

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT
Environmental Planning and Assessment Act, 1979
DA18/2102**

TO:

Stephen Bartlett
352 Elizabeth Drive
VINCENTIA NSW 2540

being the applicant(s) for **DA18/2102** relating to:

17 Hawke & 22 Currumbene Street, HUSKISSON - Lots 7 & 8 DP 758530

APPROVED USE AND OR DEVELOPMENT:

Demolition of church hall and shed and relocation of church building and reinstatement on site in the location of the demolished shed

DETERMINATION DATE: 4 June 2019

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

Development Committee Meeting Minutes MN19.370 of 4 June 2019.

CONSENT TO OPERATE FROM: 4 June 2019

CONSENT TO LAPSE ON: 4 June 2024

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

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

DETAILS OF CONDITIONS:

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

PART A

CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

1. **General**

This consent relates to **demolition of church hall and shed and relocation of church building and reinstatement on site in the location of the demolished shed** as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

| STAMPED DOCUMENTS/PLANS | REF/SHEET NO. | PREPARED BY | DATED |
|--|----------------|-----------------|------------------------|
| Sketch Plan Showing Building Locations | Ref No. 103666 | SET Consultants | 20/09/2018 |
| Vegetation Plan | Appendix 2 | N/A | As Stamped Approved |

Notes:

- *Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.*

2. The church building must not be occupied or the use must not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. security).

3. **Occupation Certificate**

An **Occupation Certificate** must be issued by the Principal Certifier before any of the approved development can be used or occupied.

PART B

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

4. **Principal Certifier, Construction Certificate and Notice of Commencement**

The following must be undertaken prior to the commencement of any construction works:

- a) a Principal Certifier must be appointed,
- b) a Construction Certificate must be obtained from either Council or an Accredited Certifier,

- c) notice must be given to Council at least two (2) days prior to the commencement of any works, and
- d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for the construction of all engineering works including erosion and sediment control measures and their maintenance.

5. Amended Site Plan

Prior to any works commencing on the site, the person benefitting from the consent must prepare and lodge with Council or the nominated Accredited Certifier for approval an amended site plan to clearly identify:

- a) The location of the unmarked graves (including potential grave sites);
- b) Demarcation of an exclusion zone to be located $\geq 2\text{m}$ from the site of potential and unmarked graves across the site;
- c) Appropriate site fencing to be placed around the demarcated exclusion zone and trees to be protected and retained on the site; and
- d) Notation that no materials, works or machinery are to be placed, stored or carried out within the exclusion zone at any time during demolition and/or construction works.

6. Site Disturbance outside of areas of Ground Penetrating Radar

No approval is granted or implied for any soil disturbance (beyond the movement of vehicles) in any area of the site where ground penetrating radar surveys have not been completed.

7. Church Building - No Demolition of Extra Fabric

No approval is given or implied for removal and/or rebuilding of any portion of the existing church building which is shown to be retained and relocated.

Should any portion of the existing church building which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of this damaged portion are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained.

8. Submission of Photographic Survey

Prior to the commencement of relocation and demolition works, a photographic survey of the church and hall shall be submitted to Council. The photographic survey shall be prepared in accordance with the guidelines "Archival Recording of Heritage Items Using Film or Digital Capture" published by the NSW Office of Environment and Heritage.

One hard copy and one electronic copy of the Photographic Survey shall be submitted in an unbound report format.

Reason: *This condition is imposed to accurately record the details of the building, it's condition and to inform future decision making.*

9. **Shoalhaven Water**

The applicant is required to provide protection of the existing adjacent sewer assets during demolition works. A detailed work methodology is to be provided to Shoalhaven Water for demolition works within and around the zone of influence of the existing sewer main. No construction works are to commence without the written consent from Shoalhaven Water.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

10. ***Decommissioning of Services***

All existing internal sewer drainage pipework is to be flushed, disconnected from the existing sewer junction and the sewer junction is to be temporarily capped off, **prior to the commencement of demolition work.**

Internal water lines on the property are to be disconnected from the existing 20mm water meter currently servicing the lot, **prior to the commencement of demolition work.**

All works to be undertaken by a licensed plumber in accordance with Shoalhaven Water's requirements. Arrangements are to be made for the capped off sewer junction and disconnected water lines to be inspected by Shoalhaven Water's Water and Sewerage Inspector at the developers cost. A minimum 48 hours notice is to be given. Arrangements for the inspections of the disconnected water and sewer can be made by contacting Shoalhaven Water, Planning and Development Unit (4429 3547).

Decommissioning does not extend to any works that involve excavation.

