

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

**DETERMINATION OF DEVELOPMENT APPLICATION NO. 473-11-2003**

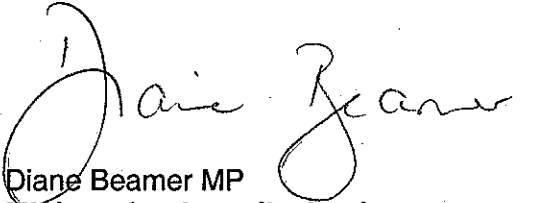
**(FILE NO. S03/03274 PT1)**

**PROPOSED TOURIST DEVELOPMENT – 9 CABINS AND CAFÉ/ GALLERY**

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10(2) of State Environmental Planning Policy 71- Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To adequately describe the development proposed;
- (2) To provide for mature tree plantings and ensure appropriate fencing;
- (3) To ensure the development is used for short term tourist purposes;
- (4) To ensure the proper placement of drainage and other services;
- (5) To maintain the environmental quality of the area during construction works.

  
Diane Beamer MP  
Minister for Juvenile Justice  
Minister for Western Sydney  
Minister Assisting the Minister for Infrastructure and Planning  
(Planning Administration)

Sydney, 16 March 2005

**SCHEDULE 1****PART A—TABLE**

<b>Application made by:</b>	M Brady Palladian Pacific P/L PO BOX 80, BANKSIA NSW 2216
<b>Application made to:</b>	Minister for Infrastructure and Planning
<b>Development Application:</b>	DA No. 473-11-2003
<b>On land comprising:</b>	Lot 201 and DP 1022563 16 Crooked River Road, GERROA, NSW 2534
<b>For the carrying out of:</b>	Development described in Condition A1, Part A, Schedule 2
<b>Estimated Cost of Works</b>	\$2 700 000
<b>Type of development:</b>	State Significant Development
<b>S.119 Public inquiry held:</b>	No
<b>BCA building class:</b>	3, 6 and 10a.
<b>Approval Body / Bodies:</b>	N/a
<b>Determination:</b>	Development consent is granted subject to the conditions in the attached Schedule 2.
<b>Date of commencement of consent:</b>	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
<b>Date consent is liable to lapse</b>	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> <li>▪ a shorter period of time is specified by the Regulations or</li> <li>▪ a condition in Schedule 2, or</li> <li>▪ the development has physically commenced.</li> </ul>

**PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 473-11-2003*****Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

***Appeals***

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or

***Appeals—Third Party***

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

***Legal notices***

Any advice or notice to the consent authority shall be served on the Director-General.

**Section 94 Conditions**

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with Kiama Council Section 94 Plan. The Kiama Council Section 94 Plan may be inspected at the following locations:

- Kiama Municipal Council, 11 Manning Street, Kiama,

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

**PART C—DEFINITIONS**

In this consent,

**Act** means the *Environmental Planning and Assessment Act, 1979* (as amended).

**Applicant** means M Brady of Palladian Pacific P/L; or any party acting upon this consent.

**Approval Body** has the same meaning as within Division 5 of Part 4 of the Act,

**BCA** means the Building Code of Australia.

**Certifying Authority** has the same meaning as Part 4A of the Act.

**Council** means Kiama Municipal Council.

**DA No. 473-11-2003** means the development application and supporting documentation submitted by the applicant on 12<sup>th</sup> November, 2003.

**Department** means the Department of Infrastructure, Planning and Natural Resources or its successors.

**Minister** means the Minister for Infrastructure and Planning.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Regulations** means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

**Subject Site** has the same meaning as the land identified in Part A of this schedule.

**SCHEDULE 2****CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 473-11-2003****PART A—ADMINISTRATIVE CONDITIONS****A1 Development Description**

Development consent is granted only to carrying out the development described in detail below:

- Development of 9 self contained tourist cabins,
- Development of a café and gallery,
- Ancillary tennis court, pool, and gazebo,
- 1 bedroom managers/caretakers residence,
- Construction of accessways, car parking and landscaping, and
- Community Title subdivision of the site.

