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Australand Corporation (NSW) Pty Ltd
PO Box A148
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Attention: Mr G Colquhoun

NOTICE TO APPLICANT OF DETERMINATION OF AN APPLICATION TO AMEND A DEVELOPMENT CONSENT
Environmental Planning and Assessment Act 1979

Under Section 96 of the Act, notice is hereby given of the determination by the consent authority of the Development Application No. 947/2002 (Pt 2).

The Application for Amendment has been determined by the GRANTING OF CONSENT UNDER DELEGATED AUTHORITY SUBJECT TO THE CONDITIONS DESCRIBED BELOW.

CURRENT CONSENT

This Consent amends Development Consent No. 947/2002 relating to the land described and the following proposed development:

PLACEMENT OF CLEAN FILL ON SITE TO CREATE A LANDSCAPE MOUND
LOT 22, DP 1010797 & LOT 206, DP 857030
BOOLLWARROO PARADE, SHELLHARBOUR

BUILDING CODE OF AUSTRALIA
BUILDING CLASSIFICATION: Not Applicable

AMENDED CONSENT RELATES TO:

Amendments approved under DA No. 947/2002 (Pt 2) are:

- Staging of the work to allow construction of the landscape mound in two stages.
- Amend Condition Nos. 1, 2, 3, 4, 9, 10, 15, 16, 17, 22, 23 & 24.
- New Condition No. 3A.

The conditions of consent are set out as follows:

ADMINISTRATION
CENTRE:
Warerton House
Warerton Crescent
Shellharbour City
Centre

COUNCIL MEETING
CHAMBER:
Warerton Shellharbour
Lake Entrance
Roads, Warilla

DEFERRED COMMENCEMENT CONDITION

1. Amended Condition - DA 947/2002 (Pt 2)

The deferred matter is now satisfied and the consent is operational.

OPERATIONAL CONSENT CONDITIONS

CONSTRUCTION CERTIFICATE & PCA NOTIFICATION

2. Amended Condition - DA 947/2002 (Pt 2)

Before any site works, building, demolition or use is commenced, the person having the benefit of the development consent must:

- a. Obtain a construction certificate from Shellharbour City Council or an Accredited Certifier (S81A) for each stage; and
- b. Appoint a Principal Certifying Authority (S81A).

LEGISLATION

3. Amended Condition – DA No. 947/2002 (Pt 2)

The landscape mound must be constructed in strict conformity with the following documentation, plans, specifications and conditions approved by Council except as modified by conditions of this consent.

Name of Plan (Approved under)	Prepared By	Drawing No./Revision	Drawing Date
Site Plan DA 947/2002	Development Consulting Pty Ltd	01104-601 Rev B	26/3/2004
Staging Plan DA 947/2002 (Pt 2)	Worley Parsons	Figure 1	20/7/2009
Layout Plan DA 947/2002	Development Consulting Pty Ltd	01104-602 Rev B	26/3/2004
Mounding Sections DA 947/2002	Development Consulting Pty Ltd	01104-603	26/3/2004
Waste Management Plan DA 947/2002	Australand Holdings Pty Ltd	-	17/12/2002

STAGED DEVELOPMENT

- 3a. New Condition - DA 947/2002 (Pt 2)

The approved landscape mound may be constructed in two stages as shown on the Staging Plan, Figure 1, dated 20 July 2009 and prepared by Worley Parsons. The drainage plans required by Condition Nos. 10 and 15, the Soil & Water Management Plan required by Condition No. 17 and the detailed landscape plan required by Condition No. 22 may also be lodged in two stages to correspond with the construction mode authorised by this condition.

Note: It is intended by this condition that the certifying authority may issue a construction certificate for Stage 1 of the approved landscape mound and a subsequent construction certificate for Stage 2.

BUILDING COMPLETION

4. Amended Condition - DA 947/2002 (Pt 2)

All conditions of consent must be complied with as relevant to each stage. The Principal Certifying Authority must issue a certificate verifying all conditions have been satisfied.

5. The applicant shall not dispose of any contaminated landfill associated with the Shell Cove development within the landscape mound.