11. ***Sign – Supervisor Contact Details***

A sign must be erected in a prominent position on any site where of demolition work is being carried out:

- a) Showing the name, address and telephone number of the Prinpall Certifier
- b) for the work;
- c) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- d) Stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work is being carried out.

12. ***Public Safety and Protection of Public Property***

The building site/area where works are being undertaken is to be fenced (in accordance with Safework NSW (formerly WorkCover) requirements), prior to the commencement of works, suitable for keeping members of the public and unauthorised people out.

13. ***Asbestos – Notification of Neighbours***

Fourteen (14) days **prior to the commencement of any demolition works involving asbestos**, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council.

14. **Asbestos – Statement**

No later than seven (7) days **prior to the demolition of any building or structure**, a written statement must be submitted to Council indicating whether the building or structure contains asbestos or material containing asbestos and, if so, the following must also be submitted:

- a) A hazardous substances audit report prepared by a competent and appropriately qualified person in compliance with *Australian Standard AS2601 - 2001: The demolition of structures*; and
- b) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with *Australian Standard AS2601 - 2001: The demolition of structures*.

15. **Waste Minimisation and Management**

A Waste Minimisation and Management Plan (WMMP) must be prepared in accordance with Chapter G7, Shoalhaven Development Control Plan 2014. The WMMP must be approved by the Principal Certifier prior to demolition works commencing on the site.

Note: “Waste” has the same meaning as the definition of “Waste” in the *Protection of the Environment Operations Act 1997*.

PART C

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

16. **Construction Certificate Plans**

The Construction Certificate plans are to detail the design of the following:

- a) piers and accessible stairs and ramp locations,
- b) pier layout plan,
- c) elevations of piers and accessible stairs and ramp, and
- d) footing details.

The plans shall demonstrate compliance with the Building Code of Australia.

17. **Church Building Relocation Plan**

Prior to the issue of a Construction Certificate by Council or the nominated Accredited Certifier, the person benefitting from the Consent must prepare and lodge an amended church relocation plan for the site to clearly identify:

- a) The precise location of the relocated church building relative to the property boundary;
- b) Accessible ramp and stairs and pier locations for practical access and support of the relocated church building;
- c) Details of compliance with the Building Code of Australia in relation to fire separation; and

Details of the location of the relocated church building relative to the areas surveyed by ground penetrating radar.

18. **Stormwater Drainage Plan**

Prior to the issue of a Construction Certificate, the person benefitting from the consent must prepare and lodge with Council or the nominated Accredited Certifier suitable Construction Certificate design plans for stormwater drainage disposal associated with the relocated church building.

19. **Structural Adequacy of Existing Structure**

A certificate of structural adequacy prepared and signed by a qualified practising structural engineer with suitable professional indemnity cover must be submitted to Council or the nominated Accredited Certifier in respect of the load carrying capabilities of the existing concrete slab to support the proposed church building prior to the issue of a Construction Certificate.

20. **Structural Adequacy of Church - Prior to Relocation**

Prior to the relocation of the church, a certificate of structural adequacy prepared and signed by a qualified practising structural engineer (with professional indemnity) must be provided to persons undertaking the relocation and Council.

Any recommendations concerning the protection of the building for the relocation, including but not necessarily limited to, the windows, must be implemented prior the relocation.

Documentation ascertaining compliance with this condition must be submitted to Council prior to the building being relocated.

PART D
CONDITIONS RELATING TO THE APPROVED WORK AND SITE
MANAGEMENT

21. **Building Code of Australia**

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Note: *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*

22. **Disabled Access**

Accessible stairs and ramp shall be provided to the relocated church building in conformity with the requirements of Part D3 of the Building Code of Australia and AS1428.1 “design for access and mobility – General requirements for access in buildings”.

23. **Heritage**

Should any historical relics be unexpectedly discovered in any areas of the site, then all disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. Works may only recommence with the written approval of Heritage Division of the Office of Environment and Heritage (OEH).

24. Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects.

Should any Aboriginal relics be discovered the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by OEH and the management outcome for the site included in the information provided to AHIMS. The applicant must consult with the Aboriginal community representatives, the archaeologists and OEH to develop and implement management strategies for all objects/Sites. Works shall only recommence with the written approval of OEH.

25. All relevant persons associated with works at the site (including contractors) must be made aware of their statutory obligations for non-Indigenous heritage under the Heritage Act 1977 and Aboriginal heritage under the *National Parks and Wildlife Act, 1974* as part of the site induction process.

26. ***Waste Minimisation and Management Plan***

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste must be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Note: "Waste" has the same meaning as the definition of "Waste" in the *Protection of the Environment Operations Act 1997*.

27. ***Work Hours and Noise***

The following must be complied with during demolition and construction works:

- a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No work is to take place on Sundays or Public Holidays. These hours must be complied with unless otherwise approved by Council in writing; and
- b) The noise from all activities associated with the demolition works and construction of the approved development must comply with the guidelines as outlined in the NSW Environment Protection Authority's *Environmental Noise Control Manual* (Chapter 171). The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

28. ***Soil and Water Management***

All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.

In particular, a silt fence or equivalent must be provided downhill from any disturbed area. The fence must be regularly inspected and cleaned out and/or repaired as necessary and all collected silt must be disposed of to the satisfaction of the Principal Certifier.

Unnecessary disturbance of the site (e.g. excessive vehicular access) must not occur.

All the above requirements must be to the satisfaction of the Principal Certifier. Reference/Guidance should be made to the 'Blue Book' – Managing Urban Stormwater – Soils and Construction (as amended and updated).

29. ***Asbestos – Clearance Certificate (Friable Asbestos)***

Following the removal of all friable asbestos and **prior to further works being carried out on the site**, a clearance certificate from an independent occupational hygienist in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

30. ***Asbestos – Clearance Certificate (Bonded Asbestos)***

Following the removal of all bonded asbestos and **prior to further works being carried out on the site**, a clearance certificate from an independent competent person current WorkCover Class 2 (Restricted) Asbestos Licence in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

31. ***Asbestos – Tip Receipts***

Documentary evidence in the form of tip receipts from an approved Waste Management Facility must be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts must be provided to Council at the completion of demolition works and prior to any further works on the site.

32. ***Asbestos – Licensed Contractors***

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos Removal Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

33. ***Demolition – Work Cover***

Precautions must be taken in accordance with the requirements of the SafeWork NSW in respect of:

- a) Protection of site workers and the public;
- b) Asbestos handling and disposal where applicable.

34. **Demolition – Adverse Effects to Adjoining Owners**

Suitable measures must be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and/or noise during demolition.

35. **Demolition**

Demolition work must be carried out in accordance with *Australian Standard AS2601-2001: The Demolition of Structures*.

PART E

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED

36. **Removal of Shipping Containers**

Prior to the issue of an Occupation Certificate by the Principal Certifier, the person benefiting from the consent must remove the existing shipping containers from the site which do not benefit from a development consent or relevant exemption under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

37. **Fire Safety**

The owner is to supply Council with a Final Safety Certificate for the fire safety measures specified in the Fire Safety Schedule. The fire safety measures must be implemented or installed in the building prior to its occupation. The building must not be occupied without a final Fire Safety Certificate being issued and an Occupation Certificate being issued.

PART F

CONDITIONS THAT RELATE TO THE ONGOING MANAGEMENT OF THE APPROVED DEVELOPMENT

38. **Fire Safety – Annual Statement**

At least once in every twelve month period an annual Fire Safety Statement is to be submitted to Council and to the Fire Commissioner of the NSW Fire and Rescue, Fire Safety Division in relation to the fire safety measures listed in the Fire Safety Schedule.

39. **Site Maintenance**

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

- a) Maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan;
- b) Maintenance of buildings, fencing, to the standards specified in this consent; and
- c) The removal of all graffiti within a maximum of 14 days of being notified by Council.

40. **Noise**

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in

accordance with the NSW Environment Protection Authority's *Industrial Noise Policy 2000* and the *Protection of the Environment Operations Act 1997* (NSW).

PART G

STATEMENT OF REASONS

Reasons for Approval

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, notably the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).
2. The proposed development is, subject to the recommended conditions, consistent with the objectives of the Shoalhaven Development Control Plan 2014 (SDCP 2014).
3. The proposed development is considered to be suitable for the site.
4. The proposed development, subject to the recommended conditions will not result in unacceptable adverse impacts on the natural and built environments.
5. Any issues raised in submissions have been considered in the assessment of the application and where appropriate, conditions have been included in the determination.

Conditions of Consent Have Been Imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the *Environmental Planning and Assessment Act, 1979*;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

PART H

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.

PART I

GENERAL ADVICE TO APPLICANT

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

Disability Discrimination Act 1992

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

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

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

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

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

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works

taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

Inspections

If Council is the appointed Principal Certifier for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.

SIGNED on behalf of Shoalhaven City Council:

A handwritten signature in black ink, appearing to be 'Elliott Weston', written in a cursive style.

Name

Elliott Weston
Senior Development Planner
Planning, Environment & Development Group