

new south wales Government
Department of Urban Affairs and Planning

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COUNCIL OF THE CITY OF SHELLHARBOUR	
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FOLLOW UP: _____	

Mr Brian Weir
General Manager
The Council of Shellharbour
PO Box 155
Shellharbour Square
BLACKBUTT NSW 2529

Contact:
Our Reference: W92/1016
Your Reference:

Dear Mr Weir

Determination of Development Application No. 95/133 lodged by The Council of Shellharbour for the construction of a boatharbour/marina; enlargement and enhancement of wetlands at Shadforth; and the placement of treated contaminated landfill material in engineered cells adjacent to a realigned quarry haul road

I refer to the above development application lodged by your Council on 10 July 1995.

After considering the report on the application prepared by Commissioners Simpson and Train and a report by the Department, and pursuant to sections 89 and 101(8) of the Environmental Planning and Assessment Act, 1979, the Minister for Urban Affairs and Planning, the Hon Craig Knowles MP, has granted conditional consent to the development application. The consent is subject to conditions to manage the potential environmental impacts of the proposed development.

The Minister has noted Council's resolution of 22 October 1996 with respect to the issue of compensatory wetland measures recommended by the Commissioners. The Minister commends Council for its agreement to undertake the work outlined in its letter of 23 October 1996, which includes a survey and mapping of all wetlands in its local government area, the preparation of a management strategy, bringing 7 hectares of wetlands into public ownership and the allocation of funds for ongoing maintenance and enhancement. These measures will provide a valuable tool for land use planning in the area and offer a level of protection for these natural ecosystems.

In view of the importance of this initiative, the Minister has requested that the Council advise him, on an annual basis, of its progress on implementing these strategies.

I have enclosed a copy of the Instrument of Consent. I would be happy to discuss the conditions of consent, the implementation of the conditions or any aspect of the Minister's decision with you. To arrange a meeting please contact Rhonda Tyne on (042) 268 120.

Yours sincerely

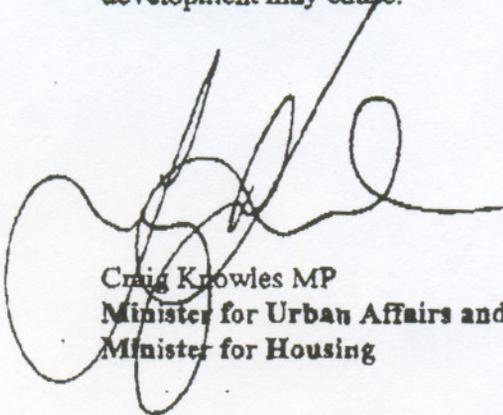
Daniel Ouma-Machio 4/12/96
Daniel Ouma-Machio
Manager (Illawarra/Macarthur)
g:\g\vincent\shilcov1.let

Governor Macquarie Tower
1 Farrer Place, Sydney 2000
Box 3927 GPO, Sydney 2001
Telephone: (02) 391 2000
Facsimile: (02) 391 2111

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO 95/133

In pursuance of sections 89 and 101(8) of the Environmental Planning and Assessment Act, 1979, I the Minister for Urban Affairs and Planning, determine the development application referred to below in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The conditions of consent will mitigate against potential environmental impacts the development may cause.



Craig Knowles MP
Minister for Urban Affairs and Planning
Minister for Housing

Sydney, 26 - 11 - 1996.

File: W92/1016

SCHEDULE 1

- APPLICANT:** Shellharbour City Council
- DEVELOPMENT APPLICATION:** No 95/133 lodged on 10 July 1995 and Environmental Impact Statement prepared by LFA (aust) Pty Ltd dated June 1995.
- LAND:** Lots 201 - 206 D.P. 857030, Lots 207 & 208 D.P. 857031, Lot 1 D.P. 128669, Lot 3 D.P. 571518, Lot 40 D.P. 255657, Lot 201 D.P. 848203, Lot 6 D.P. 252649, and land under Shellharbour Road.
- PROPOSED DEVELOPMENT:** Construction of a 350 berth boatharbour/marina at South Shellharbour Beach, enhancing and enlarging a wetland at Shadforth, and the placement of treated contaminated landfill in engineered cells adjacent to a realigned quarry road.
- NOTE:**
1. This consent becomes effective from the date of notification to the Applicant; and
 2. To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the Act.

