

Australand Corporation (NSW) Pty Ltd
48 Apollo Drive
SHELL COVE 2529

p. 02 4221 6111
f. 02 4221 6016
e. records@shellharbour.nsw.gov.au
www.shellharbour.nsw.gov.au

DX 26402 Shellharbour City Centre

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
Issued under the Environmental Planning and Assessment Act 1979 Section 81(1)(a)

DEFERRED COMMENCEMENT

Being the applicant of Development Application No. 198/2017 for consent to the following development:

WETLAND 7 & ASSOCIATED OPEN SPACE
LOT 30 DP 229374, PART LOT 4003 DP 1235539, PART ROAD RESERVE OLD BASS
POINT ROAD & PART ROAD RESERVE SOPHIA STREET
SOPHIA STREET SHELLHARBOUR

16 NOV 2017

Determination date of consent.....



Grant Meredith
Group Manager City Development

On behalf of Carey McIntyre, General Manager

CC: NSW Department of Primary Industries - Water
water.enquiries@dpi.nsw.gov.au
Your Ref: 10 ERM2017/0536

THIS IS NOT AN OPERATIONAL CONSENT

DEFERRED COMMENCEMENT

Under section 80(3) of the Act, this development application has been determined by granting of Deferred Commencement. This Consent does not operate until the applicant/proponent has, to the satisfaction of the Council of the City of Shellharbour, resolved the following matter:

A. Road Closures

Evidence of the gazettal of the road closure of part Old Bass Point Road and part Sophia Street Shellharbour within the NSW Government Gazette must be submitted to Shellharbour City Council.

This evidence must be submitted within 18 months of the date of this non-operational consent otherwise this consent will lapse on that date unless varied by formal application under section 96 of the *Environmental Planning & Assessment Act 1979* and approved prior to the lapse date. Any proposed modification application should be lodged with Shellharbour Council at least 4 months prior to the lapse date to minimise the risk of the consent lapsing.

Any changes to the approved documentation and/or consent conditions as a result of the road closures will require an application to modify the development consent under section 96 of the *Environmental Planning & Assessment Act 1979* and subsequent approval.

This development consent has been divided into different parts according to where, during the development process, each condition may be most relevant. Some conditions may be appropriate to more than one part. All conditions must be complied with.

PART A - ADMINISTRATIVE CONDITIONS

1 Construction Certificate & PCA Notification *Environmental Planning & Assessment Act 1979 Section 81A*

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

- a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier, and
- b. appoint a Principal Certifying Authority.

2 Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2000*.

3 Development in Accordance with Plans and Documents

The development must be in accordance with the approved Development Application plans as endorsed by Council's stamp except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Site Plan	Group GSA Pty Ltd	13294-W7-0000-Issue A	28.02.2017

THIS IS NOT AN OPERATIONAL CONSENT

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Wetland Plans	WorleyParsons	301015-03163-C1-DSK-5501 Issue F 301015-03163-C1-DSK-5502 Issue E 301015-03163-C1-DSK-5503 Issue E 301015-03163-C1-DSK-5504 Issue A	10.01.2017 10.01.2017 10.01.2017 03.02.2017
Shell Cove Precinct E, Wetland 6 & Wetland 7 Water Cycle Management Plan	Advisian WorleyParsons Group	Ref: 301015-03163	03.03.2017
Concept 12.5mHRV Turning Path ⁴	WorleyParsons	301015-03163-C1-DSK-7325 Issue A	18.10.2017
Subdivision Plan	-	Ref: D216137	Undated As submitted with DA
Waste Management Plan (2 pages) ⁴	-	-	27.04.2017
Acid Sulfate Soils Management Plan – Precinct E, Northern Lands, WL6 & WL7 Shell Cove NSW	coffey	AA Rev 3	13.02.2017
Concept Landscape Plan	Group GSA Pty Ltd	13294-W7-1100-Issue E	19.04.2017
Shell Cove Precinct E, Wetland 6 & Wetland 7 Flood Assessment	Advisian WorleyParsons Group	Ref: 301015-03163	03.03.2017

4 Compliance with Notations on Drawings

Works must comply with any annotations on the approved plans.