**A2 Development in Accordance with Plans**

The development shall be generally in accordance with development application no. 473-11-2003 submitted on 12<sup>th</sup> November, 2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects entitled "'Beachlands' 16 Crooked River Road, Gerroa" prepared by Crawford Architects Pty Ltd, dated November, 2003.			
Architectural (or Design) Drawings prepared by Crawford Architects Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
DA-01-A	-	Site Plan	June 2004 (rec. 18 January 2005)
DA-02A	-	Sections	June 2004 (rec. 8 July 2004)
DA-03A	-	Elevations	November 2003 (rec. 8 July 2004)
DA-04A	-	Roof Plan	November 2003 (rec. 8 July 2004)
DA-06	-	External Finishes	January 2004
DA-06A	-	Type 2 Plan	June 2004 (rec. 8 July 2004)
03196-C	B	Preliminary Stormwater Drainage Layout	January 2005
Landscape Drawings prepared by Crawford Architects Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
DA-00-A	-	Landscape Plan	June 2004 (rec. 18 January 2005)
Drawing No.	Revision	Name of Plan	Date
DA-07-A	-	Community Title Plan	June 2004 (rec. 21 January 2005)

**A3    *Prescribed Conditions***

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

**PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE*****Design Details and Changes******B1 Design Modifications***

The number of visitor car parking spaces for the tourist cabins provided in the parking area adjacent to Crooked River Road is to be reduced by 2 car parking spaces and the area of the spaces is to be integrated into the adjoining landscaped area. The 2 car parking spaces should be deleted from the northern corner of the car parking area in order to minimise any potential impacts on the existing mature trees in Council's road reserve.

***B2 Details of Materials, Colours and Finishes***

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved by the Director prior to the issue of a Construction Certificate.

***B3 Fencing***

Details of all boundary fencing are to be submitted to and approved by the Director prior to the issue of a Construction Certificate. Fencing adjoining the golf course should be designed to discourage climbing or passing through the fence and fencing on the southern boundary should be cattle proof. All fencing should be open in character and must not contain solid elements.

***B4 Reflectivity***

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

***B5 Signage***

Detailed drawings of proposed signage shall be submitted to the satisfaction of Council's development section for approval.

***B6 No Access to Beach***

A sign is to be placed on each of the boundaries of the property (apart from the street frontage) advising that there is no access through the golf course to the beach known as "Walkers Beach".

***B7 Tennis Court lighting***

A light spill diagram of proposed lighting for the tennis court shall be submitted to the satisfaction of, and approved by Council's development section

***B8 Outdoor Lighting***

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

**B9 Disabled Access**

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

**B10 Acid Sulphate Soil Management Plan**

An Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be submitted to and approved by the Director prior to the issue of a Construction Certificate.

**B11 Erosion and Sedimentation Control**

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater-Soils & Construction* (NSW Department of Housing, 1998.) Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

**Effluent Disposal****B12 Approvals**

An application shall be made to Council, for approval of an onsite effluent system; evidence of the approval shall be furnished to the Certifying Authority.

**Traffic & Parking****B13 Number of Car Spaces**

The maximum number of car spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Car parking allocation	Number
Tourist Cabin Car parking spaces	9
Number of cabin car spaces to be disabled spaces	1
Café/Gallery car parking spaces	8
Number of café/gallery car spaces to be disabled spaces	1
Caretaker Flat car parking spaces	1
Number of caretaker car spaces to be disabled spaces	0
Tourist Cabin Visitor Spaces	9
Number of visitor car spaces to be disabled spaces	1
<b>Total Car Spaces</b>	<b>27</b>

**B14 Car Park and Service Vehicle Layout**

- (1) The layout of the car park, driveways, circulation roadways/ aisles, shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.

- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 2002 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Gradients and manoeuvring within the service area shall comply with AS2890.2: 2002 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (4) Disabled person's car spaces shall be appropriately located and marked.
- (5) Car spaces along the eastern boundary of the site should be clearly marked, identifying users of each space.
- (6) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

## ***Landscaping***

### ***B15 Arborist Report***

An arborist report is to be prepared to address the potential impact of the car parking area and the effluent disposal area on the root zone of the Norfolk Island Pines and Cypress Pines on the Crooked River Road alignment. The report should address any required amelioration measures and practices to be adopted during the construction process. The applicant shall submit the arborist report to Council for approval prior to the issue of Construction Certificate for those aspects of the development.