SCHEDULE 2**CONDITIONS****Form of Development**

1. The development shall be carried out generally in accordance with the Environmental Impact Statement (EIS) dated June 1995 prepared by LFA (aust) Pty Limited certified by Alf Lester in accordance with section 77(3) of the Environmental Planning and Assessment Act, 1979, the Applicant's submissions to the Commission of Inquiry (including their answers to questions), and as may be modified by the following conditions.

Shadforth Management

2. (a) A Shadforth Management Committee is to be established by the Applicant who will meet the reasonable costs, which shall include administration and publication costs, incurred by the Committee. The Committee shall:
 - (i) oversee and advise on the Shadforth pilot study referred to in (ii) below;
 - (ii) oversee and advise on:
 - (1) the detailed design; and
 - (2) the preparation of a Management Plan;for the Shadforth/Tongarra Creek Wetland system. These are to be prepared by the Applicant, in consultation with other relevant agencies, for approval by the Director General of the Department of Urban Affairs and Planning;
 - (iii) include representatives of the Department of Urban Affairs and Planning (DUAP) (Chair), the Environment Protection Authority (EPA), the Department of Land and Water Conservation (DLWC), NSW Fisheries, Sydney Water, Shellharbour Council, one community representative and one Aboriginal representative; and
 - (iv) disband twelve (12) months after the practical completion of the Shadforth/Tongarra Creek Wetland, unless otherwise directed by the Director General of the DUAP.

In this condition 'practical completion' means finalisation of the civil works and the planting of relevant landscaping as required in the Management Plan for the Shadforth/Tongarra Wetland system.

- (b) The pilot study shall be carried out in accordance with a pilot study program to be prepared by the Applicant and approved by the Director General of the DUAP or her nominee on the advice of the Shadforth Management Committee. The pilot program shall include the following:
 - transplanting of seagrasses and saltmarsh;
 - creation of saltmarsh habitat;
 - comparisons of Shadforth Wetland and Shellharbour swamp to include relationships/associations between communities/habitats;
 - the criteria against which the pilot is to be judged;

- monitoring and reporting requirements;
- contingency measures if the pilot study fails; and
- impact of sewage surcharge.

Prior Construction of Shadforth

3. The Shadforth Wetland shall be constructed to the satisfaction of the Director General of the DUAP in consultation with the Shadforth Management Committee. Twelve (12) months after the practical completion of the wetland, the Applicant may, with the approval of the Director General of DUAP, commence work on the construction of the boatharbour/marina.

Community Liaison Officer

4. The Applicant shall appoint and keep retained at its cost an appropriately qualified community liaison officer to function as the primary contact point for public enquiries and concerns and to be responsible for advising the public of progress and particular events during the construction period. In addition, a 24 hour telephone service shall be established to enable this function when the officer is unavailable. This officer shall be a representative on the Shadforth Management Committee and Shell Cove Compliance Committee.

Shell Cove Compliance Committee

5. (a) A Shell Cove Compliance Committee shall be established by the Director General of the DUAP or her nominee, comprising representatives of the DUAP (Chair), EPA, DLWC, one local community representative, one Aboriginal community representative, the Community Liaison Officer and a Council technical officer.
- (b) The Applicant shall be responsible for the reasonable costs, which shall include administration and publication costs incurred by the Committee.
- (c) The Committee shall report to the Minister for Urban Affairs and Planning on a six monthly basis on compliance with these conditions of consent, and that report shall be publicly available from the Department of Urban Affairs and Planning and Shellharbour Council.

Bank Guarantee

6. (a) The applicant shall lodge a bank guarantee with the Minister for Urban Affairs and Planning, prior to commencing any works, to ensure the establishment of Shadforth Wetland. The purpose of the bank guarantee is to indemnify the Minister for Urban Affairs and Planning against the cost of implementing any works to remedy default in the carrying out of any works or any remedial measures directed by the Minister for Urban Affairs and Planning in order to establish Shadforth Wetland in accordance with this development consent. The bank guarantee shall be in the amount of \$1 million. The bank guarantee shall be released by the Minister for Urban Affairs and Planning, on the advice of the Director General of DUAP, as follows:-