5 NSW Department of Primary Industry - Water

The development must comply with the advice of the DPI - Water, as contained in their letter dated 24 September 2017, consisting of four (4) pages, and which forms part of this Notice of Determination.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6 Initial Geotechnical Report

A geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer, must be submitted to the Certifying Authority for approval prior to the issue of the Subdivision Construction Certificate.

The report must cover, but not be limited to, the following:

- a. extent and stability of proposed embankments including those acting as retarding basins,
- b. recommended Geotechnical testing requirements,
- c. level of geotechnical supervision for each part of the works as defined under AS 3798 - *Guidelines on Earthworks for Commercial and Residential Developments*,

THIS IS NOT AN OPERATIONAL CONSENT

- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent structures/buildings, high risk areas must be identified on a plan and the approved engineering plans must be amended to indicate that vibratory rollers must not be used within that zone,
- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation,
- f. the recommended treatment of any unstable areas within privately owned allotments,
- g. requirement for subsurface drainage lines, and
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

7 Soil and Water Management Plan (SWMP)

Prior to the issue of the Subdivision Construction Certificate, a SWMP must be submitted to and approved by the Certifying Authority.

The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and specify the type and location of erosion and sediment control measures. In addition, rehabilitation techniques that are necessary to deal with such activities shall be referred to where applicable.

The SWMP must take into account the requirements of Landcom's publication *Managing Urban Stormwater - Soils and Construction (2004)* thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,
- e. control surface water flows through the development construction site in a manner that:
 - i. diverts clean run-off around disturbed areas,
 - ii. minimises slope gradient and flow distance within disturbed areas,
 - iii. ensures surface run-off occurs at non-erodible velocities, and
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (includes landscaping),
- g. specifies measures to control dust generated as a result of construction activities on site,
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal,
- i. design scour protection for the 20 year ARI event at all inlet and outlet structures, and
- j. include measures to prevent the tracking of sediment off the site.

8 Road & Drainage Plans

Road and drainage plans must be prepared by a suitably qualified engineer in accordance with Council's *Subdivision Design Code*. The plans must be submitted to the Certifying Authority for approval prior to the release of the Subdivision Construction Certificate. All road and drainage work must then be constructed in accordance with Council's construction standards and approval at no cost to Council.

All stormwater pipes within the road reserves and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 standard in accordance with the current edition of AS 3725 - *Design for Installation of Buried Concrete Pipe*.

9 Old Bass Point Road Works

A 12.5m waste vehicle must be able to manoeuvre with no more than a three point turn within the dead end of Old Bass Point Road, to the satisfaction of Council's Waste Services section. In this regard, the road carriageway may have to be widened to accommodate this manoeuvre. "No Stopping" signage must be installed along the kerb length of the manoeuvring area. The requirements of this condition must be provided with the application for a Subdivision Construction Certificate for approval by the Certifying Authority.

10 Draft Wetland Operation and Maintenance Manual

Draft Wetland Management, Operation, Maintenance and Monitoring Manual/s ('Manuals') for the permanent water quality facility must be provided to the Certifying Authority prior to the issue of a Subdivision Construction Certificate. The Manuals must be prepared by a suitably qualified consultant in accordance with Council's Subdivision Code and water quality objectives.

11 Flow Velocity in Vegetated Stormwater treatment areas.

All Vegetated Stormwater Systems including constructed wetlands and bio-retention systems must be designed and located such that velocity of flows travelling through the system are less than 0.5 m/sec in all design events up to and including the 10% Annual Exceedance Probability (AEP) and less than 2 m/sec for all remaining events up to and including the 1% AEP. Details supporting this must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Subdivision Construction Certificate.

