



Minutes

Ordinary Meeting of Council

27 August 2019

ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 27 AUGUST 2019

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**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY, 27 AUGUST 2019
COMMENCING AT 11.00AM**

PRESENT: Councillor Rob Pollock OAM, Deputy Mayor (in the Chair)
Councillors Anthony Mayne, Jack Tait, James Thomson, Lindsay Brown,
Maureen Nathan, Patrick McGinlay and Phil Constable

Staff: Dr Catherine Dale, General Manager
Mr L Usher, Director, Planning and Sustainability Services
Mr S Bhatt, Acting Director, Infrastructure Services
Mr J Phillips, Acting Director, Corporate and Commercial Services
Mr C Ginger, Acting Director, Community, Arts and Recreation
Mrs K Green, Minute Secretary
Miss L Evans, Minute Secretary

1. WELCOME

The Deputy Mayor welcomed everyone to the meeting, acknowledged the Traditional Owners and advised of the Evacuation Procedure.

2. ACKNOWLEDGEMENT OF COUNTRY

The Deputy Mayor acknowledged the Traditional Custodians of the Land, of Elders past and Present, on whose land we are gathered here to meet.

3. EVACUATION MESSAGE

The Deputy Mayor advised of the Evacuation Procedure.

4. APOLOGIES

19/167 MOTION Councillor Constable/Councillor Tait

THAT apologies be received from Mayor Liz Innes and leave of absence be granted.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait
and J Thomson.

Against the Motion: Nil.

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

19/168 MOTION Councillor McGinlay/Councillor Mayne

THAT the minutes of the Ordinary Meeting held on 13 August 2019 be amended as follows:

1. remove the words 'to address variable and changing climate' from the lost amendment on page 4.
2. with these changes, the minutes be confirmed.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Nil.

6. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

Councillor Nathan declared a significant, pecuniary conflict of interest in PSR9/010 DA577/19 Residential Flat Building, Beach Road, Batemans Bay and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Nathan declared an interest as one of the financial supporters of the group on which she stood is involved in this development. In addition, she also has long term personal friendships with a number of people involved with this development.

Councillor Tait declared a significant, pecuniary conflict of interest in PSR9/010 DA577/19 Residential Flat Building, Beach Road, Batemans Bay and stated that he did believe his interest would preclude him from voting.

Reason: Councillor Tait declared an interest as one of the financial supporters of the group on which he stood is involved in this development.

7. MAYORAL REPORTS

Nil

8. NOTICES OF MOTION

Nil

9. QUESTIONS ON NOTICE FROM COUNCILLORS

Nil

10. PETITIONS

Nil

11. GENERAL MANAGER'S REPORTS

Nil

12. PLANNING AND SUSTAINABILITY REPORTS

PSR19/010 BATEMANS BAY REGIONAL AQUATIC, ARTS AND LEISURE CENTRE

File Ref: E12.6442.P

MOTION Councillor Brown/Councillor Thomson

THAT Council:

1. Endorse the concept design (Attachment 1 of this report), as the preferred concept design to be used as the basis for the detailed design and for seeking development consent.
2. Consent to a development application being lodged for the development of the Batemans Bay Regional Aquatics, Arts and Leisure Centre.
3. Receive a further report on operational management model options and project budget.
4. Continues to work with Meals on Wheels to identify an alternate arrangement for the delivery of their services from Batemans Bay.

19/169 MOTION Councillor McGinlay/Councillor Constable

THAT the Council meeting move into the committee of the whole.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Nil.

At **11.05am** the Council meeting moved into the committee of the whole.

19/170 MOTION Councillor Thomson/Councillor Brown

THAT the Council meeting resume open session.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Nil.

At **11.42am** the Council meeting resumed.

19/171 MOTION Councillor Brown/Councillor Thomson

THAT Council:

1. Endorse the concept design (Attachment 1 of this report), as the preferred concept design to be used as the basis for the detailed design and for seeking development consent.
2. Consent to a development application being lodged for the development of the Batemans Bay Regional Aquatics, Arts and Leisure Centre.

3. Receive a further report on operational management model options and project budget.
4. Continues to work with Meals on Wheels to identify an alternate arrangement for the delivery of their services from Batemans Bay.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Crs P Constable, A Mayne and P McGinlay.

PSR19/021 DEVELOPMENT APPLICATION 577/19 RESIDENTIAL FLAT BUILDING (67 APARTMENTS) AND BOUNDARY ADJUSTMENT

File Ref: 81.0260.D

Councillor Nathan declared a significant, pecuniary conflict of interest in PSR9/010 DA577/19 Residential Flat Building, Beach Road, Batemans Bay and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Nathan declared an interest as one of the financial supporters of the group on which she stood is involved in this development. In addition, she also has long term personal friendships with a number of people involved with this development.

Councillor Tait declared a significant, pecuniary conflict of interest in PSR9/010 DA577/19 Residential Flat Building, Beach Road, Batemans Bay and stated that he did believe his interest would preclude him from voting.

Reason: Councillor Tait declared an interest as one of the financial supporters of the group on which he stood is involved in this development.

At **11:56 am** Councillor Tait left the Chambers.

At **11:57 am** Councillor Nathan left the Chambers.

The chairperson called a two minute recession to allow the members of the public who were acting disorderly to remove themselves from the Chamber. The Councillors were requested to remain in their seats.

The chairperson then called for a mover and seconder to expel the member of the public. This motion was withdrawn following an apology from the member of the public.

19/172 MOTION Councillor Brown/Councillor Thomson

THAT pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act 1979*, Development Application No. 577/19 Lots 51 and 52 DP 571785 No. 1A Herarde Street, Batemans Bay be APPROVED subject to the conditions set out below:

GENERAL CONDITIONS

1 Approved plans

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA 577/19 Sheets 1 – 21 inclusive	DA001 DA020	6 May 2019	Judd Studio
Sheet 1 – Cover Sheet	DA021		

Sheet 2 – Site Analysis	DA030 DA101		
Sheet 3 – Site Plan	DA103		
Sheet 4 – Subdivision Plan	DA102 DA104		
Sheet 5 – Floor Plan (Basement and Ground)	DA202 DA201		
Sheet 6 – Floor Plan (level 3 & 4)	DA221 DA301		
Sheet 7 – Floor Plan (level 1 & 2)	DA403		
Sheet 8 – Level 5 & Roof	DA601 DA602		
Sheet 9 – Elevations (South & East)	DA603 DA604 DA605		
Sheet 10 – Elevations (North & West)	DA701 DA801		
Sheet 11 – Herarde Street Elevation	DA802		
Sheet 12 – Sections			
Sheet 13 – Solar Penetration Diagram			
Sheet 14 – Typical Units Sheet 01			
Sheet 15 – Typical Units Sheet 02			
Sheet 16 – Typical Units Sheet 03			
Sheet 17 – Typical Units Adaptable			
Sheet 18 – Typical			

Units Adaptable Sheet 19 – Area Plans Sheet 20 – Landscape Plan (Ground Floor) Sheet 21 – Landscape Plan (Ground Floor and Communal Terrace)			
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Council Stamp No.	Document title	Date of document	Prepared by
DA 577/19 Doc 1 of 4	Detailed Site Contamination Investigation	10 May 2019	NG Child & Associates
DA 577/19 Doc 2 of 4	Preliminary Acid Sulphate Soil Assessment	31 July 2019	NG Child & Associates
DA 577/19 Doc 3 of 4	BASIX Certificate No. 1012971M	6 May 2019	Certified Energy
DA 577/19 Doc 4 of 4	Site Waste Minimisation and Management Plan	July 2019	Indesco Consulting engineers

Note: Any alteration to the plans and/or documentation may require the lodgment of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]

2 **Certification Height of Building**

The alterations and additions to the dwelling must be constructed in accordance with the maximum finished levels outlined below:

- ground floor habitable level 3.060m AHD;
- fifth level ridge height of 18.56m AHD, and
- sixth level ridge height of 21.71m AHD.

The floor levels and ridge level must be certified by a registered surveyor. Evidence is to be submitted to the satisfaction of the Certifying Authority, prior to continuing construction. Construction is not to continue until the Certifying Authority has signed off that the floor level or ridge level is in accordance with the approved levels outlined in this condition.

3 Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that if fill brought to the site - must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and
- (d) that if excavated soil is to be removed from the site - it must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005. [11.16]

4 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times. [15.07]

5 Water & Sewer Inspections

All plumbing and drainage works (water supply, sanitary plumbing and drainage, stormwater drainage and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of the Occupation Certificate.

The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
- (b) Hot and cold water plumbing under pressure test prior to covering;
- (c) Internal stackwork under hydrostatic test prior to covering; and

- (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
- (e) Issue of final satisfactory inspection. [2.16]

6 Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). [23.01]

7 Swimming Pools & Outdoor Spas

(a) Installation

The installation of the pool and all associated safety equipment including fencing and latches shall comply with the provisions of the Swimming Pools Act and AS1926. A resuscitation chart and warning sign containing information as prescribed by the Swimming Pools Regulation 2008 must be erected within the pool enclosure and shall be maintained in a clearly legible condition.

(b) Registration

The land owner is required to register the swimming pool/spa pursuant to Clause 30B of the Swimming Pools Act 1992. Swimming pools can be registered at the NSW Government's Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au [<http://www.swimmingpoolregister.nsw.gov.au>](http://www.swimmingpoolregister.nsw.gov.au) Note: Pool owners can be fined \$220.00 if their pool is not registered on the NSW Swimming Pool Register. In the event that an inspector refers the matter to court, a fine of up to a maximum of \$2,200 may be imposed.

(c) Temporary Fencing

In the event that the pool/spa is installed, prior to completion of other building work referred to in the development consent, temporary pool safety fencing complying with AS1926, shall be provided and maintained in position, pending completion of the other building work, if located on bushfire prone land and located within 10m of the dwelling be constructed of non-combustible materials.

(d) Pump Operation

The pump must be housed in an enclosure that is designed to minimise any noise intrusion on the surrounding developments. The enclosure must be designed to ensure that the noise levels emitted during off peak times* by the pump and filtration systems are not clearly audible in any habitable rooms of adjoining residences. Note: It is recommended that the pump and filtration systems only be used during daylight hours to reduce any noise impact. [*refer to SEPP (Exempt & Complying Development Codes) definition].

(e) Sewage Connection

Discharge points and/or overflow pipes from pool and filtration unit to be connected to the sewer where this service is provided to the property. [23.09]

8 **Colours and Materials**

The external roof cladding shall have a solar absorbance rating of 0.421 or greater (e.g. Zinalume, Galvanised Iron, Colourbond Surfsmist, Classic Cream and Whitehaven do not qualify). [24.01]

9 **NSW Department Of Primary Industries - Batemans Bay Marine Park requirements**

- a) **Soil, Sediment and Water Management:** Soil erosion and excess control measures should be prepared consistent with current best practice (ie Managing Urban Stormwater: Soils and Construction 4th Edition, Landcom 2004, the Blue Book - <https://www.environment.nsw.gov.au/resources/water/BlueBookVol1.pdf>) Sediment must be contained above mean high water mark (MHW). To mitigate possible pollution of the estuary from exposed soil, all practical measures must be taken to ensure erosion and subsequent sediment movement into the marine park does not occur. Where appropriate, control measures such as silt fencing, hay bales &/or equivalent must be used down slope from any disturbed area and in any drainage lines into the marine park. These measures must be regularly inspected, cleaned out and/or repaired as necessary and all collected silt must be disposed of appropriately. If it is not possible to meet these standards then polluted water will need to be contained and disposed of at an approved treatment facility. The ongoing requirement for dewatering of the proposed sub-basement carpark following periodic flood events will also need to be considered. Floodwaters entering the carpark become polluted with hydrocarbons. Measures to contain and treat or dispose of this water must be developed. Water should not be discharged into the adjacent waters unless approved monitoring and reporting measures are in place.
- b) **Stormwater:** Any water discharged from the site and delivered to waters of the Batemans Marine Park should meet the water quality requirements outlined within the NSW Water Quality Objectives, developed in accordance with the ANZECC 200 Guidelines on water quality as required under the Protection of the Environment and Operations Act 1997. (Further info is available on the OEH website at www.environment.nsw.gov.au/ieo/Clyde/index.htm) as required under the Protection of the Environment and Operations Act.
- c) **Waste minimisation and management:** All waste, debris, dust, polluted stormwater etc. created during construction and through future use of the development must be contained and disposed of in an environmentally satisfactory manner pursuant to NSW Protection of the Environment

Operations Act 1997. All reasonable measures to prevent the introduction of pollution and waste to the marine park must be implemented.

10 **Essential Energy requirements**

- a) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- b) As part of the boundary adjustment subdivision, if required by Essential Energy, easement/s are to be created for any electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision.
- c) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
- d) Minimum clearance requirements are to be maintained for any proposed driveway access/s into the properties, as Essential Energy has existing overhead powerlines on all street frontages of the properties. Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- e) Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to all proposed lots which will form part of the subdivision/development. The Applicant will need to submit an application to Essential Energy's Contestable Works team via email contestableworks@essentialenergy.com.au <<mailto:contestableworks@essentialenergy.com.au>> to determine whether the electrical requirements of the proposed development can be serviced via the existing electricity network or whether dedicated infrastructure will be required for the proposed development. It is also the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.
- f) In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity to the properties. Any activities within these locations must be undertaken in accordance with ISSC 20. Approval may be required from Essential Energy should activities within the property encroach on any electricity infrastructure.
- g) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

- h) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au <<http://www.safework.nsw.gov.au>>) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.

11 **Site Waste Minimisation and Management**

The development shall provide waste and recycling facilities as proposed in the Site Waste Minimisation and Management Plan by Indesco Consulting Engineers, stamped approved DA577/19 Doc 3 of 3. The Strata Management Plan is to include a by-law that prevents the storage of waste and recycling bins in the Public Road Reserve, Roadway or Kebside.

12 **Plan of Survey Amendment**

The Plan of Survey in conjunction with the boundary adjustment is to incorporate any easements for infrastructure and shared services where required and/or as directed by Council free of all costs to Council.

13 **Site Contamination Protection/ Excavated Soil Classification**

In accordance with recommendations in the Site Contamination Investigation Report by NG Child & Associates, (stamped approved DA577/19 Doc 1 of 4) an 'Unexpected Finds Protocol' is to be prepared and implemented to guide future works at the site and soils excavated from the site are carefully segregated to facilitate any classification that may be required, to prevent any fill material excavated from the site becoming commingled with virgin material (VENM) excavated from the site.

14 **Erosion and Sedimentation Control**

Prior to commencement of any earthworks, installation of all measures necessary to effectively control soil erosion on the site to prevent silt discharge into drainage systems and waterways in accordance with Council's Soil and Water Management Code. The measures, to include sediment fencing and erosion control devices, are to be maintained and remain in place until the development is completed and disturbed areas are stabilised.

Note: *Clean Up Notices and/or on-the-spot fines may be imposed by Council for non-compliance with this condition.* [11.13]

15 **Excess Fill**

Any excess clean fill (inert clean waste) removed from the site is to be taken to either:

- (a) a public waste disposal facility or

(b) a site approved by Council.

If option (b) is to be used the persons enacting this consent are to advise Council, in writing, of the chosen site and are not to commence any dumping until written approval is granted.

Note: Council may carry out random inspections and take photographic records to ensure the integrity of the fill. [11.14]

16 **Sealed Traffic Areas**

Prior to the issue of a Construction Certificate submission to and approval by the Certifying Authority of plans for car parking spaces, manoeuvring areas and access driveways conforming to AS/NZS2890.1:2004. Designs are to be certified for compliance with AS/NZS2890.1:2004 by a qualified engineer and are also to address expected vehicle loadings, any fill compaction requirements, drainage and pavement design. Disabled parking is to be designed in accordance with AS/NZS2890.6:2009 and constructed prior to release of any Occupation Certificate. The access is to include provision of a ramp with a crest height of 3.06m AHD and the profile within the road reserve is to comply with Council's standard plan 4400-A 001-a-1. [15.01]

17 **Construction Works Inspection**

Council is to be notified two (2) days prior to commencement of any works for footpath or stormwater network augmentation within the footpath or road reserve (Telephone [02] 44741393) to make arrangements for inspection. [14.08]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

18 **Ocean/Flood**

Prior to issue of a Construction Certificate, submission to and approval by the Certifying Authority, of designs by a suitably qualified and experienced Structural/Civil Engineer that the development will be capable of withstanding the impact of the flood/ocean hazard applicable to the location. The applicable flood planning level for the development is 3.06m AHD. [7.04]

19 **Flood**

Prior to the release of a Construction Certificate plans are to be submitted to the satisfaction of the Certifying Authority showing all building materials used below the nominated flood planning level, including the floor, to be of flood compatible materials, i.e. the structural integrity of the materials must not be adversely affected by repeated immersion in flood water. Details of these materials are to be consistent with Council's "Guidelines for Flood-Compatible Materials".

20 **Plan of Survey and 88b**

Submission to and approval by Council prior to the release of a Construction Certificate of Plan of Survey and Section 88B instrument (under Conveyancing Act 1919) or transfer and grant signed by beneficiary and burdened parties for a drainage easement over the stormwater overland flow path. [6.07]

21 **Erosion Control Plan**

Designs for sedimentation and erosion control by a qualified practising engineer are to be submitted to the Certifying Authority. All requirements of the approved plan are to be implemented on-site. The erosion control plan is to be prepared in accordance with "Managing Urban Stormwater: Soils and Construction – Volume 1, Landcom 2004". [11.01]

22 **Requirements of Public Authorities for Connection to Services**

The applicant shall comply with the requirements of any public authorities (eg Essential Energy, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. [0240]

23 **Long Service Levy**

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more. [2.03]

24 **Waste Management Plan**

A Waste Management Plan shall be submitted to and approved by the Certifying Authority, prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:

- (a) details of demolition works and the presence of any asbestos or other hazardous waste;
- (b) details of waste to be generated by the work;
- (c) arrangements for removal of waste material from site;
- (d) destination of waste materials being removed from the site. [22.02]

25 **Construction Management Plan**

A Construction Management Plan shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate. The Plan shall address, but not be limited to, the following matters:

- (a) hours of work;
- (b) contact details of site manager;
- (c) arrangements for site deliveries and removal of material from site;
- (d) details of hoardings;
- (e) details of demolition works and the presence of any asbestos or other hazardous waste;
- (f) traffic and/or pedestrian control measures;
- (g) dust control measures;
- (h) noise control measures;
- (i) screening from adjoining properties. [23.14]

26 **Section 7.11 Contributions**

Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Roadworks	\$147,302.10
Open Space & Recreation	\$ 74,025.60
Community & Cultural	\$ 4,290.00
Shared Pathways	\$ 13,714.80
Plan Preparation & Admin	\$ 7,243.50
Waste Facilities	\$ 6,381.00

The above contributions are to be paid prior to the release of the Construction Certificate, and will be payable at the rate applicable at the time of payment.

Note: *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.*

The plan can be viewed on Council's website at

http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf [3.07]

27 **Water/Sewer Developer Contributions – Development**

Prior to the issue of a Construction Certificate, the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$508,400 (40 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710.
- B) \$553,250 (50 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the

issue of the Construction Certificate.

Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development. [3.11a]

28 **Footpath Construction**

Prior to the issue of the Construction Certificate submission to and approval by Council of a detailed plan for footpath construction for the full frontage of the property. [14.06]

29 **Stormwater Quality**

Prior to the issue of a Construction Certificate stormwater design plans are to demonstrate and be certified by a suitably qualified engineer that any stormwater leaving the site complies with the water quality benchmarks for the Batemans Marine Park as expressed in the NSW Water Quality Objectives that accord with the ANZECC 200 Guidelines for Water Quality (Info available at OEH website – www.environment.nsw.gov.au/ieo/Clyde/index.htm).

30 **Groundwater Management**

Prior to the issue of a Construction Certificate, submission to and approval by the Certifying Authority, of a groundwater management plan by a suitably qualified engineer. The management plan is to clearly indicate that the prescribed construction methodology for the development will ensure compliance with the Protection of the Environment Operations Act 1997.

31 **Stormwater Network Augmentation**

Submission to and approval by Council, prior to release of a Construction Certificate, of plans for the relocation of the stormwater network traversing the site. Plans are to be prepared by a suitably qualified engineer in accordance with Council's Infrastructure Design Standard and the concept civil engineering design prepared by Jack Metzler and Associates.

32 **Stormwater Overland Flow Path**

Submission to and approval by Council, prior to release of a Construction Certificate, of plans for the stormwater overland path traversing the site. Plans are to be prepared by a suitably qualified engineer in accordance with Council's Infrastructure Design Standard and demonstrate conveyance of stormwater generated by events up to the 1%AEP.

33 **Section 68 Approval**

Prior to the release of a Construction Certificate an application to and approval by Council is required under Section 68 of the Local Government Act 1993 for the realignment of the stormwater network, water supply connections and sewer connections.

34 **Water Meter**

Submission to and approval by Council of certification and a layout plan for the service by a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2003 National Plumbing and Drainage Code and AS2441:2005 Installation of Fire Hose reels. Individual meters to be sized in accordance with AS/NZS3500.1:2003 Plumbing and Drainage – Water Services.

Note: All fire hose reels must be supplied through the metered supply.

Note: Each residence is to be separately metered from the main or internally. That is, either by connection to Council's water main by a single Council meter with all residences separately metered by private meters within the development or individual Council connections and meters from Council's main for each residence.

Council will provide a quote to construct the water service complete with meter with prepayment required prior to works being scheduled. The meter is to be located so as to be accessible to Council's Water Meter Reader at all times. Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken at full cost to the applicant.

Note: A backflow prevention device is to be installed and certified by a private plumber in accordance with Council's Backflow Prevention policy.

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed). Please contact Council's Water and Sewerage Project Engineer on 44741342 to arrange the quote and prepayment will be required to be receipted at Council Administration Centre at Vulcan Street Moruya, the Batemans Bay or Narooma depot.

35 **Site Drainage Plans**

Prior to the issue of a Construction Certificate, submission of plans to the Certifying Authority for stormwater disposal from roofed and impervious areas and overland flow from the localised catchment. Plans are to be certified by a qualified drainage consultant or a suitably qualified engineer for compliance with AS/NZ3500.3 2003, Council's Infrastructure Design Standard and the following requirements:

- a) Hydraulic analysis for the localised catchment bounded by Herarde Street and Beach Road to be completed in accordance with Australian Rainfall and Runoff;

- b) Analysis demonstrating that the predeveloped overland flow regime for the localised catchment is maintained.

If the site discharge is not capable of being accommodated in Council's existing infrastructure, the consent holder shall upgrade or augment Council's stormwater infrastructure subject to plans approved by Council.

PRIOR TO COMMENCEMENT OF WORKS

36 Construction Certificate

The construction works subject of this development consent **MUST NOT** be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by an accredited certifier, and
- (b) The person having the benefit of the development consent has appointed a Principal Certifying Authority, and has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builders name and licence number has been supplied to Council or the Principal Certifying Authority; and
- (e) Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifying Authority; or
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifying Authority; and
- (g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifying Authority for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed. [2.06]

37 Construction in a Road Reserve

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control

of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.

- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL). is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. rol_southern@rta.nsw.gov.au

Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf

Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued. [14.09]

DURING CONSTRUCTION

38 ***Loading and Unloading of Construction Vehicles***

All loading and unloading associated with construction must be accommodated on-site. If this is not feasible, an application may be made for the provision of a construction zone, during the specified hours of work. [0131]

39 ***Shoring and Adequacy of Adjoining Property***

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage. [11.04]

40 ***Spoil Removal***

No spoil to be deposited on public roads during the cartage of materials from or to

the site. The deposition spoil shall cease, as directed by Council, if the Council determines that excessive deposition of spoil onto the road is taking place. [11.12]

41 **Approved Plans to be On-Site**

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Certifying Authority. [2.22]

42 **Construction Hours - NOISE**

If audible at any residence or other sensitive noise receiver, construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and 8.00am to 5.00pm Saturdays. No construction can be carried out on a Sunday or public holiday if audible at any residence or other sensitive receivers. [20.01]

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

43 **Public Utility Adjustments**

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

44 **Road Damage**

The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to issue of an Interim or Final Occupation Certificate. [14.15]

45 **Landscape Plan**

Completion of landscaping in accordance with the approved Landscape Plan prior to issue of any Occupation Certificate and such landscaping is to be continuously maintained in accordance with the approved Plan. Maintenance is the landowner's responsibility. [16.04]

46 **Occupation Certificate**

The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority. [2.14]

47 **BASIX Certification**

The development must be implemented and all BASIX commitments thereafter

maintained in accordance with BASIX Certificate No(s) 1012971M, and any updated certificate(s) if amendments are made. The BASIX Certificate must be submitted to the Certifying Authority with all commitments clearly shown on the Construction Certificate plans. [23.26]

48 ***Adaptable Housing***

The Certifying Authority is to ensure prior to the issue of any Occupation Certificate that 16 residential units are compliant with the requirements of AS4299-Adaptable Housing. [23.28]

49 ***Rainwater Tank Plan***

Prior to issue of any Occupation Certificate:

- (a) Stormwater control construction is to conform to approved plans and be in accordance with Council's DCP and Code of Practice, "*Design Guidelines for Rainwater Tanks*";
- (b) All tanks and associated structures, including stands, must be installed in accordance with manufacturer's/ designer's specifications;
- (c) Accurate Work As Executed plans are to be provided to Council in accordance with Council's Policy and Code of Practice, "*Design Guidelines for Rainwater Tanks*".

To obtain a copy of the "*Design Guidelines for Rainwater Tanks*", contact Council's Duty Development Officers on (02)44741231, or download from Council's website at the following link: www.esc.nsw.gov.au
<<http://www.esc.nsw.gov.au>> [6.02]

50 ***Stormwater Work as Executed Plans***

Prior to issue of any Occupation Certificate stormwater construction is to conform to the approved plans. A Works as Executed plan of the work is to be provided to and approved by Council at the completion of the work. [6.06]

51 ***Certificate of Title***

Prior to issue of any Occupation Certificate submission to and approval by Council of a copy of the registered Certificate of Title verifying the creation of the drainage easement, shall be submitted to and approved by Council. [6.08]

52 ***Flood Action Plan***

Prior to issue of any Occupation Certificate, a Flood Action Plan, including details of evacuation procedures for the basement car park, is to be submitted to and approved by Council. Evidence of implementation of the Flood Action Plan will be necessary prior to occupation. [7.03]

PRIOR TO ISSUE OF STRATA CERTIFICATE

53 *Occupation Certificate*

The Strata Certificate will not be released prior to the issue of a Compliance/Occupation Certificate to confirm that all requirements of this approval have been satisfied and that the units are fit for occupation. [12.35]

ADVISORY NOTES

1. *Flooding Liability*

The land may be subject to flooding and the development has been assessed using best available information concerning the likelihood of flooding at the date of determination. If the land is flooded Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.10]

2. *Use of Mobile Cranes*

The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works.

For special operations including the delivery of materials, hoisting of plant and equipment, and erection and dismantling of on-site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:

- (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions and
- (b) at least four (4) weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council. [0243]

3. *Street Numbering*

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages, prior to the occupation of the building(s) or commencement of the use. If street numbers or a change to street numbers are required, a separate application shall be made to Council. [0246]

4. ***Underground Utility Services Check***

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development. [0263]

5. ***Disability Discrimination Act***

Your development may be affected by the Disabilities Discrimination Act. It is your responsibility to ensure the development complies with the Act. [0265]