### ***B16 Mature Specimens***

All trees identified on the submitted landscape plan to be provided on-site are to be mature specimens (i.e. 400 litres) and are to be provided with suitable tree guards when planted adjacent to accessways and car parking facilities.

## ***Ecologically Sustainable Appliances***

### ***B17 Energy Star Ratings***

All classes of appliances that are available with an energy label or a Minimum Energy Performance Standard to be installed within the premises are to have an energy star rating of 3 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more). The applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

### ***B18 Water Ratings***

All water fixtures installed within the premises are to have a AAA water rating or more. The applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

## ***Health***

### ***B19 Mechanical Ventilation***

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure



environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

### **B20 Design of Food Premises**

The fitout of the food premises shall be carried out in accordance with *The National Code for the Construction and Fitout of Food Premises*. Details of compliance with the relevant provisions of the Code shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

### **Waste Management**

#### **B21 Storage and Handling of Waste**

The design and management of facilities for the storage and handling of waste must comply with the requirements of Council's Development Control No.25 – Planning for Less Waste. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

### **Monetary Contributions and Contributions-in-lieu**

#### **B22 Monetary Contributions**

In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following monetary contributions:

##### **(1) Amount of Contribution**

Contribution Category	Rate of Contribution	Amount
Tourist Cabins	\$1646.40 per cabin	\$14 817.60
Caretaker Dwelling	\$4221.52 per dwelling	\$4221.52
<b>TOTAL</b>		<b>\$19039.12</b>

##### **(2) Timing and Method of Payment**

The contribution shall be paid in the form of cash or bank cheque, made out to Kiama Municipal Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

##### **(3) Indexing**

The contribution for land will be adjusted in accordance with the latest annual valuations.

### **Civil Works**

#### **B23 Stormwater and Drainage Works Design**

Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Kiama Municipal Council shall be submitted to the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

**B24 Road Design**

All roads and accessways shall be designed in consultation with the relevant requirements of Council. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate.

## **PART C—PRIOR TO COMMENCEMENT OF WORKS**

### ***Excavation Works***

#### ***C1 Notice to be Given Prior to Excavation***

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

### ***Structural Works***

#### ***C2 Structural Details***

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

### ***Construction Management***

#### ***C3 Construction Management Plan***

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Council. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) traffic management,
- (4) noise and vibration management,
- (5) waste management,
- (6) erosion and sediment control,
- (7) flora and fauna management, and

#### ***C4 Traffic & Pedestrian Management Plan***

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Council. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,

- (4) pedestrian and traffic management methods, and

#### **C5 Noise and Vibration Management Plan**

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Council. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this consent,
- (4) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (5) Noise and vibration monitoring, reporting and response procedures,
- (6) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (7) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (8) Justification of any proposed activities outside the construction hours specified in the conditions of this consent.
- (9) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (10) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (11) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

#### **C6 Construction Waste Management Plan**

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the PCA a Waste Management Plan prepared by a suitably qualified person in accordance with Council's Development Control Plan or policy in this regard. The Applicant shall submit a copy of the plan to the Council.

#### **C7 Contact Telephone Number**

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

## **PART D—DURING CONSTRUCTION**

### ***Site Maintenance***

#### ***D1 Erosion and Sediment Control***

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

#### ***D2 Disposal of Seepage and Stormwater***

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

### ***Structural Works***

#### ***D3 Setting Out of Structures***

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

### ***Construction Management***

#### ***D4 Approved Plans to be On-site***

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

#### ***D5 Site Notice***

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

#### ***D6 Contact Telephone Number***

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

**D7 Protection of Trees – Street Trees**

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

**D8 Protection of Trees – On-site Trees**

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

**D9 Dust Control Measures**

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (2) Covers are to be adequately secured,
- (3) Roadways must be kept clean,
- (4) Gates are closed between vehicle movements,
- (5) Gates are fitted with shade cloth,
- (6) The site is hosed down when necessary, and
- (7) Wheel washes shall be installed for all vehicles exiting the site.