- (i) 50% of the amount upon practical completion of the Shadforth Wetland; and
 - (ii) the remaining 50% of the amount upon the expiration of 12 months after practical completion of the Shadforth Wetland.
- (b) The applicant shall lodge a bank guarantee with the Minister for Urban Affairs and Planning, prior to commencing construction of the boatharbour, to ensure acceptable water quality resulting from the excavation and reburial of acid sulphate soil at the boatharbour. The guarantee is to indemnify the Minister against the cost of implementing any works required to remedy default in the carrying out of the excavation and re-burial of acid sulphate soils or any remedial works directed by the Minister relating to the excavation and reburial of acid sulphate soils at the boatharbour to ensure acceptable water quality. The bank guarantee shall be in the amount of \$1 million. The bank guarantee shall be released by the Minister, on the advice of the Shell Cove Compliance Committee as follows:
- (i) 50% of the amount upon practical completion of the excavation and re-burial of acid sulphate soils at the boatharbour site; and
 - (ii) the remaining 50% of the amount upon the expiration of six (6) months after practical completion of the excavation and reburial of acid sulphate soils at the boatharbour site.

In this condition, "acceptable water quality" means water quality which meets the compliance standards contained in the Acid Sulphate Soil Management Plan referred to in condition 15 (d)(iv)."

Hours of Construction

7. Work shall be confined to the normal working hours, namely 7.00am to 5.00pm Mondays to Fridays and 7.00am to 1.00pm Saturdays. No work shall take place on Sundays or Public Holidays. These hours may be varied with the prior written consent of the Environment Protection Authority.

Release of Water from the Site

8. The applicant shall gain approval from the EPA to release any water from the site during the construction.

Construction in Accordance with Environmental Management Plans and Conditions of Consent

9. The Applicant shall ensure that all contractors working on the site shall be made fully aware of the relevant conditions of consent and approved environmental management plans, and shall carry out relevant works accordingly.

Boatharbour Capping

10. A 10cm thick cover of protective clean sand is to be placed over the bottom of the completed boatharbour.

Corrosion

11. All structures vulnerable to corrosion are to be given special protective coatings against localised acid generation.

Engineered Cells

12. A low swelling capacity clay is to be used in the construction of the engineered cells to be placed along the quarry haul road.

Navigational Aids

13. All structures and channels are to be marked with suitable navigational aids, including lighting and signage, installed and maintained by the Applicant to the satisfaction of NSW Waterways Authority.

Aboriginal Relics

- 14(a) The Applicant shall protect all portions of the Shellharbour Aboriginal midden site identified as being of relatively high archaeological value in Figure 20 of Appendix 6 of the EIS in accordance with the Archaeological and Heritage Protection Plan prepared in accordance with this consent.
- (b) Upon discovery of any previously unidentified Aboriginal relics (including human skeletal material), work shall cease and the NPWS is to be notified immediately and any directions given by the Service in this regard shall be complied with.
- (c) A Consent to Destroy must be granted by the NPWS prior to the disturbance of any portions of the Shellharbour Aboriginal midden.

Environmental Management Plans (EMPs)

15. (a) An Environmental Management Plan shall be prepared for each of the three components: the boatharbour, Shadforth/Tongarra Creek wetland system and the haul road landfill. The EMPs shall be prepared by the Applicant, for approval by the Director General of the Department of Urban Affairs and Planning, in consultation with the Shell Cove Compliance Committee and Shadforth Management Committee.
- (b) An Environmental Management Plan for each of the three components shall be approved before construction of each respective component.
- (c) All works shall be undertaken in accordance with each respective Environmental Management Plan for the boatharbour, the Shadforth/Tongarra Creek wetland system, and the haul road landfill components of the proposed development.

(d) Each of the environmental management plans shall contain the following relevant elements:

- (i) **An Air Quality Management Plan** to be prepared by the applicant in consultation with the EPA. The Plan shall provide details about:
 - dust and air emissions resulting from earthworks operations;
 - potential sources of air pollution;
 - management systems to monitor and control pollution;
 - compliance standards;
 - mitigation measures;
 - remedial action; and
 - monitoring.

- (ii) **A Water Quality Management Plan** to be prepared by the applicant in consultation with the EPA and DLWC. The plan shall provide details relative to:
 - compliance standards;
 - remedial action;
 - mitigation measures;
 - monitoring and testing programs for water quality, groundwater, and indicators such as the colonisation of sediments and structures associated with the development;
 - downstream impacts associated with this development;
 - biological monitoring;
 - the proposed drainage system and stormwater treatment measures;
 - criteria for the use of the flushing pump; and
 - measures to prevent draw-down from adversely impacting on actual/potential acid sulphate soil.