EASEMENTS

6. No part of any work shall encroach onto any easement.

HOURS OF WORK DURING CONSTRUCTION

7. Any work must be carried out between 7.00am and 5.00pm, Monday to Friday and 7.00am and 1.00pm Saturdays. No work Sundays or Public Holidays. These hours can only be varied with the prior written consent of Council in consultation with the Environment Protection Authority.

General

8. The landscape mound must be designed in accordance with the 'Report on Geotechnical Investigation' by Douglas Partners (Dated August 2002, Project 25699A-3).

9. Amended Condition - DA 947/2002 (Pt 2)

The shape and height of the mound must be in accordance with the approved plans listed in Condition No. 3. Neither Pioneer Construction Materials Pty Ltd nor any other body is permitted to add excavated material to the mound.

10. Amended Condition - DA 947/2002 (Pt 2)

Drainage plans for the site prepared by a suitably qualified Engineer and in accordance with Council's Standards, must be submitted to the Principal Certifying Authority for approval with the Construction Certificate application for each stage. All drainage work must then be constructed in accordance with Council's construction standards and approved drawings at no cost to Council.

11. Engineering plan checking fees must be paid by the applicant prior to the release of the engineering plans. The fees payable must be that applicable at the time of engineering plan release.

12. Construction inspection fees must be paid by the applicant prior to the commencement of work on site. The fees payable must be that applicable at the time of commencement of work on site.

13. A site meeting with the Principal Certifying Authority, Department of Infrastructure, Planning & Natural Resources (DIPNR), the applicant and the contractor must be held not less than seven days prior to the commencement of work on site.
14. A set of approved engineering plans must be kept on site at all times during the construction phase.

Drainage

15. Amended Condition - DA 947/2002 (Pt 2)

A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate for each stage. The plan must be to the satisfaction of the Principal Certifying Authority and indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels, estimated flow rates, invert levels and sizes of all pipelines.

Note: Galvanized steel pipe, sewer grade UPVC pipe or 'Corflow' spirally reinforced PVC pipe must be used from the property boundary to the kerb and gutter.

16. Amended Condition - DA 947/2002 (Pt 2)

A satisfactory Work as Executed Plan and documentation for each stage must be submitted to Council by a Registered Surveyor, upon completion of all works and prior to release of any bonds. As a minimum the Work as Executed Plan must show:

- a. The extent, depth and final levels of filling together with certification by a geotechnical engineer that the filling has been performed in accordance with the plans and specifications.
- b. All deviations from the approved Civil Engineering Plans.

Sediment Control and Water Quality Control

17. Amended Condition - DA 947/2002 (Pt 2)

The developer must submit a 'Soil and Water Management Plan' for the site for each stage which has been endorsed by the Catchment Manager, Wollongong, Department of Infrastructure, Planning and Natural Resources (DIPNR) and the Environment Protection Authority. The plans must generally be prepared in accordance with the Department of Housing's publication 'Managing Urban Stormwater - Soils and Construction (1998)' and the former Department of CALM's publication 'Urban Erosion and Sediment Control'. A copy of the Soil and Water Management Plan, endorsed by the Catchment Manager, Wollongong, DIPNR, must be lodged prior to the release of the Construction Certificate. The Soil and Water Management Plan must include:

- a. a programme for the progressive stabilisation of the site
 - b. a programme for the treatment/flocculation of temporary sediment ponds including time frames and proposed chemical dosage
 - c. specific measures to control dust generated as a result of construction activities on site.
18. Temporary sediment ponds must be fenced where the batter slope exceeds a slope of 1 vertical to 5 horizontal.

19. The developer must lodge a bond in the amount of \$25,000 to ensure compliance with erosion and sediment control measures incorporated in the approved Soil and Water Management Plan. This bond must be in the form of an irrevocable bank guarantee made out in favour of Council, and must operate as follows:
- a. The bond must be submitted to Council prior to the release of the construction certificate for the development
 - b. The bond must be held by Council until the completion of all engineering works.
 - c. Should Council advise the developer that maintenance work is required on the erosion and sediment control measures, remedial work must be substantially commenced within 48 hours from the time of advice. Failure to comply with this direction will give Council the right to employ an appropriate contractor, to undertake such measures as deemed necessary and fund these works from the bond guarantee.

