeding 0.6m in height above natural ground level (existing) a professional engineer has certified the retaining walls as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load; and
- b) For retaining walls less than 0.6m in height above natural ground level (existing) the Certifier must be satisfied that the retaining walls are structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load.
- c) Retaining walls, footings and drainage must be contained wholly within the development site.
- d) Construction within a registered easement is prohibited.

Retaining walls not shown on the approved plan must meet the criteria for Exempt retaining walls and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or be approved by way of Complying Development prior to construction and comply with the relevant criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**39. Waste Management Plan**

Prior to the issue of a Construction Certificate 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 the Certifier prior to demolition works commencing.

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

Prior to the issue of a Construction Certificate, an approval to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under Section 68 of the Local Government Act 1993. The application is to include hydraulic designed by a professional engineer (as defined by the National Construction Code) for water, sewerage and stormwater drainage for the development. The hydraulic detail must reference, without limitation, the following:

- a) The relevant National Construction Code such as - NCC 2019 Volume 1, 2 & 3 (as relevant) Amendment 1;
- b) Relevant Australian Standard/s and correct standard years;
- c) Must also reference the relevant AS 1170 suit of standards.
- d) List Signatory Qualification and Accreditation details;
- e) Must be National Engineers Register (NER) or NSW Fair Trading Registered Engineer
- f) The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm discharge pit connected to an approval disposal point to enable the line to be flushed. This is to prevent the line becoming blocked.

**41. Crime Prevention**

The following crime prevention measures are to be shown on the construction plans submitted with the Construction Certificate:

- a) Lighting: All entrances, corridors and staircases are to be well illuminated to the relevant Australian Standards.



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- b) Lighting public areas: Suitable lighting to Australian Standards is to be installed around the perimeter of the development including walkways to the carpark and including the carpark. Consideration should be given to security lighting such as movement activated sensor lighting.
- c) Closed Circuit Television: A closed-circuit television (CCTV) system is to be installed on the premises in accordance with the following requirements:
  - i) The system must record continuously at all times,
  - ii) Recordings must be in digital format and at a minimum of six (6) frames per second,
  - iii) Any recorded image must specify the time and date of the recorded image,
  - iv) The systems cameras must cover the following areas of the site:
    - (a) All entry and exit points on the premises,
    - (b) The car park area and,
    - (c) All public accessible areas (other than toilets) within the premises.
  - v) The system should also:
    - iii) Keep all recordings made by the CCTV system for at least 30 days,
    - iv) Provide any recordings made by the system to a police officer within 24 hours of any request by a Police Officer to provide such recordings.

Note: Lighting must not, when activated, reduce the quality of the CCTV recording (for example, light shining into the camera).
- d) Graffiti: Graffiti resistant materials or treatments are to be used in outdoor areas of the building, including retaining walls.

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

NIL

#### PART F: DURING WORKS

##### 42. 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.

##### 43. Demolition

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.

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**44. Vehicle Access to Rear of 204 and 206 Kerry Street**

During the construction period, the development is to maintain vehicle access to the rear of the adjacent properties at 204 and 206 Kerry Street, Sanctuary Point, unless otherwise agreed to in writing to affected owners. An agreement is to be provided to Council in writing a minimum of two days prior to access being closed.

**45. CCTV Inspection of Stormwater Pipes**

Prior to the completion of works, all stormwater pipes within road reserves, public carparks and within drainage easements intended to be dedicated to Council must be inspected by CCTV and submitted to Council for approval. The CCTV must be carried out in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia Version 3.1 after all earthworks and adjacent road pavement works have been completed.

Damaged pipes must either be replaced or repaired to the satisfaction of Council prior to the issue of an Occupation Certificate.

**46. Redundant Driveways and Crossings**

Prior to the completion of works in the road reserve, all redundant vehicle crossings and lay backs rendered unnecessary by this development must be reconstructed to match the existing kerb and gutter. The verge must be appropriately graded, top soiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

**47. Aboriginal Objects Discovered During Excavation**

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

- a) All excavation or disturbance of the area must stop immediately.
- b) Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing the affected area(s) based on the nature of the discovery.
- c) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- d) The Heritage NSW must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

**48. Archaeology Discovered During Excavation**

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

- a) All work must stop immediately in that area.
- b) Work may recommence in the affected area(s) if Heritage NSW advises that additional assessment and/or approval is not required (or once any required assessment has taken place or any required approval has been given).
- c) In accordance with the *Heritage Act 1997*, the Heritage NSW must be advised of the discovery.