**Noise and Vibration****D10 Hours of Work**

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and
- (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

**D11    *Impact of Below Ground (Sub-surface) Works – Aboriginal Relics***

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the National Parks and Wildlife Service and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

## **PART E—PRIOR TO SUBDIVISION**

### ***Easements***

#### ***E1 Access***

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to service areas, loading areas and car parking areas, and created pursuant to Section 88B of the *Conveyancing Act 1919*.

#### ***E2 Services***

Documentary easements for services, drainage, support and shelter, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

#### ***E3 Car parking restrictions***

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to Section 88B of the *Conveyancing Act, 1919*,
- (2) sign visible at exits from car parking areas.

All costs associated with the above requirements are to be borne solely by the applicant.

#### ***E4 Common areas and facilities***

No right of exclusive use and enjoyment of the whole or any specified part of the designated common areas or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council.

These requirements are to be made, at no cost to Council, and to the satisfaction of Council and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act, 1919*.



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**PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE****Access****F1 Access to the Site**

The intersection and "double seagull" access arrangement is to be approved by Council and constructed to Council's satisfaction prior to the issue of Occupation Certificate.

**F2 Fire Safety Certificate**

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

**F3 Annual Fire Safety Statement**

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the consent authority initial Fire Safety Certificate is received.

**F4 Mechanical Ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of the Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The development consent and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

**F5 Structural Inspection Certificate**

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

**F6 Road Damage**

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

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

## ***Easements***

### ***F7 Registration of Easements***

Prior to the issue of an Occupation Certificate, the applicant shall provide to the PCA evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

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**PART G—POST OCCUPATION*****Nature of Occupancy*****G1     *Short Term Occupation Only***

The nine tourist cabins are to be used for short term tourist and holiday accommodation purposes only and are not to be used as permanent residential occupation. This requirement is also to be clearly stated in the Neighbourhood Management Statement accompanying the Community Title subdivision.

**G2     *Occupancy Rate***

The occupancy level of the whole development is not to exceed 40 persons at any given point in time. Maximum occupancy levels are to be clearly displayed in each of the tourist cabins, with no more than 4 persons being permitted in each cabin. This requirement is also to be clearly stated in the Neighbourhood Management Statement accompanying the Community Title subdivision.

***Fire Safety*****G3     *Annual Fire Safety Certification***

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

***Traffic and Parking*****G4     *Loading and Unloading***

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

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## **PART H—GENERAL TERMS OF APPROVAL**

### ***Council***

#### ***H1***

The applicant shall make application to Council under Section 138 of the Roads Act 1993 for consent to access Crooked River Road (Main Road No.571) prior to issuing of the Construction Certificate for the civil engineering construction work.

#### ***H2***

Prior to the placing or erecting of any part of the work the applicant will obtain the permission of the Council pursuant to the Local Government Act, 1993 and comply with any conditions imposed by such permission.

#### ***H3***

Prior to placing or erecting any part of the work the applicant shall submit to the Council for approval a traffic management plan for the construction works in and adjacent to Crooked River Road, Gerroa. All traffic management shall then be carried out in accordance with this plan.

#### ***H4***

The applicant shall carry out the work at no cost to Council in conformity with the Plans and Specifications as approved by the Council, to the satisfaction of the Council's Director of Engineering and Works (hereafter referred to as the "Director").

#### ***H5***

The applicant shall maintain and keep the work in a proper state of repair to the satisfaction of the Director and the Council and shall carry out maintenance, renewal and repair work as expeditiously as possible and in conformity with any reasonable requirement of the Director and the Council and with any statute regulation or ordinance or direction by a public authority.

#### ***H6***

The applicant shall give at least 48 hours notice in person or by telephone conversation to the Council's representative before commencement of the work and in addition, shall obtain the written consent of the Director before commencing to make any extension, removal or other adjustment of any kind to the work.

#### ***H7***

The applicant shall take out or extend a Public Risk Insurance Policy to cover the Roads and Traffic Authority of NSW (hereafter referred to as the "Authority") and the Council for public liability in an amount of not less than the amount set by the Council and nominated to the applicant from time to time. Evidence of such policy, its extension to cover the Authority and the Council and its currency is to be produced to the Authority and the Council on request.