Geotechnical

20. All site filling must be performed under Level 1 Geotechnical supervision in accordance with AS 3798-1996 or subsequent amendments, unless otherwise agreed in writing by Council.
21. A Geotechnical Engineer's report must be submitted to the Principal Certifying Authority upon completion of each bench. The report must be prepared by a Chartered Professional Engineer with professionally recognised geotechnical experience and must include the certification of compaction densities and the stability of all filling.

Landscaping

22. Amended Condition - DA 947/2002 (Pt 2)

The applicant must submit a detailed landscape plan and specifications to Council for approval for each stage. Landscaping is to be completed to Council's satisfaction prior to the release of any bonds. The landscaping plans and the civil design plans must be designed and assessed concurrently and neither approved in isolation.

23. Amended Condition - DA 947/2002 (Pt 2)

Prior to release of the construction certificate for Stage 1, the developer must lodge a bank guarantee of \$12,000 with Council. The deposit must be held by Council to ensure the completion of the landscaping work and also to cover any defects, which may arise during a maintenance period. This maintenance period will cover a six month period commencing from the date upon which notification is issued by the Principal Certifying Authority that the landscaping works have been completed. It is the responsibility of the developer to notify the Principal Certifying Authority for a reinspection at the conclusion of the maintenance period.

24. Amended Condition - DA 947/2002 (Pt 2)

Prior to the release of the construction certificate for Stage 1, the developer must lodge with Council, an administration and inspection fee totalling \$220, which includes GST, for the purpose of the landscape inspection following completion of the maintenance period referred to in Condition No. 23.

25. The landscaping of the mound shall be maintained on a regular basis to eradicate the spread of *Bitou bush* and *Blackberry*.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes – General

AN1 Critical Stage Mandatory Inspections

In accordance with Clause 162A of the *Environmental Planning & Assessment Regulation 2000*, mandatory inspections are required to be carried out by the Principal Certifying Authority.

AN2 Erection of Signs

The principal contractor and the Principal Certifying Authority will need to have a sign (or signs) erected and maintained on the development site that provides their name and contact telephone number (during and outside work hours for the principal contractor), and stating that unauthorised entry to the site is prohibited. The principal contractor and Principal Certifying Authority can have separate signs or they can both use one sign if they choose.

A maximum penalty of 10 penalty units (\$1,100) applies for failure to erect and maintain sign(s) detailing principal contractor and Principal Certifying Authority identification.

AN3 WorkCover Authority

The requirements of WorkCover Authority must be satisfied at all times.

AN4 Obstacle Height Limitation – Airport

There are height limitations relating to the operation of the airport for developments/activities/construction that may involve cranes, plant or machinery in the Shellharbour Local Government Area. Further details can be obtained from Council concerning the obstacle height limitations.

AN5 Failure to Comply with Consent

Failure to comply with any of the conditions of consent may result in a Penalty Infringement Notice of \$600 being issued against the owner/applicant/builder. Substantially greater penalties may be imposed by the Court for non compliance

AN6 Lapsing of Development Consent

In accordance with Section 95 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses five years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

AN7 Right to Appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within 12 months after the date on which you receive this notice.

Development Application No. 947/2002 (Pt 2)
Lot 22, DP 1010797 & Lot 206, DP 857030, Boollwarroo Parade, Shellharbour

Section 97 of the *Environmental Planning & Assessment Act 1979* does not apply to the determination of a development application for state significant development or local designated development that has been the subject of a Commission of Inquiry.

AN8 Review of Determination

If you are dissatisfied with this decision, Section 82A of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under Section 97 expires.

Section 82A of the *Environmental Planning & Assessment Act 1979* does not apply to:

- a. a determination to issue or refuse to issue a complying development certificate
- b. a determination in respect of designated development
- c. a determination in respect of integrated development
- d. a determination made by the Council under Section 116E in respect of an application made by the Crown.

AN9 To Vary Development Consent

The plans and/or conditions of this consent are binding and may only be varied upon **application** to Council under Section 96 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation **unless and until** the **written** authorisation of Council is received by way of an amended consent.

AN10 Prescribed Payment System Tax Obligations

You may have a taxation obligation under the Prescribed Payment System. For more information, contact the Australian Taxation Office on telephone 132866.

Endorsement of date of consent 14 May 2004



Cathy Bern
Senior Development Assessment Officer

on behalf of Brian A Weir, General Manager