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**49. 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).*

**50. Maintenance of Site and Surrounds**

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

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved soil water management measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
  - i) all vehicles entering or leaving the site must have their loads covered, and
  - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

**PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

**51. 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).

**52. Lot Consolidation**

Prior to the issue of an Occupation Certificate, a plan of consolidation consolidating Lots 944, 945, 946 and 947 of DP 27857 is to be registered as a deposited plan with NSW Land Registry Services. A copy of the registered plan of consolidation must be provided to the Certifier.

**53. 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.

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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.

**54. 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 Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of section 138 of the *Roads Act 1993*.

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

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

The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations and sizes of all pipelines.

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

**56. Maintenance Period of WSUD Devices**

The developer is responsible for all maintenance of the stormwater infrastructure; including trash racks, GPT devices, sediment basins / forebays, constructed wetlands, bioretention basins, water quality ponds, infiltration basins, swales etc for a period of 3 years up until Council's acceptance that the WSUD devices and associated stormwater assets are of a satisfactory condition at the end of the 3 year maintenance period.

Approaching hand over at the conclusion of the 3-year maintenance period, a site meeting with Council must be arranged by the developer. The objective of the meeting will be to identify any outstanding actions that require rectification by the developer before asset hand over. Annual reports documenting implementation measures and containing all monitoring results are to be submitted to Council during this phase.

**57. Handover of WSUD Assets to Council**

The following conditions are required to be met for WSUD devices to be handed over to Council.

- a) The WSUD infrastructure has been designed and constructed in accordance with Council guidelines, the approved design drawings, and specifications.

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- b) All WSUD infrastructure has been maintained in accordance with the approved WSUD Operation and Maintenance Manual. This includes but is not limited to, the removal of all sediment and litter from trash racks / GPT devices, removal of any weeds and reinstatement of any dead or unhealthy plants.
- c) Any accumulated sediment has been removed to the as-built invert levels of sediment basins/forebays, constructed wetlands / water quality ponds and lakes.
- d) For bioretention and infiltration basins, an infiltration test has been undertaken to validate the saturated hydraulic conductivity is in accordance with the approved design. The infiltration test must be observed by Council's Development Engineering Coordinator or delegate.
- e) Any identified defects have been rectified to the satisfaction of Council at the developers cost.
- f) Work as executed (WAE) drawings have been provided to and accepted by Council.

**58. 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.

**59. Fire Safety**

Prior to the issue of a partial or whole Occupation Certificate, a final fire safety certificate is to be issued to Council and Fire & Rescue NSW by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates—

- a) has been assessed by a properly qualified person, and
- b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

**60. Retaining Walls – Certification**

Prior to the issue of a full Occupation Certificate, the Certifier must be satisfied that all retaining walls have been constructed in accordance with the relevant retaining wall plans and specifications, and in accordance with the requirements of any other conditions of this consent.

*Note: This condition does not prevent a partial occupation certificate to be issued for the parts of the development that have been completed.*

**61. 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.

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62. **Accessible Carparking**

The accessible carparking space is to be installed in accordance with AS/NZS 2890.6-2009 *Parking facilities Off-street parking for people with disabilities*, prior to the issue of an Occupation Certificate.

63. **Section 68 of the Local Government Act**

All the conditions under the approval of Section 68 of the Local Government Act 1993 are to be complied with prior to the issue of an Occupation Certificate.

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

NIL

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

64. **Site Maintenance – Commercial/Industrial Development**

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) loading and unloading in relation to the use of the premises must occur in the designated loading areas.
- b) goods or machinery must be stored, and all activities must occur, inside the building(s) and not in the carpark or driveway areas.
- c) maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan.
- d) maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent.
- e) ongoing waste and recycling must be managed in accordance with the approved Waste Management Plan. Waste bins are not to be stored within the loading area/space that is visible from a public place.
- f) maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan.
- g) maintenance of buildings, fencing, signage/markings to the standards specified in this consent.
- h) the removal of all graffiti within a maximum of 14 days of being notified by Council.

65. **Fire Safety – Annual Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

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*Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has:*

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building
- b) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 3 of Part 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

*Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.*

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

**67. Private Use of Public Parking Spaces**

If the temporary use of on-street or off-street public parking spaces is required for building maintenance purposes, an application must be submitted to Council and approved in accordance with Council’s Policy – “Private use of public parking”. The [application form](#) is available on Council’s website. Fees apply.

**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.



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#### **Public notification**

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

#### **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.

#### **Impacts of the Development**

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

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

### **PART L: RIGHTS OF REVIEW AND APPEAL**

#### **Determination under Environmental Planning and Assessment Act, 1979**

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

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

### **PART M: GENERAL ADVICE**

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

#### **Disability Discrimination Act 1992**

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

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

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

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

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

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

**DBYD Enquiry - 'Dial Before You Dig'**

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

**SIGNED** on behalf of Shoalhaven City Council: