Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No:	SSD 3846
Applicant:	Sealark Pty Limited
Development:	West Culburra Concept Proposal
Subject land:	Part Lots 5 and 6 DP 1065111, Culburra Road Culburra Beach, Shoalhaven local government area

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination:	1 December 2021
Date from which consent takes effect:	1 December 2021

TERMINOLOGY

In this consent any reference to a Subdivision Works, Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979* (NSW).

DEFINITIONS

Aboriginal Community	All Registered Aboriginal Parties identified during the consultation process undertaken pursuant to Condition B13.
Applicant	Sealark Pty Ltd, or any person carrying out any development to which this consent applies
Addendum IWCMS	Addendum Integrated Water Cycle Management Strategy titled *Addendum to Integrated Water Cycle Management Strategy, Mixed Use Urban Development at West Culburra, NSW* (the Addendum IWCMS) prepared by Martens, dated 20 July 2021
Baseline	Data obtained in regard to the biological, physical and chemical environment at the Site and in the vicinity of the Site in the period between granting of Consent and commencement of works
Certifier	A council or an accredited certifier (including principal certifiers) who is authorised under section 6.5 of the EP&A Act to issue Part 6 certificates
Concept Proposal	The Concept Proposal described in the EIS as modified by the conditions of this consent
Conditions of this consent	Conditions contained in this document
Construction	The demolition and removal of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent, but does not include: a) geotechnical or environmental investigations; b) survey works; c) archaeological investigations and testing; d) installation of mitigation measures such as erosion and sediment controls; e) connection of utilities; and f) any other activities determined by the Planning Secretary to have minimal environmental impact.
Council	Shoalhaven City Council
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
DPIE	Department of Planning, Industry and Environment
EIS	The Environmental Impact Statement titled West Culburra Beach Expansion Area Revised Concept Plan NSWLEC Case Number 2019/00078149, prepared by Allen Price and Scarratts Pty Ltd dated 4 November 2020
Environment	As defined in section 1.4 of the EP&A Act
Environmental audit	As defined in section 9.39(2) of the EP&A Act
Environmental auditor(s)	A person who conducts an environmental audit as per section 9.41(2) of the EP&A Act
ER	Environmental Representative
Environmental Representative Protocol	The document of the same title published by the Department
EPA	NSW Environment Protection Authority

EP&A Act	*Environmental Planning and Assessment Act 1979* (NSW)
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000* (NSW)
Foreshore reserve	A minimum 100 m wide vegetated corridor from mean high water mark to the development boundary is to be preserved and maintained
Heritage	Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement
Heritage item	An item as defined under the *Heritage Act 1977* (NSW), and assessed as being of local, State and/ or National heritage significance, and/or an Aboriginal Object or Aboriginal Place as defined under the *National Parks and Wildlife Act 1974* (NSW), the World Heritage List, or the National Heritage List or Commonwealth Heritage List under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), or anything identified as a heritage item under the conditions of this consent
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
Independent expert	Includes a person engaged by the Applicant with relevant expertise
IWCMS	Integrated Water Cycle Management Strategy titled *Integrated Water Cycle Management Strategy, Mixed Use Urban Development at West Culburra, NSW* (the IWCMS) prepared by Martens, dated 17 November 2020
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
MHWM	Mean high water mark
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Mitigation	Activities associated with reducing the impacts of the Concept Proposal prior to or during those impacts occurring
Monitoring	As defined in section 9.39(1) of the EP&A Act. Any monitoring or environmental audits required under this consent must be undertaken in accordance with sections 9.40, 9.41(1) and 9.41(2) of the EP&A Act
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
NorBE	Neutral or Beneficial Effect as defined in the Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015 prepared by the former Sydney Catchment Authority
Operation	The use of any stage of the Concept Proposal as described in the EIS and RTS

Principal Certifier	The certifier appointed as the principal certifier for the building work under section 6.6(1) of the EP&A Act or for the subdivision work under section 6.12(1) of the EP&A Act
Planning Secretary	Secretary of the Department, or delegate
POEO Act	*Protection of the Environment Operations Act 1997* (NSW)
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
Registered Aboriginal Parties	Means the Aboriginal persons identified in accordance with the document entitled "*Aboriginal cultural heritage consultation requirements for proponents 2010*" (DECCW)
Sensitive receivers	A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area
Site	The land defined in Appendix 1, being Part Lots 5 and 6 DP 1065111 and adjacent road reserves as edged in a heavy red line
Stage	Any stage of the Concept Proposal as described in a Staging Plan approved by the Planning Secretary in accordance with this consent
Trigger Event	As per the definition in Condition C6
TfNSW	Transport for New South Wales
Waste	Has the same meaning as the definition of the term in the Dictionary to the POEO Act
Year	A period of 12 consecutive months

The conditions of consent are as follows:

SCHEDULE 1 – CONDITIONS FOR THE CONCEPT PROPOSAL

PART A – ADMINISTRATIVE CONDITIONS

FUTURE DEVELOPMENT APPLICATIONS

A1. In accordance with section 4.22 of the EP&A Act, all physical works and each stage of the Concept Proposal is to be subject to future development applications (DAs).

Note: This condition relates to the staged delivery of the Concept Proposal and does not extend to applications for individual buildings that will be constructed within the approved subdivision whether these buildings require a DA or may be covered by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

A2. In accordance with section 4.24 of the EP&A Act, the determination of future DAs cannot be inconsistent with the terms of this development consent.

A3. In accordance with section 4.37 of the EP&A Act, any subsequent stage of development for the Concept Proposal is to be determined by the relevant Consent Authority and that development ceases to be State Significant Development.

A4. To avoid any doubt, this Concept Proposal consent does not permit the construction or operation of any development on the site.

STATUTORY REQUIREMENTS

A5. The Applicant must ensure that all licences, permits, and approvals/consents are obtained as required by law and maintained as required throughout the life of the Concept Proposal. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals/consents.

TERMS OF CONSENT

A6. The Applicant must carry out the Concept Proposal in accordance with:

(a) the conditions of this consent;

(b) all written directions of the Planning Secretary;

(c) the EIS for the West Culburra Revised Concept Plan;

(d) the plan in **Appendix 1**; and

(e) the Applicant's Management and Mitigation Measures in **Appendix 2**.

A7. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:

(a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and;

(b) the implementation of any actions or measures contained in any such document referred to in condition A6(a).

A8. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A6(c) or A6(e). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A6(c) or A6(e), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

LAPSING OF CONSENT

A9. This consent lapses five (5) years after the date from which it operates, unless development of an approved future DA has physically commenced on the land to which the consent applies before that date.

LIMITS OF CONSENT

A10. The development in the Concept Proposal must not exceed the limits outlined in **Table 1**.

Table 1: Limits for Maximum Development

Precinct Area	Maximum Development
Town Centre	• 9,743m^2 of mixed use lots containing 2,500 m^2 commercial premise floor space • 45 integrated housing dwellings • 33,991m^2 of medium density residential lots
Industrial	• 32,901m^2 of industrial lots
Residential	• 244 low density residential lots

A11. The following limits apply to the Concept Proposal:

(a) a minimum 100 metre (m) wide corridor from mean high water mark along the foreshore of the Concept Proposal must not be developed and must be maintained and preserved as a vegetated foreshore zone;

(b) the elevated boardwalk/ footpath/ cycleway shown on the plan in **Appendix 1** is not approved;

(c) development is limited to the area within the site boundary, as shown in red edging on the plan in Appendix 1;

(d) the vehicular roundabout and water retention basin at Culburra Road are constructed and managed to ensure that no gross pollutants, chemical pollutants or sediment is transferred (by intent or accident) into the catchment of Lake Wollumboola as per the IWCMS;

(e) the 'Entry feature in road reserve' shown on the Landscape Concept Plan prepared by Taylor Brammer, dated 15 October 2020, is not approved;

(f) residential lots facing Culburra Road must have vehicular access from internal road networks and not Culburra Road;

(g) Lots 601 – 606 and 607 – 612 are to remain as two 'super lots', with the final subdivision layout subject to future development applications.

STAGING PLAN

A12. Prior to the commencement of construction of any stage of the Concept Proposal, the Applicant must prepare a Staging Plan, to the satisfaction of the Planning Secretary. The plan must:

(a) be prepared in consultation with Council, utility and service providers and other relevant stakeholders;

(b) describe how the implementation of the Concept Proposal, would be staged to ensure it is carried out in an orderly and economic way and minimises impacts on adjacent sensitive receivers;

(c) show the likely sequence of DAs for each stage that will be lodged to develop the Site, with the estimated timing for each Stage and identification of any overlapping construction and operational activities;

(d) describe the sequencing of residential, industrial and town centre staging, including identification of any overlapping works;

(e) detail the scope and timing of any required road upgrades to service each stage; and

(f) include conceptual design for the provision of services, utilities and infrastructure to the Site.

A13. The Applicant must:

(a) not commence construction of any stage of the Concept Proposal until the Staging Plan required by Condition A12 is approved by the Planning Secretary;

(b) implement the most recent version of the Staging Plan approved by the Planning Secretary; and

(c) only comply with the conditions of this consent to the extent that they are relevant to the specific stage(s).

A14. The Planning Secretary may require the Applicant to address certain matters identified in the Staging Plan . The Applicant must comply with any such requirements of the Planning Secretary given as part of the Staging Plan approval.

Notes:

- *The Applicant may amend the Staging Plan as desired, with the approval of the Planning Secretary.*

- *The Staging Plan is intended to broadly describe the development sequence for the Site and the delivery of infrastructure for all stages. It is not required to provide detailed design for latter Stages.*

EVIDENCE OF CONSULTATION

A15. Where conditions of this consent require consultation with an identified party, the Applicant must:

(a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and

(b) provide details of the consultation undertaken including:

(i) the outcome of that consultation, matters resolved and unresolved; and

(ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

A16. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

APPLICABILITY OF GUIDELINES

A17. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

A18. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

ENVIRONMENTAL REPRESENTATIVE

A19. The Applicant must appoint an Environmental Representative (ER) for the Concept Proposal to oversee the implementation of the conditions of this consent. The ER must be a suitably qualified and experienced person who was not involved in the preparation of the EIS, is independent from the design and construction personnel for the Concept Proposal and whose appointment has been approved by the Planning Secretary.

A20. The ER must for the duration of construction works associated with approved stages of the Concept Proposal:

(a) receive and respond to communication from the Planning Secretary in relation to the environmental performance of the development;

(b) consider and inform the Planning Secretary on matters specified in the terms of this consent;

(c) consider and recommend to the Applicant any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;

(d) review documents required to be submitted under this consent and any other documents that are identified by the Planning Secretary, to ensure they are consistent with requirements in or under this consent and if so:

(i) make a written statement to this effect before submission of such documents to the Planning Secretary (if those documents are required to be approved by the Planning Secretary); or

(ii) make a written statement to this effect before the implementation of such documents (if those documents are required to be submitted to the Planning Secretary/Department for information or are not required to be submitted to the Planning Secretary/Department);

(e) regularly monitor the implementation of the documents required under this consent to ensure implementation is being carried out in accordance with the document and the terms of this consent;

(f) as may be requested by the Planning Secretary, help plan, attend or undertake audits of the development commissioned by the Department including scoping audits, programming audits, briefings and site visits;

(g) as may be requested by the Planning Secretary, assist the Department in the resolution of community complaints; and

(h) prepare and submit to the Planning Secretary and other relevant regulatory agencies regular reports providing the information set out in the ER Protocol under the heading "Environmental Representative Monthly Reports". The reporting frequency and timeframe must be agreed with the Planning Secretary, prior to the commencement of any works associated with approved stages of the Concept Proposal.

ACCESS TO INFORMATION

A21. The Applicant must make the following information and documents (as they are obtained or approved) publicly available on its website and keep the information up to date, to the satisfaction of the Planning Secretary:

(a) the documents referred to in condition A6 of this consent;

(b) all current statutory approvals for the Concept Proposal;

(c) all approved strategies, plans and programs required under the conditions of this consent;

(d) the proposed staging plans for the Concept Proposal;

(e) minutes of community meetings;

(f) regular reporting on the environmental performance of the Concept Proposal in accordance with the reporting requirements in any plans or programs approved under the conditions of this consent;

(g) a comprehensive summary of the monitoring results of the Concept Proposal, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;

(h) a summary of the current stage and progress of the Concept Proposal;

(i) contact details to enquire about the Concept Proposal or to make a complaint;

(j) reports prepared as part of any Independent Audit of the Concept Proposal and the Applicant's response to the recommendations in any audit report; and

(k) any other matter required by the Planning Secretary.

PART B – ENVIRONMENTAL PERFORMANCE CONDITIONS

WATER QUALITY

Water Quality Requirements

B1. The Applicant must ensure that the Concept Proposal complies with the criteria of Neutral or Beneficial Effect (NorBE) for water quality in the Crookhaven River adjacent to the site and for water quality in Lake Wollumboola by implementation of the IWCMS.

B2. The Applicant must ensure the Concept Proposal complies with the following requirements as per the IWCMS:

(a) SEPP 62;

(b) NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS);

(c) Healthy Estuaries for Healthy Oysters Guideline; and

(d) Shoalhaven Council Development Control Plan, in particular Chapter G2 and the Supporting Document 1 – "Sustainable Stormwater Technical Guidelines".

Stormwater Treatment Design and Implementation

B3. The Applicant must ensure that stormwater infrastructure is located outside the Foreshore Reserve as shown in the Concept Plan in **Appendix 1**.

B4. The Applicant must ensure that the Concept Proposal includes stormwater treatment measures sufficient to:

(a) comply with the criteria in condition B1;

(b) satisfy the criteria of Neutral or Beneficial Effect (NorBE) for the runoff discharged to the Crookhaven River and Lake Wollumboola relative to a pre-development case that considers current land cover (model PD-LC1 on Map 14 of IWCMS).

(c) result in flow volumes, frequencies and runoff hydrographs that largely mimic pre-development hydrologic conditions (generally in accordance with the developed case rates nominated in Section 4.1 and Section 4.2 of the Addendum IWCMS).

(d) produce pathogen levels lower than the pre-development case (generally in accordance with Section 5 of the Addendum IWCMS).

(e) maintain groundwater flow regimes and groundwater quality and to provide no material change to material levels in any SEPP 14 wetland (generally in accordance with Section 5 of the IWCMS with any revision necessary to incorporate the findings of the HGEO 2020 West Culburra Groundwater Assessment).

B5. The Applicant shall demonstrate compliance with the above criteria for:

(a) surface water quality based on the use of the MUSIC software in accordance with the latest version of the NSW MUSIC Modelling Guidelines by NSW Local Land Services;

(b) groundwater by the use of MODFLOW and MT3DMS or similar.

B6. Unless a superior water quality outcome can be achieved by the use of alternate stormwater treatment devices, the Applicant shall ensure that the Concept Proposal includes stormwater treatment elements generally in accordance with those nominated in Section 4 of the IWCMS, including:

(a) rainwater tanks (minimum 5kL tank per residential/ commercial lot and 15kL tank per industrial lot);

(b) gross pollutant traps upstream of stormwater treatment structures;

(c) biobasins, designed to ensure sufficient baseflow is maintained for the long-term viability of vegetation in the biobasins. The Applicant must ensure that each bioretention system includes a backup irrigation system that enables water stored in the stormwater ponds to be used for irrigation over the bioretention system. The Applicant must ensure that basins include a suitably designed sump within the outlet flow path that will permanently hold

water sufficient to enable water quality sampling or will otherwise enable water to be sampled as flow occurs to the outlet;

(d) stormwater ponds;

(e) irrigation of sporting fields (25,600 m^2) and open parkland (10,000 m^2, 1,300 m^2, 16,850 m^2 and 7,700 m^2 areas). Any parkland and sports field irrigation by the Applicant must be undertaken from stormwater ponds in accordance with the recommendations and principles outlined in the IWCMS. The Applicant must ensure that ponds are sized to maximise the retention and re-use of stormwater, within minimum pond volumes and parkland/ sports field areas in accordance with those specified in the IWCMS.

B7. In addition to the requirements of Condition B6, the Applicant must, unless it can be demonstrated that the resultant solution does not practicably allow the satisfaction of Condition B4, consider the potential to reduce the number of treatment devices (for example providing centralised end-of-pipe systems rather than treatment devices at a sub-catchment level) and non-proprietary dry sedimentation forebays and graduated trash racks where appropriate. The Applicant must prepare asset lifecycle costs for all stormwater treatment assets to be handed over to Council.

B8. The Applicant must monitor the usage of irrigation water and provide an annual report to Council comparing the usage of irrigation water to that adopted in the MUSIC model. In the event of the usage being less than the modelled usage, the Applicant shall supply revised modelling demonstrating that the conditions of approval can be met or nominate the corrective actions to be undertaken to meet the conditions of approval.

Transfer of Stormwater Quality Infrastructure

B9. The transfer of maintenance and control of stormwater quality infrastructure to Council shall be subject to a Council approved commissioning and testing program to confirm that the treatment structures are operating satisfactorily and meeting the criteria nominated in Table 19 of the Addendum IWCMS.

B10. The criteria referred to in Condition B9 includes there being no trigger events in the previous 3 months. This criterion shall include a minimum of two sets of water quality data, as detailed in Conditions C1 to C12.

Erosion and Sediment Control

B11. Prior to the issuing of a Subdivision Works Certificate, the Applicant must prepare a Soil and Water Management Plan for the Concept Proposal to the satisfaction of Council and generally in accordance with the requirements nominated in Section 8.3 of the IWCMS and Section 7 of the Addendum IWCMS. The Plan must:

(a) be prepared by a suitably qualified and experienced person(s);

(b) be consistent with the water quality objectives of the Healthy Estuaries for Healthy Oysters Guidelines (NSW Department of Primary Industries, 2017), NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS) (NSW 2006), and Shoalhaven City Council Development Control Plan 2014;

(c) include detailed erosion and sediment controls developed in accordance with the relevant requirements of *Managing Urban Stormwater: Soils and Construction - Volume 1: Blue Book (Landcom, 2004) guideline*; and

(d) include procedures for maintaining erosion and sediment controls in efficient working order for the duration of construction works associated with approved stages of the Concept Proposal.

B12. The Applicant must implement erosion and sediment controls identified by Condition B11 and maintain those controls throughout construction, to minimise the likelihood of sediment laden runoff entering the downstream environment. The Environmental Representative, appointed in accordance with Condition A19, must make a written statement to Council confirming the erosion and sediment controls are operational, prior to the commencement of any construction activities.

ABORIGINAL HERITAGE

B13. The Applicant must conduct formal consultation with the Aboriginal Community in accordance with clause 60 of the *National Parks and Wildlife Regulation 2019*.

B14. The consultation activities described in Condition B13 must be undertaken prior to the commencement of Construction. The outcomes of consultation and any amendments made to the Concept Proposal to address Aboriginal cultural values and heritage impacts must be detailed in an Aboriginal Cultural Heritage Assessment report, which is to be submitted to Council.

B15. Prior to commencement of construction of any approved stage of the Concept Proposal, an Aboriginal Cultural Heritage Management Plan must be prepared for:

(a) the Crookhaven River middens located in the Foreshore Reserve as identified in the *Sealark Supplementary Report to the Aboriginal Cultural Heritage Assessment*, prepared by Dr Johan Kamminga, dated 14 April 2020;

(b) other already identified places of cultural significance and any identified in ongoing consultation with the Aboriginal community;

to ensure the ongoing conservation, management, and protection of the area.

B16. The Aboriginal Cultural Heritage Management Plan required by Condition B15 must:

(a) be prepared in collaboration with representatives of the Aboriginal Community by a suitably qualified and experienced person;

(b) be in accordance with conservation of cultural significance as identified by the Aboriginal Community;

(c) ensure an appropriate management buffer zone to conserve the significance of the Crookhaven middens being no less than 40 metres from the outside edge of the middens;

(d) detail the practical measures for the management and conservation of the middens (including who is responsible for the implementation of those measures) and outline the routine of ongoing protective care including periodic monitoring and maintenance; and

(e) include details of how the maintenance program would be funded over the long-term and support ongoing Aboriginal engagement.

B17. Inductions should be delivered to all contractors regarding the significance of Aboriginal cultural heritage, prior to any on site works. The induction should be provided by local Aboriginal people and cover all significant Aboriginal heritage values and procedures related to Aboriginal objects, known sites, and unexpected finds.

B18. Where disturbance is proposed in the immediate vicinity of known Aboriginal sites and objects, testing should be undertaken where practicable and feasible, such as D-probe or auger hole transects or other such archaeological subsurface testing methodology to determine the nature and extent of the site and objects, so as to minimise any direct and indirect impacts.

B19. All archaeological subsurface testing, or other such archaeological field investigations should be undertaken with engagement of the Aboriginal Community, supported as appropriate by suitably qualified and experienced archaeologists with expertise in Aboriginal cultural heritage.

B20. If impacts are anticipated outside of previously assessed and surveyed areas further Aboriginal heritage research and investigation will be required. This will involve archaeological survey with the Aboriginal Community and preparation of a supplementary Aboriginal heritage impact assessment report which is to be submitted to the Planning Secretary for approval.

B21. If unrecorded or unexpected Aboriginal sites or objects are identified prior to or during the course of development, all works in the immediate vicinity of the works shall cease and Heritage NSW should be notified. Further works should not be carried out in the area unless and until permitted to do so by Heritage NSW, subject to any conditions imposed by Heritage NSW. The Planning Secretary may also require a supplementary Aboriginal heritage impact assessment report to be submitted to the Planning Secretary for approval.

B22. Prior to construction of any approved stage of the Concept Proposal, the Applicant must provide a report to Council documenting consultation with the Aboriginal Community, in relation to the

interpretation of Aboriginal heritage values within the Concept Proposal area or amendments to the concept design to ensure ongoing conservation of Aboriginal heritage.

B23. Subsequent to detailed design of the Concept Proposal, and subject to any further consultation, heritage assessment or investigation, given the potential for Aboriginal Objects in the development area, an Aboriginal Heritage Impact Permit should be obtained, where required, with any subsequent development application for the Concept Proposal.

B24. During works, known areas of Aboriginal heritage significance, including objects, and sites, should be protected from harm with suitable protective fencing or other such measures.

FLOODING

B25. The Applicant must ensure the Concept Proposal complies with Council flood planning levels as nominated in Appendix 16 of the EIS or with any updated flood planning levels nominated by Council.

B26. The Applicant must ensure each stage of the Concept Proposal includes flood-free emergency access and egress for ambulance, SES, fire brigade, police and other emergency services for the 1% AEP event.

BUSHFIRE PROTECTION

B27. The Applicant must ensure the Concept Proposal complies with:

(a) the relevant provisions of *Planning for Bushfire Protection 2019;*

(b) the asset protection zone requirements recommended in the Bushfire Protection Assessment: Proposed Mixed-use Concept Plan – Culburra Road, West Culburra, prepared by EcoLogical Australia and dated 12 October 2020; and

(c) *AS2419.1 – 2005 Fire Hydrant Installations* for firefighting water supply.

B28. Asset protection zones for the Concept Proposal must be located outside of retained foreshore and woodland reserves.

ROADWORKS AND ACCESS

B29. The Applicant must design and construct the roundabouts, access roads and intersections for the Concept Proposal to meet the relevant AUSTROADS Standards, the relevant requirements of Council and any approval issued under section 138 of the Roads Act 1993.

B30. Access roads and intersection works must be carried out at no cost to TfNSW or Council.

B31. The Applicant must obtain approval from TfNSW for a reduction of the speed zone on Culburra Road to support the main access roundabout for the Concept Proposal.

B32. The Applicant must design the main access roundabout on Culburra Road to:

(a) meet the requirements of TfNSW for design speed and sight distance, consistent with the approval provided in accordance with condition B31;

(b) include measures to signal the change from a rural road environment to an urban environment, including but not limited to street lighting, kerb and gutter, off-road paths and landscaping on the eastern approach to the roundabout and through into the existing urban township of Culburra.

B33. The Applicant must maintain the access roads and intersections for the Concept Proposal in accordance with the requirements of Council.

B34. Following completion of construction of the access roads and intersections to the satisfaction of Council, the Applicant must dedicate road reserves to Council.

B35. The Applicant must re-design the laneway within the integrated housing lots to meet the requirements of Council.

SEWERAGE

B36. The Applicant must design and construct the sewerage system generally in accordance with Section 7 of the IWCMS to:

(a) meet the relevant design requirements of Council;

(b) minimise the potential for sewer overflows;

(c) include integrity testing during commissioning;

(d) construct the works to the satisfaction of Council;

(e) require certification of construction by appropriately qualified professionals;

(f) include system monitoring including telemetry;

(g) provision of backup systems including alternate power supply, standby pumps, replacement parts, and minimum 24 hour dry-weather detention storage at sewage pumping stations;

(h) provide no direct overflow point to the estuary (i.e., direct overflows to stormwater ponds with subsequent pumping of overflows back to the sewer.

B37. In the event of a sewer overflow occurring, the Applicant must investigate the cause of the overflow and determine the need for remedial works. The Applicant must submit a report to Shoalhaven Water regarding the overflow and comply with any directions of Shoalhaven Water with respect to the completion of remedial works.

AFFORDABLE HOUSING

B38. The Applicant must prepare an Affordable Housing Strategy for the Concept Proposal to ensure the design of the Concept Proposal can accommodate a balance of affordable housing. The Affordable Housing Strategy must be implemented at the applicable stage or stages. The Affordable Housing Strategy must be prepared in consultation with Council.

RETAIL AND COMMERCIAL PREMISES

B39. Retail space in the Concept Proposal must be restricted to the ground floor of the buildings in the 3 mixed use lots only.

B40. The future buildings on Lots 501 and 502 adjoining Canal Street should comprise shoptop housing with retail and commercial premises at ground floor level.

COMMUNITY RECREATION FACILITIES

B41. The proposed foreshore reserve (located in both the residential and town centre precincts) must be completed in Stage 1 of the residential precinct to provide residents with access to the town centre.

B42. The 1,300m^2 park must be completed in Stage 1 of the residential precinct to provide residents with appropriate public open space and amenity.

B43. The 10,000m^2 park must be completed in Stage 1 of the residential precinct to provide residents with appropriate public open space and amenity and for water quality purposes.

B44. The 16,850m^2 park must be completed in Stage 1of the industrial area precinct to provide this area and the adjacent residential area with appropriate public open space and amenity.

B45. The 25,600m^2 sportsground/park and amenities must be completed in Stage 1 of the town centre precinct to provide residents with appropriate public open space and amenity and for water quality purposes.

B46. Community recreation facilities including a club house, amenities and car parking, on the 25,600m^2 park, must be completed in Stage 1 of the town centre development to provide residents with appropriate public open space and amenity.

B47. The 7,700m^2 park and additional car parking area for the sportsground must be completed in Stage 4 of the town centre development to provide residents with appropriate public open space and amenity.

COMMUNITY ENGAGEMENT STRATEGY

B48. Prior to the commencement of construction of the first stage of the Concept Proposal, a Community Engagement Strategy (CES) must be prepared and submitted to the Council for approval and updated as necessary for each subsequent stage.

B49. The CES is to provide mechanisms to facilitate communication during design, construction and operation between the Applicant, Council and the community including, but not limited to:

(a) the Aboriginal Community ;

(b) adjoining affected landowners;

(c) schools and businesses;

(d) the oyster aquaculture industry in the Crookhaven River Estuary,

(e) commercial and recreational fishing groups; and

(f) local birdwatching groups.

B50. The Applicant must:

(a) not commence construction of the relevant stage of the Concept Proposal until the CES required under Condition B48 has been approved by the Council; and

(b) implement the CES for each stage of the Concept Proposal.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

B51. The Applicant must ensure future DAs are consistent with the ESD controls in **Table 2**.

Table 2: Maximum No. of Lots

ESD Design Outcome	ESD Treatment Requirements
Water Sensitive Urban Design	
No material harm to the existing groundwater system or receiving environments. No material harm to the groundwater regime and no resultant long-term changes to dependent or suspectable ecological systems.	Rainwater tanks attached to individual dwelling houses commercial or industrial buildings with capacity requirements as identified in the accompanying Integrated Water Cycle Management Strategy.
	Irrigation water for parks and reserves supplied by stormwater harvested from urban land runoff.
	No outlet pipes from the stormwater channelling stormwater directly into the Crookhaven River watercourse including Curleys Bay.
Built Form Design	
Minimise energy and resource use in built form.	Residential buildings to have north facing living areas where possible.
	All roof areas to be plumbed to rainwater tanks.
	All sealed (impermeable) surfaces to drain into a dedicated stormwater management system for the re-use of stormwater.
	Public building/assets (unless restricted by operational requirements) should designed and operated to minimise energy used, including for heating and cooling.
	All public building/assets fitted with water efficient devices.

ESD Design Outcome	ESD Treatment Requirements
Landscape Design	
Minimise energy and resources required to maintain landscaped areas.	Low water use and preferably native plant species to be selected, in order to reduce the amount of water used for irrigation.
	In public parks and reserves, minimise ongoing reliance on the potable water supply system.
	Minimise the use of sealed (impermeable) surfaces in public parks and reserves.
	Where possible, use recycled products in landscape infrastructure (i.e. paths, park furniture, etc)
Fossil Fuel Energy reduction	
Design and build infrastructure to reduce reliance on fossil fuel usage.	Where feasible, solar hot water heating systems and solar electrical panels should be a feature of all building design.
	Street and public assets should be fitted with LED lighting and where possible be solar powered.
	Where feasible, the urban stormwater reuse system should be solar powered.
	Road networks should be designed to allow bus servicing of the residential areas.
	Provision of shared pathways along spine roads be designed to connect to the town centre area and encourage active transport opportunities.

SCHEDULE 2 – CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

WATER QUALITY MONITORING

C1. The Applicant must undertake water quality monitoring as nominated in the IWCMS (in particular Section 9.3) and as modified by the Addendum IWCMS (in particular Section 6.3) at the locations nominated on Map 41 of the IWCMS.

C2. Pre-construction monitoring of surface waters, groundwater, shellfish sites and photo monitoring sites shall:

(a) occur at a minimum frequency of once a month for a minimum period of 18 months prior to construction work commencing on site;

(b) include at least two wet weather events, prior to commencement of construction works.

Note: The Applicant is encouraged to complete more frequent monitoring over a longer period to provide a robust baseline data set.

C3. Construction phase monitoring of surface waters, stormwater infrastructure, groundwater, shellfish sites and photo monitoring sites shall occur at a minimum frequency of once a month.

C4. Post-construction monitoring of surface waters, stormwater infrastructure, groundwater, shellfish sites and photo monitoring sites shall:

(a) occur at a minimum frequency of once every three months;

(b) following any sewage overflow event for a period of two years following the completion of each stage;

(c) for stormwater infrastructure, the monitoring shall include at least two wet weather events per year for two years following the completion of each stage.

After the two year period, the frequency of monitoring can be reviewed based on the results of previous monitoring, and the frequency amended with the approval of the Council.

C5. The results of on-going water quality and other monitoring shall be collated and reviewed in an Annual Report prepared by a suitably qualified consultant experienced in fresh and saltwater chemistry including natural, stormwater and groundwater systems (IWCMS Section 9.4). The annual report shall include at a minimum:

(a) data summaries and analysis of all water quality information collected;

(b) comparison of water quality information relative to base line data collected in pre-construction phase and justification of any differences between the pre-construction information and the water quality data collected in the construction and/ or operational phases;

(c) an analysis of photographs collected at each photo point;

(d) details, including a log, of any environmental pollution incidents and the response to those incidents;

(e) details of any significant maintenance or remedial works undertaken in respect of the stormwater management system or sewage management scheme; and

(f) any recommendations for improvements to existing stormwater management infrastructure that are seen as necessary in continuing to achieve the aims and objectives of the IWCMS.

The Annual Report shall be submitted to Council within 2 months of the collection of the data set contained in the Annual Report. The Applicant shall undertake any additional remedial works deemed necessary by Council within 1 month (or other agreed time frame) of the receipt of the direction from Council. The annual Report is not required to be provided after handover of the stormwater infrastructure to the Council or as otherwise approved by the Planning Secretary.