6. ***Ocean Location***

Council is of the opinion that the land is located within a corrosive environment, ie. that it is located within 1km from breaking surf, within 100m of salt water not subject to breaking surf or heavy industrial areas. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia. [10.16]

7. ***Discovery of a Relic***

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

8. ***NCC/BCA Compliance***

This Development Application has been subject to a merit-based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA. [2.23]

9. ***Traffic Noise***

The property has been identified as potentially affected by traffic noise. Council recommends that a suitably qualified person, experienced in acoustic treatment and design, be consulted in regard to the preparation of building plans. DEC guideline "Environmental Criteria for Road Traffic Noise" and AS 3671-1989 should be

referenced in the building design. [20.02]

10. ***Sea Level Rise Liability***

This land may be subject to sea level rise and this development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (such as sewer, water, stormwater and roads) may also be subject to sea level rise. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise in the future.

If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.13]

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, R Pollock and J Thomson.

Against the Motion: Nil.

At **12:16 pm** Councillor Nathan returned to the Chambers.

At **12:16 pm** Councillor Tait returned to the Chambers.

13. INFRASTRUCTURE REPORTS

Nil

24. CORPORATE AND COMMERCIAL SERVICES REPORTS

**CCS19/039 LAND TRANSFER TO COUNCIL, SEWER PUMP STATION, FREYCINET DRIVE,
SUNSHINE BAY**

File Ref: 05.9453.S

19/173 MOTION Councillor Brown/Councillor Thomson

THAT

1. In accordance with Section 34 of the Local Government Act 1993 public notice be given of Council's intention to resolve:
 - a. Lot 137 DP 1234380 be classified as operational land
 - b. A period of 28 days be given for members of the public to make submissions.
2. A further report be presented following the notification period to classify the land as operational.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait
and J Thomson.

Against the Motion: Nil.

CCS19/040 INVESTMENTS MADE AS AT 31 JULY 2019

File Ref: E99.3517

19/174 MOTION Councillor Thomson/Councillor Tait

THAT the certification that the investments as at 31 July 2019, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Nil.

35. COMMUNITY, ARTS AND RECREATION REPORTS

Nil

46. DELEGATE REPORT

Nil

57. URGENT BUSINESS

19/002 LOCAL GOVERNMENT ELECTIONS

COUNCILLOR LINDSAY BROWN RAISED CONCERNS WITH THE DOCUMENT RELEASED ON THE LOCAL GOVERNMENT ELECTION COSTS. COUNCILLOR BROWN INDICATED THAT IT BE DECLARED URGENT AS THE MINISTER OF LOCAL GOVERNMENT WILL RECEIVE THE DECISION ON THE DRAFT DOCUMENT ON 30 AUGUST 2019. THE CHAIRPERSON RULED THE MATTER URGENT.

19/175 MOTION COUNCILLOR BROWN/COUNCILLOR TAIT

THAT:

1. COUNCIL WRITE TO THE LOCAL MEMBER AND MINISTER OF LOCAL GOVERNMENT URGING THE NSW GOVERNMENT TO KEEP THE CURRENT COST STRUCTURE FOR THE 2020 LOCAL GOVERNMENT ELECTION.
2. THE COUNCILLORS RECEIVE A BRIEFING ON THE OUTCOMES OF THE FINAL REPORT INTO THE *REVIEW OF COSTS OF CONDUCTING LOCAL GOVERNMENT ELECTIONS*.

(THE MOTION ON BEING PUT WAS DECLARED **CARRIED**)

DIVISION

FOR THE MOTION: CRS L BROWN, P CONSTABLE, A MAYNE, P MCGINLAY, M NATHAN, R POLLOCK, J TAIT AND J THOMSON.

AGAINST THE MOTION: NIL.

68. DEALING WITH MATTERS IN CLOSED SESSION

Nil

79. CONFIDENTIAL MATTERS

Nil

THE MEETING CLOSED AT 12.28PM

CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday, 10 September 2019 at which meeting the signature hereon was subscribed.

*This is Page No 29 of 28 of the Minutes of the Ordinary Council Meeting
of Eurobodalla Shire Council held on Tuesday 27 August 2019*

CHAIRPERSON