#### ***H8***

The applicant at all times for the duration of the consent shall not close the road, interrupt or otherwise disturb the traffic flow on the road without first obtaining the written consent of the Director or the Council.

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**H9**

The applicant shall, if required by the Director or the Council by notice in writing, at the cost of the applicant relocate or remove all or any part of the work or, for the safety and protection of the public, carry out additional work and make good all damage done to the road by reason of such relocation or removal or carrying out of additional work.

**H10**

The applicant shall at all times indemnify and keep indemnified the Authority and the Council from and against all actions suits proceedings losses costs damages charges claims and demands in any way arising out of or by reason of anything done or omitted to be done by the applicant, in respect of the placement, erection, renewal, relocation, repair and maintenance of the work or of the existence or use thereof or by reason of the Authority and the Council having given consent or by reason of any approval, direction or assent to anything done or purported to be done by the applicant under the consent and that in respect of any matter covered by this indemnity the Authority under the consent and that in respect of any matter covered by this indemnity the Authority and the Council shall be at liberty to pay, satisfy, defend, compromise or settle any claim action or other proceedings which may be made, threatened, instituted, commenced or prosecuted against the Authority and the Council and any amount paid by the Authority or the Council in accordance with this clause shall be paid by the applicant.

**H11**

The applicant shall make good any damage caused to property of any person or any property of the Authority and the Council by reason of the carrying out of any work by the applicant under the conditions of the consent.

**H12**

Any notice or request from the Authority and the Council may be served in the manner provided in Sections 254 and 255 of the Roads Act 1993.

**H13**

Should the applicant fail to comply with any of the conditions or any requirement of the Authority or the Council as provided then the consent shall permanently lapse and any part of the work remaining within the road at that time shall be deemed to be an obstruction or encroachment under Section 107 of the Roads Act 1993 and any person thereafter using or capable of using the work shall be deemed to be a person for the purposes of Section 107 (1) (b) of that Act.

**H14**

Without limiting any power of the Authority or the Council under the consent or under any Act, the applicant shall, in the event that the consent shall permanently lapse, and in such manner as the Authority or the Council may direct, remove and take away as speedily as possible the work insofar as the same may encroach upon or in any way affect the road and shall make good all damage done to the road by such removal.

**H15**

Except insofar as the context or subject matter otherwise indicates or requires, a reference in the consent to the applicant shall include a reference to the successors assigns agents and servants of the applicant.

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**H16**

Upon commencement by the applicant of any part of the work it shall be deemed that the applicant has agreed with the Authority and the Council to comply with the conditions of the consent.

**H17**

Nothing in the consent shall be deemed to:

- a) prejudice or affect the rights of the public to free passage upon or along the road,
- b) authorise any nuisance to or permanent obstruction of the road or public places,
- c) confer upon the applicant exclusive right or title to that part of the work within the boundaries of the road, or
- d) in any way restrict or limit the powers of the Authority and the Council in respect of the road.

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## **ADVISORY NOTES**

### **AN1 Compliance Certificate, Water Supply Authority Act, 2000**

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the consent authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the consent authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

### **AN2 Requirements of Public Authorities for Connection to Services**

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

### **AN3 Compliance with Building Code of Australia**

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

### **AN4 Application for Hoardings and Scaffolding**

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with Council's Policy,
- (2) Structural certification prepared and signed by an suitably qualified practising structural engineer.

The applicant shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works.

### **AN5 Use of Mobile Cranes**

The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
  - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and

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- (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
  - (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

#### **AN6 Movement of Trucks Transporting Waste Material**

The applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

#### **AN7 Construction Inspections**

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

#### **AN8 Application under Part 4A of the Act**

An application under Part 4A of the Act shall be submitted to the consent authority or the Council along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

#### **AN9 Compliance with Conditions**

The applicant will be required to submit documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 473-11-2003 and of compliance (or a Compliance Certificate) with the conditions of that consent.

#### **AN10 Compliance with National Code for Construction and fitout of food premises**

An applicant shall obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the *National Code for the Construction and Fitout of Food Premises*. The applicant shall provide evidence of receipt of the certificate to the satisfaction of the PCA prior to the occupation of the building(s) or commencement of the use.