- (iii) **An Erosion and Sediment Control Plan** to be prepared by the Applicant in consultation with the DLWC and any controls shall be installed prior to the commencement of any earthworks.

- (iv) **An Acid Sulphate Soil Management Plan** to be prepared by the Applicant in consultation with the EPA and DLWC. It shall provide details about:
 - procedures during construction;
 - mitigation measures;
 - remedial measures;
 - monitoring and testing program;
 - contingency plans including the amount of neutralising agent to be stored on the site at any given time; and
 - reporting requirements in the event of results not meeting standards.

- (v) A **Noise Management Plan** to be prepared by the applicant in consultation with the EPA and shall provide details about:
- compliance standards;
 - steps to be taken to minimise noise including muffling and acoustically baffling all plant and equipment;
 - mitigation measures; and
 - on-going monitoring and reporting procedures during construction.
- (vi) An **Archaeological and Heritage Protection Plan** to be prepared by the Applicant in consultation with the local Aboriginal community and NPWS and shall include details relative to:
- maintenance;
 - management;
 - monitoring; and
 - remedial measures
- (vii) A **Construction Program** to be prepared by the Applicant in consultation with the Director General of the Department of Urban Affairs and Planning or her nominee and it shall provide details relative to:
- timetabling;
 - flora and fauna protection;
 - marine environment protection;
 - compliance standards;
 - mitigation measures;
 - the design and construction of engineered cells to enable appropriate disposal of leachate and ventilation of gas;
 - specifications for the clay material to be used in the engineered cells and potential sources of supply;
 - steps to be taken to prevent accidental kills of endangered fauna (notably Green and Golden Bell Frogs);
 - monitoring;
 - remedial action;
 - restoration and landscaping;
 - emergency procedures;
 - traffic management and route selection; and
 - site familiarisation program
- (viii) A **Monitoring Program** to be prepared by the Applicant in consultation with the Director General of the Department of Urban Affairs and Planning or her nominee. The Program shall include a compilation of the monitoring programs identified in the abovementioned plans, set out in a report format and specifying:
- compliance standards;
 - timetabling;
 - method of testing and monitoring;

- contingency plans; and
- quality assessment program.

A monitoring report shall be presented to the Shell Cove Compliance Committee every six months and shall be publicly available.

- (ix) A **Landscaping Plan** to be prepared by the Applicant in consultation with the Director General of the Department of Urban Affairs and Planning and the Director General of the NPWS or their nominees regarding the landscaping plan for the quarry haul road mounding. The landscaping plan shall provide details about:
- landscaping details for the haul road and its relationship to the protected flora; and
 - consultation with NPWS regarding the plant species of high conservation value near the quarry haul road.
- (x) A **Conceptual Marina Plan of Management** to be prepared by the Applicant. It shall include principles for the operation of the marina in an environmentally responsible way.
- (xi) A **Beach Nourishment/Rehabilitation Plan** to be prepared by the Applicant in consultation with the Director General of the Department of Land and Water Conservation or his nominee. It shall provide details about:
- the sand fillet to be created along the breakwater;
 - the proposed works to the dune system;
 - beach access;
 - landscaping;
 - mitigation measures;
 - monitoring;
 - triggers for beach nourishment to proceed;
 - beach cleaning; and
 - beach and surf patrolling.
- (xii) An **Auditing Program** to be prepared by the applicant in consultation with the Shell Cove Compliance Committee and the Shadforth Management Committee. It shall provide details about:
- a program for the auditing of the construction and operation of the development;
 - the use of an independent auditor; and
 - report on whether works are being undertaken in accordance with all requirements.
- (c) The plans identified in this condition may be updated or amended prior to or during the course of construction subject to the approval of the Director General of the Department of Urban Affairs and Planning.

External bund walls

- 16(a) Prior to construction of the boatharbour, a bund shall be erected around the boatharbour construction site to control runoff and noise. The bund must not contain acid sulphate soil and dust from the bund must be controlled.
- (b) The bund shall be planted with grass or equivalent soil stabiliser agents to prevent erosion during storm events.
- (c) All material used in the construction of external bund walls must maintain a pH of greater than 5.5.

Operation of marina

17. Boats shall not be moored at the harbour until essential services (i.e. power, water, sewerage facilities) are established.

Re-burial of Acid Sulphate Soils

18. All excavated actual and potential acid sulphate soils are to be re-buried beneath RL-1.0 metres AHD.