CORRECTIVE ACTION AND TRIGGER LEVELS

C6. In the event of monitoring indicating unacceptable water quality, the corrective actions nominated in Section 6.2 of the IWCMS shall be implemented by the Applicant. An unacceptable water quality trigger event ("trigger event") is deemed to have occurred when trigger values identified in Table 16 of Addendum IWCMS are exceeded as follows:

(a) during construction:

(i) surface waters, groundwater, shellfish sites: trigger value being exceeded any two consecutive samplings;

(ii) stormwater infrastructure and photo monitoring sites: on trigger value being exceeded.

(b) operational phase:

(i) surface waters, groundwater, shellfish sites, stormwater infrastructure: trigger value being exceeded any two consecutive samplings;

(ii) photo monitoring sites: on trigger value being exceeded.

C7. When a trigger event occurs, Council shall be immediately notified. A report detailing the review of the trigger event and the proposed corrective action shall be submitted to Council for approval. The investigation of the trigger event and the completion of remedial works shall be undertaken to the satisfaction of Council within a period of 3 months or other period agreed with Council.

C8. Interim trigger values for undertaking corrective action are as follows:

(a)	Surface waters:	Table 55 from IWCMS
(b)	Stormwater Infrastructure:	Table 56 from IWCMS
(c)	Groundwater:	Table 58 from IWCMS
(d)	Shellfish:	Table 59 from IWCMS
(e)	Additional non-quantitative triggers for stormwater quality:	Table 57 from IWCMS
(f)	Photo Monitoring:	Table 60 from IWCMS.

C9. The Applicant shall submit to Council, updated trigger values for approval as part of the development application for Stage 1. The trigger values for surface waters, groundwater and shell fish sites will also include reference to collected baseline data (for example, a Total Nitrogen concentration in excess of the lower of 0.6 mg/L or the 80th percentile of the baseline concentration).

C10. The updated trigger values shall be further reviewed prior to the commencement of construction to reflect the additional baseline water quality monitoring completed subsequent to the development application being prepared and approval obtained with respect to any change to the update trigger values.

C11. Trigger values must be submitted to the Council for approval prior to the commencement of construction.

C12. The Applicant shall be responsible for undertaking corrective actions during the construction phase, establishment of water quality management structures, and the operational phase prior to handover to Council.

STORMWATER MANAGEMENT PLAN

C13. Prior to the commencement of construction of the first stage of the Concept Proposal, the Applicant must prepare a Stormwater Management Plan (SMP) in accordance with the addendum IWCMS and update the SMP as necessary for each subsequent stage. The SMP must:

(a) be prepared by a suitably qualified and experienced person, whose appointment has been endorsed by the Council;

(b) detail the design of all components of the stormwater management system for the Concept Proposal;

(c) demonstrate that the stage and all preceding stages can satisfy the requirements of Condition B4;

(d) confirm design and efficacy of stormwater treatment measures based on the performance of treatment measures built in prior stages in accordance with Condition B6;

(e) address Condition B7 in relation to the ability to reduce the number of treatment devices and use non-proprietary devices and provide the asset lifecycle costs for all treatment devices to be provided to Council;

(f) be in accordance with applicable Australian Standards;

(g) ensure that the system capacity has been designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016) and *Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book* (Landcom, 2004); ;

(h) detail the monitoring and maintenance regime to ensure the stormwater management system continues to perform for the duration of construction and operation, including details of how the maintenance program would be funded over the long-term.

C14. The Applicant must:

(a) not commence construction of any stage of the Concept Proposal until the Stormwater Management Plan required by Condition C13 has been approved by Council in respect of that stage; and

(b) implement the most recent version of the Stormwater management Plan approved by Council for the duration of the Concept Proposal.

C15. The Environmental Representative must conduct audits of the stormwater management system to verify its effectiveness for achieving the conditions of consent in relation to stormwater. The first audit must be conducted two years after completion of construction of the first stage of the Concept Proposal, then be conducted bi-yearly, with the final audit to be completed two years after the completion of construction of the final stage of the Concept Proposal. The audit reports must be provided to Council within 6 weeks of completing the audit(s) and must include a schedule for implementing the recommendations of the audit(s).

RECEIVING WATER QUALITY

C16. Prior to construction of any stage of the Concept Proposal, the Applicant must prepare a water quality monitoring program for baseline monitoring, construction monitoring and post-construction monitoring of surface waters in the Crookhaven River estuary and in the catchment of Lake Wollumboola and sections of lake fringe at appropriate locations. The program must:

(a) be designed by a suitably qualified and experienced independent expert, whose appointment has been endorsed by the Council;

(b) include baseline monitoring of surface waters for a period of no less than 18 months prior to commencement of construction. Sampling should at minimum every two months, with additional sampling for a minimum of three wet weather events;

(c) include sampling at 8 sites within Curleys Bay/Billys Bay, including 2 sites each within Billys Bay, between Crow Island and the northern boundary of the Concept Proposal site, within the south eastern portion of Curleys Bay and within the northern part of Curleys Bay (near the existing Culburra township). In addition, 2 sites must be sampled within each of 2 control locations, selected outside any potential influence from the Project. Selection of control locations and sites within locations must be subject to approval by the independent expert;

(d) at each site, a minimum of 2 replicate samples must be collected for chemical analysis of metals (As, Cr, Cu, Hg, Pb, Se and Zinc) and organic contaminants (organochlorines and PAHs), bacteria and suspended sediment. Additionally, at each site a calibrated water quality probe must be used to record 2 replicate sets of measures each at the water surface and bottom, for water temperature, salinity/conductivity, pH, dissolved oxygen and turbidity;

(e) the catchment of Lake Wollumboola, namely Wattle Creek and associated fringing lake habitats must be sampled over a baseline period of 18 months. Water quality must be sampled using a calibrated probe at locations where water is present at sites extending from the junction at Culburra Road to the lake and at a comparable number of sites within 2 other creeks within the Lake Wollumboola catchment. At least 2 replicate samples must be collected at each site and time, an include measurements of water temperature, salinity/conductivity, pH, dissolved oxygen and turbidity. In addition, 2 water samples must be collected at each site and time for measurement of metals (As, Cr, Cu, Hg, Pb, Se and Zinc), suspended sediment and hydrocarbons;

(f) during the baseline period a progress report must be prepared when the final methodology for the baseline has been determined and approved by the independent expert, and then at 6-monthly intervals until the end of the baseline period;

(g) upon completion of the baseline period a report must be prepared including methods, rigorous statistical analyses comparing temporal and spatial factors and recommendations for further work. The findings of the baseline must be presented to NSW DPI (Fisheries, NSW DPI, NSW EPA, the oyster industry and as part of the Community Engagement Strategy and made available on website established by the Applicant; and

(h) the design of ongoing monitoring during and post-construction for oyster aquaculture must be determined on the basis of the information acquired for the baseline and be subject to the review and endorsement of the independent expert.

AQUATIC ECOLOGY

C17. Prior to construction of any stage of the Concept Proposal, the Applicant must prepare an aquatic ecology monitoring program for baseline monitoring, construction monitoring and post-construction monitoring of aquatic ecology in the Crookhaven River estuary and in the catchment of Lake Wollumboola and sections of lake fringe at appropriate locations. The program must:

(a) be designed by a suitably qualified and experienced independent expert, whose appointment has been endorsed by the Council;

(b) include baseline monitoring for aquatic ecology for a period of no less than 18 months prior to commencement of construction. Sampling must occur at a minimum frequency of every two months, with additional sampling for a minimum of three wet weather events;

(c) within the Crookhaven River estuary sampling must occur at 6 sites within Curleys Bay/Billys Bay, including 2 sites each: a) within Billys Bay, b) between Crow Island and the northern boundary of the Project site, and c) within the south eastern portion of Curleys Bay. In addition, 2 sites must be sampled within each of 2 control locations, selected outside of any potential influence from the Project. Selection of control locations and sites within location must be subject to approval by the independent expert;

(d) replicated, quantitative sampling of flora and fauna should be undertaken in saltmarsh, mangrove, seagrass habitats, with sampling methods to be determined and subject to approval by the independent expert;

(e) within the catchment of Lake Wollumboola, habitat descriptions and surveys of macroinvertebrates and fish must be undertaken in locations or permanent or semi-permanent water within Wattle Creek and extending to the mouth of the creek at the Lake. Additionally, surveys must be undertaken at a comparable number of sites within 2 other creeks within the Lake Wollumboola catchment. Invertebrates are to be sampled quantitatively, not relying on rapid assessment methods (e.g. the AusRivAS methodology). Fish are to be sampled by replicated electrofishing. Sampling must occur once in each season and following at least 2 wet weather events and after a significant bushfire event, if one occurs during the baseline period;

(f) during the baseline period a progress report must be prepared when the final methodology for the baseline has been determined and approved by the independent expert, and then at 6-monthly intervals until the end of the baseline period.

(g) upon completion of the baseline period a report must be prepared including methods, rigorous statistical analyses comparing temporal and spatial factors and recommendations

for further work. The findings of the baseline will be presented to NSW DPI (Fisheries) and EPA and as part of the Community Engagement Strategy, and made available on a website established by the Applicant.

(h) the design of ongoing monitoring during and post-construction for aquatic ecology must be determined on the basis of the information acquired for the baseline and be subject to the review and endorsement of the independent expert.

OYSTER AQUACULTURE

C18. Prior to construction of any stage of the Concept Proposal, the Applicant must prepare an oyster monitoring program for baseline monitoring, construction monitoring and post-construction monitoring of environmental indicators and oyster condition around selected oyster leases in the Crookhaven River estuary. The program must:

(a) be designed by a suitably qualified and experienced independent expert, whose appointment has been endorsed by the Council;

(b) include baseline monitoring for indicators associated with oyster aquaculture and must be undertaken for a period of no less than 18 months prior to commencement of construction. Sampling must occur at a minimum frequency of every two months, with additional sampling for a minimum of 3 wet weather events;

(c) sampling must occur at high use leases and opportunistic leases as defined by Marine Pollution Research and at 2 leases at the northern end of Curleys Bay. In addition, 2 oyster leases must be sampled within each of 2 control locations, selected outside of any potential influence from the Project. Selection of oyster leases in the northern part of Curleys Bay and the control locations must be approved by the independent expert;

(d) at each lease identified in C18(c), a minimum of two replicate samples of surface water must be collected for chemical analysis of metals (As, Cr, Cu, Hg, Pb, Se and Zinc) and organic contaminants (organochlorines and PAHs), bacteria (and other pathogens as may be recommended by the oyster industry or the Environmental Auditor) and suspended sediment. Additionally, at each site a calibrated water quality probe will be used to record two replicate sets of measures each at the water surface and bottom, for water temperature, salinity/conductivity, pH, dissolved oxygen and turbidity;

(e) subject to consultation with the oyster industry, 6 oysters must be collected from each lease for chemical analysis of oyster tissue, as an indicator of potential bioaccumulation. Contaminants to be tested for include metals (As, Cr, Cu, Hg, Pb, Se and Zinc) and organic contaminants (organochlorines and PAHs) and bacteria (and other pathogens as may be recommended by the oyster industry or the independent expert). If the oyster industry is not forthcoming with approval for using oysters being grown at selected leases, naturally occurring oysters (as may occur on mangrove peg roots, rocky shores, etc.) should be collected and analysed; and

(f) during the baseline period a progress report must be prepared when the final methodology for the baseline has been determined and approved by the Environmental Auditor, and then at 6-monthly intervals until the end of the baseline period. Upon completion of the baseline period a report must be prepared including methods, rigorous statistical analyses comparing temporal and spatial factors and recommendations for further work. The findings of the baseline will be presented to NSW DPI (Fisheries), NSW EPA and as part of the Community Engagement Strategy, and made available on a website established by the Applicant.

BIODIVERSITY

C19. Prior to the commencement of construction of any stage of the Concept Proposal, the Applicant must retire ecosystem credits and species credits to offset the removal of 46.26 ha of native vegetation on the site in accordance with the table provided in this Condition C19. The credits must be retired in accordance with OEH's NSW Biodiversity Offsets Policy for Major Projects 2014, unless the development has been biodiversity certified by the Minister for the Environment, then the credits to be retired must be consistent with those generated under the biocertification process.

					Oct 2020 Revised SSD Impact Area (Ver 8)			
BVT	**Formation**	**Sub - formation**	**Class**	**% cleared in SRCMA**	**Ha impacted**	**Major Projects Offset Policy Credits Required**	**Equivalent BCAM Credits**	**Source of Credits for offset**
SR592 Red Bloodwood - Blackbutt - Spotted Gum shrubby open forest	Wet Sclerophyll Forests	Grassy	Southern Lowland Wet Sclerophyll forests	45	40.73	2,484	1,597	8,542 credits available at Lake Wollumboola Biobank Site
SR650 Swamp Oak swamp forest fringing estuaries	Forested Wetlands		Coastal Floodplain Wetlands	95	0.28	15	9	96 credits available at Lake Wollumboola Biobank Site
SR648 Swamp Mahogany swamp sclerophyll forest			Coastal Swamp Forests	50	1.09	81	53	1,282 credits available at Lake Wollumboola Biobank Site
SR649 Swamp Oak Floodplain swamp forest				95	0.28	15	9	313 credits available at Lake Wollumboola Biobank Site
SR512 Bangalay - Old-man Banksia open forest on coastal sands	Dry Sclerophyll Forests	Shrubby	South Coast Sands Dry Sclerophyll Forests	50	3.88	244	154	176 credits available at Lake Wollumboola Biobank Site & 33 within Culburra Beach BCCAA site
Total					**46.26**	**2,839**	1,822	

C20. The Applicant must provide evidence to the satisfaction of Council to demonstrate the relevant ecosystem and species credits have been retired in accordance with condition C19.

FLOODING

C21. The Applicant must obtain a current Flood Certificate from Council prior to the commencement of construction of each stage of the Concept Proposal and demonstrate that the stage will satisfy the flood planning levels nominated by Council:

(a) all roads will be constructed at or above the Projected 2100 scenario 1% Annual Exceedance Probability (AEP) event flood level.

(b) all new lots are constructed at or above the 1% AEP event flood level.

(c) flood-free pedestrian access is provided during a 1% AEP event.

(d) flood-free emergency access and egress for ambulance, SES, fire brigade, police and other emergency services for the 1% AEP event.

SCHEDULE 3 – CONDITIONS FOR FUTURE DEVELOPMENT APPLICATIONS

DEVELOPMENT CONTRIBUTIONS

C22. Future DAs for each stage of the Concept Proposal must identify whether any Development Contributions Plan made by Council (under the EP&A Act) applies to that stage of the Concept Proposal.

Note: This condition relates to the staged delivery of the Concept Proposal and does not extend to applications for individual buildings that will be constructed within the approved subdivision whether these buildings require a DA or may be covered by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

C23. Prior to the issue of a Subdivision Certificate for any stage of the Concept Proposal, the Applicant must pay contributions to Council in accordance with the relevant Development Contributions Plan identified in accordance with Condition C22.

ABORIGINAL HERITAGE

C24. Future DAs for each stage of the Concept Proposal must be supported by archaeological subsurface testing for the relevant stage, where required. The subsurface testing excavations must be conducted, where required, by a suitably qualified and experienced archaeologist and in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Object in NSW (DECCW, 2010).

C25. Future DAs for each stage of the Concept Proposal must include an Aboriginal Cultural Heritage Management Plan demonstrating how Aboriginal cultural values and heritage on or adjacent to the site would be protected, including Aboriginal landscape values, the Crookhaven middens (immediately adjacent to the waterfront side of the Site), archaeological values along the foreshore and any other areas of archaeological sensitivity or relics identified in accordance with Condition C24 that are directly impacted by the proposal.

GROUNDWATER

C26. Future DAs for each stage of the Concept Proposal must include modelling generally in accordance with Section 5 of the IWCMS or an alternative acceptable to the Council demonstrating that each stage already constructed and the stage of the Concept Proposal that is the subject of the DA will satisfy Condition B2 and Condition B5 with reference to the HGEO 2020 West Culburra Groundwater Assessment.

TRANSPORT AND ROADWORKS

C27. Future DAs for each stage of the Concept Proposal must:

(a) ensure all proposed roads and intersections to service the relevant stage comply with Australian Standards and the requirements of the relevant roads authority;

(b) include measures to promote non-car travel modes including pedestrian and cyclist facilities and appropriately designed bus routes;

(c) provide adequate parking for the facilities approved in accordance with this consent.

BUSHFIRE PROTECTION

C28. Future DAs for each stage of the Concept Proposal must comply with:

(a) the relevant provisions of Planning for Bushfire Protection 2019;

(b) the asset protection zone requirements recommended in the Bushfire Protection Assessment: Proposed Mixed-use Concept Plan – Culburra Road, West Culburra, prepared by EcoLogical Australia and dated 12 October 2020;

(c) AS2419.1 – 2005 Fire Hydrant Installations for firefighting water supply; and

ODOUR

C29. Future DAs for each stage of the Concept Proposal must include an Odour Impact Assessment considering the potential odour impacts of the Culburra Sewage Treatment Plant on each stage of the Concept Proposal.

INFRASTRUCTURE AND SERVICES

C30. Future DAs for each stage of the Concept Proposal must demonstrate that:

(a) there is adequate capacity in the existing Culburra sewerage system to service the relevant stage; and

(b) the additional flows to the system from the relevant stage would not result in an increase in unplanned sewage overflows from existing infrastructure.

C31. Each stage of the Concept Proposal is to apply under Section 305 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 for a separate Certificate of Compliance from Shoalhaven Water, that is, separate Compliance Certificates shall be obtained for each stage of the development.

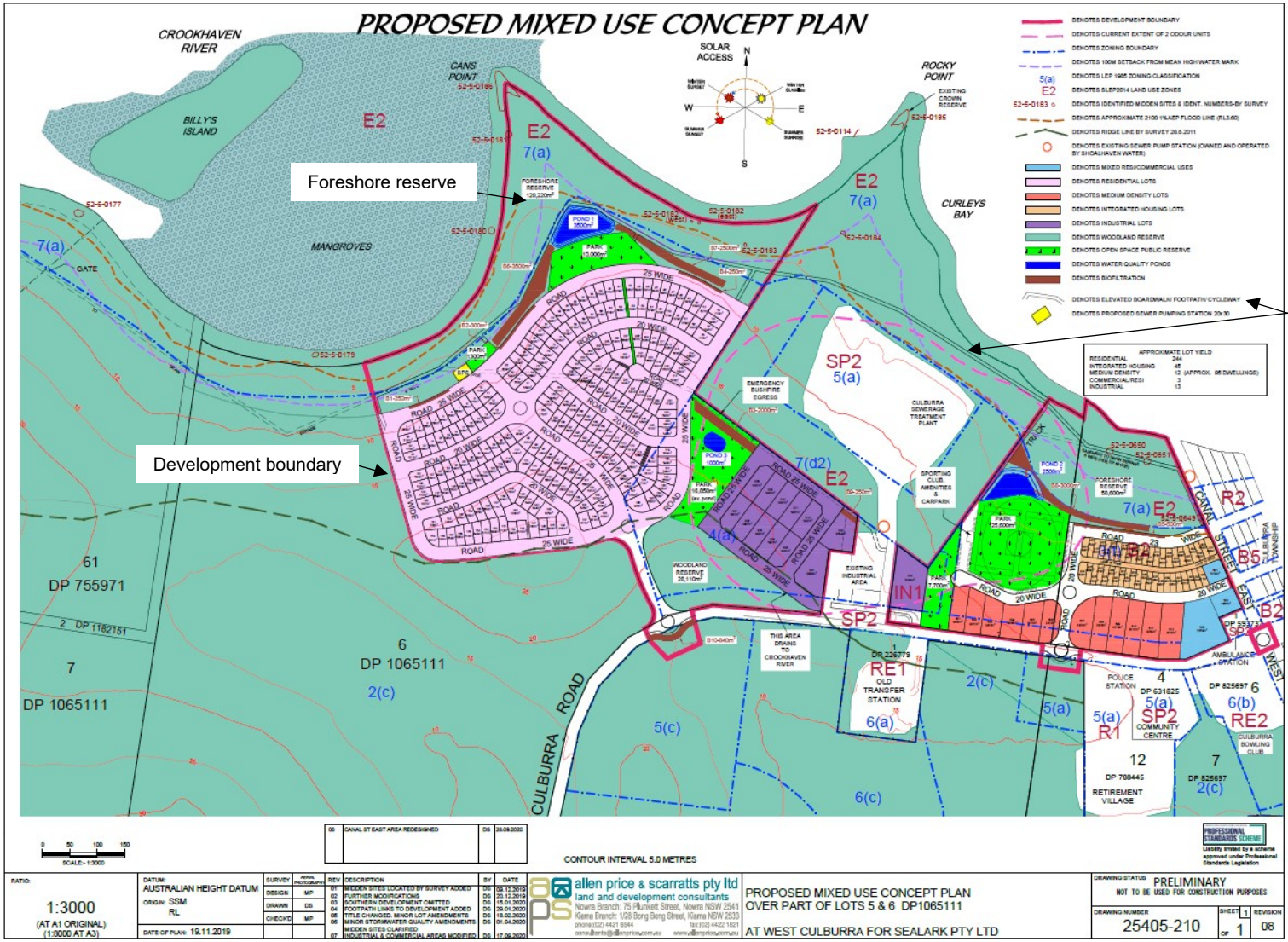
Note: An application for a Certificate of Compliance can be made upon receipt of an operational consent. Relevant conditions/requirements, including monetary contributions (where applicable) under the Water Management Act 2000, can be provided under Section 306 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000. A Development Application Notice (pursuant to Section 306) issued by Shoalhaven Water will outline all conditions/requirements to be adhered to.

C32. A Certificate of Compliance shall be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and prior to the issue of an Occupation Certificate, Subdivision Certificate, as the case may be.

ECONOMIC

C33. Future DAs for mixed use and retail/commercial development stages must include an Economic Impact Assessment to assess the impacts of proposed additional retail floor space on the existing Culburra town centre.

APPENDIX 1 – CONCEPT PLAN



APPENDIX 2 – APPLICANT'S MANAGEMENT AND MITIGATION MEASURES

See attached pdf

STATEMENT OF COMMITMENTS

Item	Commitment AND/OR Mitigation Measure	Timing
General	The developer will carry out the development in accordance with the conditions of the Concept Plan approval.	For the duration of the subdivision process and any maintenance period.
Legislative Controls/Requirements	At a minimum, the developer will obtain and maintain the following licences, permits and approvals for subsequent staged subdivision that forms part of the Concept Plan: • Shoalhaven City Council – Development Consent for the subdivision of land. • Shoalhaven City Council / Certifier – Subdivision Works Certificate approval for engineering works related to each stage of the subdivision. • Shoalhaven City Council - Section 138 Consent for roadworks (Roads Act 1993); • Endeavour Energy - Design Certification; • Endeavour Energy - Notification of Arrangement; • NBN / Telstra / Telecommunications Provider - Compliance Certificate; • Shoalhaven Water – Certificate of Compliance; • Shoalhaven Water – Design and Construction Approval; • Shoalhaven City Council/ Principal Certifying Authority – Subdivision Certificates for each stage; • Department of Land and Property Information - registration of the subdivision.	For the duration of the subdivision process and any maintenance period.
Staged Subdivision	The developer will carry out the preparation and lodgement of Development Applications for the proposed staged development in accordance with the conditions of any Development Consent for the Concept Plan and give consideration to requirements of the Shoalhaven Development Control Plan 2014.	For the duration of subdivision applications and any maintenance period.

Item	Commitment AND/OR Mitigation Measure	Timing
Plan of Subdivision and s88B Instrument	The developer will prepare a Plan of Subdivision and Section 88B Instrument for each stage of the development.	Prior to the release of each Subdivision Certificate.
Natural Environment	The developer will "offset" the impacts of any clearing of native vegetation in accordance with the proposed Biodiversity Offset Strategy as outlined in the Terrestrial and Aquatic Ecology section below .	Prior to clearing works being commenced.
	The developer will minimise the impact to the natural environment by completing all works in accordance with the documents supporting any Development Applications and any Development Consents issued by Consent Authorities.	For the duration of subdivision applications and any maintenance period.
Built form and urban design	The developer will seek approval for subsequent subdivision stages in accordance with the Concept Plan which informs built form and urban design of the site.	For the duration of subdivision applications.
Public Open Space	The developer will design and embellish public reserves in accordance with the Concept Landscape Plan and conditions as part of the Concept Plan approval.	Prior to release of Subdivision Works Certificate for each stage containing a public reserve.
	The developer will seek approval for the detailed landscape design and embellishment for all public reserves as part of future subdivision applications.	As part of future subdivision applications.
	The developer will dedicate all public reserves and sportsground facilities to Shoalhaven City Council.	Prior to release of Subdivision Certificate and dedicated upon registration.
	The developer will provide Shoalhaven City Council with an Operations and Maintenance Manual/Plan for any Water Sensitive Urban Design measures in the subdivision which will be transferred to SCC ownership.	Prior to release of Subdivision Certificate.
Terrestrial & Aquatic Ecology	The developer will provide a vegetated foreshore reserve (in current natural state) that exceeds 100m in width between the edge of the foreshore road reserve and the Mean High Water Mark and the Crookhaven River.	As part of the first stage of the subdivision registration.
	The developer will provide a vegetated woodland reserve (in current natural state) which provides a natural entry feature to the Culburra Beach village.	As part of the first stage of the subdivision registration

Item	Commitment AND/OR Mitigation Measure	Timing
	The developer will prepare a Vegetation Management Plan for the foreshore and woodland reserves to guide future management of this land.	Prior to the release of the Subdivision Works Certificate for that stage of the development.
	The developer will provide a sewer system to current industry standards and in accordance with any Concept Plan requirement and Shoalhaven Water criteria and obligations.	Prior to the release of the Subdivision Works Certificate for the relevant stage of the development.
	As part of new sewer line commissioning, the developer will test for leaks or potential stormwater ingress and to minimise the potential for future wet-weather ingress.	Prior to the release of the Subdivision Works Certificate for the relevant stage of the development.
	The developer will provide a site-specific emergency response plan for any new pumping stations within the Concept Plan area.	Prior to the release of the Subdivision Works Certificate for the relevant stage of the development.
	The developer will provide a sewer system with appropriate alarms and back-to-base telemetry. At a minimum, the following will be provided: a. Live monitoring of water levels and alarms; b. Live monitoring of pump flow metering; and, c. Live water level monitoring at key manholes in the eastern Proposal area.	Prior to the release of the Subdivision Works Certificate for the relevant stage of the development.
	The developer will provide staged retirement of relevant ecosystem credits required by the revised Concept Plan which can be met by credits already registered and owned by the developer (Sealark Pty Ltd) and are available at the Lake Wollumboola Biobank Site.	Prior to clearing works being commenced for each stage.
	The developer will prepare a Construction Environmental Management Plan for subsequent staged subdivision approval by Shoalhaven City Council including education of workers in the approvals and conditions requiring compliance (including soil erosion and sediment controls, flora and fauna and aboriginal archaeological considerations).	Prior to the commencement of construction and for the duration of the development.

Item	Commitment AND/OR Mitigation Measure	Timing
	The developer will prepare a Development Operational Environmental Management Plan for subsequent staged subdivision approval by Shoalhaven City Council to oversee future management and maintenance of the development site.	Prior to the commencement of construction and for the duration of the development.
Bushfire Management	The developer will deliver each stage of the Concept Plan incorporating Asset Protection Zones in accordance with the approved Bushfire Protection Assessment and in accordance with Planning for Bushfire Protection 2019.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will install relevant infrastructure as required, including public roads, fire hydrants and fire trails.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will impose a Section 88B Restriction on residual lots to be developed in future stages which are in accordance with the staging plans shown in the Bushfire Protection Assessment and in accordance with Planning for Bushfire Protection 2019.	Prior to the release of the Subdivision Certificate for each stage.
Water Quality Management and Soil Control	The developer will design, construct and dedicate water quality control measures to the requirements of Shoalhaven City Council which are in accordance with the Concept Plan's Integrated Water Cycle Management Strategy and Concept Plan approval requirements.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will maintain the water quality monitoring and control measures as outlined in the Concept Plan's Integrated Water Cycle Management Strategy and Concept Plan approval requirements.	For a period as defined in the Concept Plan's Integrated Water Cycle Management Strategy.
	The developer will design, implement and maintain a soil and water management plan to control sediment and erosion during construction in accordance with the Blue Book and requirements of Concept Plan's Integrated Water Cycle Management Strategy.	Prior to release of the Subdivision Works Certificate for each stage.

Item	Commitment AND/OR Mitigation Measure	Timing
	The developer will maintain a logbook during the operational phase of all sediment and erosion measures. The logbook will record the date and time of inspection, observations made during the inspection, recommendations for remedial works, and a sign-off for when such works were completed and who completed the works.	For the duration of relevant stages of subdivision works.
Ecologically Sustainable Development	The developer will provide ecologically sustainable development outcomes in accordance with the Ecologically Sustainable Development report that supports the Concept Plan.	As required for relevant components of the development.
Aboriginal Heritage	The developer will implement relevant recommendations of the Aboriginal Cultural Heritage Assessment dated May 2012.	For the duration of subdivision works.
	The developer will liaise with the Jerrinja Local Aboriginal Land Council when earthworks are being undertaken in close proximity to a known Aboriginal Heritage item.	Ongoing through the construction of the subdivision.
Traffic	The developer will provide dedicated pedestrian and cycle routes proposed as part of the Concept Plan.	Prior to the release of the Subdivision Certificate for a relevant stage.
	The developer will provide all new bus stops identified in the Concept Plan with shelter, seating, lighting, and an area for timetable information.	Prior to the release of the Subdivision Certificate for a relevant stage.
Infrastructure	The developer will provide footpaths as approved in the Concept Plan in future subdivision approvals and in accordance with the requirements of Shoalhaven City Council.	Prior to the release of the Subdivision Certificate for each relevant stage.
	The developer will provide street signs for future subdivision approvals in accordance with the requirements of Shoalhaven City Council.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will provide underground power to each residential lot in future subdivision approvals in accordance with the requirements of Endeavour Energy.	Prior to the release of the Subdivision Certificate for each stage.

Item	Commitment AND/OR Mitigation Measure	Timing
	The developer will provide underground telecommunications infrastructure to each lot in the future subdivision approvals in accordance with requirements of Telstra.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will install street lighting in future subdivision approvals in accordance with the requirements of Endeavour Energy.	Prior to the release of the Sub-division Certificate for each stage.
	The developer will install street and interallotment drainage as necessary in accordance with future subdivision plans approved by Shoalhaven City Council.	Prior to the release of the Subdivision Certificate for each stage as applicable.
	The developer will provide reticulated water and sewerage services to each lot in the future subdivision approvals in accordance with the requirements of Shoalhaven Water.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will provide a stormwater re-use system in accordance with the Concept Plan's Integrated Water Cycle Management Strategy and Concept Plan approval requirements.	Prior to the release of the Subdivision Certificate for each stage.
	Within the proposed public reserves, the developer will provide access to a stormwater re-use system and a single connection to the reticulated water supply.	Prior to the release of the Subdivision Certificate for each stage/s containing public reserve.
Geotechnical	The developer will carry out the subsequent subdivision in accordance with the geotechnical report that supports the Concept Plan.	Prior to the release of the Subdivision Certificate for each stage.
Contamination	The developer will carry out the subsequent subdivision in accordance with the Stage 1 Land Contamination Assessment report that supports the Concept Plan.	Prior to the release of the Subdivision Certificate for each stage.
Waste Minimisation and Management	The developer will prepare a Waste Minimisation and Management Plan in accordance with Shoalhaven Development Control Plan 2014 for approval by Shoalhaven City Council in subsequent subdivision applications.	Prior to the release of the Subdivision Works Certificate for each stage.

Item	Commitment AND/OR Mitigation Measure	Timing
Developer Contributions	The developer will pay Section 7.11 developer contributions in accordance with Shoalhaven City Council's Contributions Plan and any other relevant polices on a "per ET" basis for each stage of subdivision.	Prior to the release of the Subdivision Certificate for each stage.
	The developer will pay Section 64 water and sewer developer contributions in accordance with the development servicing plan applicable and other relevant policies at the time of payment.	Prior to the release of the Subdivision Certificate for each stage.