12 Water Sensitive Urban Design (WSUD) Checklists

Compliance checklists are to be prepared by the Constructed Wetland Designers and submitted to Council prior to issue of a Subdivision Construction Certificate. The WSUD checklists must incorporate all checks and certifications that are required to be carried out during the civil construction phase, asset protection phase, landscape practical completion phase and final compliance inspection prior to final handover.

13 Landscape Plan Required

Two copies of a landscape plan prepared by a landscape architect must be submitted for approval to the Certifying Authority prior to the issue of the Subdivision Construction Certificate. The landscape plan must be prepared in accordance with Council's *Development Control Plan*, the approved concept landscape plan prepared by GroupGSA with drawing no. 13294 – W7-1100 Revision E and dated 19.04.2017 and embellished in accordance with the requirements for this category of park as contained in Shellharbour City Council's *Section 94 Contributions Plan 2013*, in addition to the following requirements:

- a. the width and design of the paths must satisfy the requirements for shared pedestrian-cycle path,
- b. inclusion of shade species and deciduous species,
- c. species selection and siting to consider crime prevention through environmental design (CPTED) principles,
- d. replacing plant species *Acacia longifolia sophorae* (not recommended) with a more appropriate species eg. Grevillea 'Orange Marmalade',
- e. replacing plant species *Juncus amabilis* with the plant species *Juncus usitatus*.
- f. omit the use of the plant species *Typha domingensis*.

14 Controlled Activity Approval

A controlled activity approval must be issued by the Department of Primary Industries – Water, and a copy provided to Council, prior to the issue of a Subdivision Construction Certificate for works on the land, subject of this consent, that requires a controlled activity approval.

PART C - PRIOR TO COMMENCEMENT OF WORKS

15 Building Plan Approval - Sydney Water

The approved plans must be submitted to a Sydney Water Tapin™ to determine whether the development will affect Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Certifier must ensure that Sydney Water Tapin™ has issued appropriate electronic approval prior to the commencement of any works.

16 Site Meeting with Council

A site meeting with Council's Engineer, the applicant and the contractor must be held not less than 7 days prior to the commencement of work on site.

17 Soil and Water Management Plan Implementation (SWMP)

The measures required in the Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.

18 Open or Occupy a Roadway or Footpath - Section 138 Roads Act 1993

Prior to any physical works within Council's road reserve, you will need to apply for approval under Section 138 of the *Roads Act 1993*. To lodge your application you will need to submit the following information:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. a Traffic Management Plan,
- c. provision of Public Risk Insurance, and
- d. details of timing and length of works.

Where public risk insurance is required, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20 Million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

19 Construction Traffic Management Plan (CTMP)

Prior to the commencement of works, a CTMP detailing vehicle routes, number of trucks, hours of operation, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by the Certifying Authority.

It is the developer's responsibility to adequately inform/brief for construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management Procedures are adhered to at all times.

20 Site Management Plan

Prior to the commencement of works, the applicant must submit to and obtain approval for a construction and site management plan from the Certifying Authority that clearly sets out the following:

- a. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like,
- b. the proposed method of loading and unloading excavation machines, building materials and formwork within the site,
- c. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period,
- d. sediment and erosion control measures as per Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' also known as the 'Blue Book' or subsequent revisions,
- e. how it is proposed to ensure that soil/excavated materials is not transported on wheels or tracks of vehicles or plant and deposited on the roadway, and
- f. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in civil engineering.

21 Open or Occupy a Roadway or Footpath - Section 138 Roads Act 1993

Prior to any physical works within Council's road reserve such as (but not limited to) installing a driveway or connecting stormwater facilities, a Road Opening Permit under section 138 of the *Roads Act 1993* is required.

An application must be made to Council for the temporary occupation of the road reserve prior to works commencing. Please note the application *may* require the following:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. a Traffic Management Plan,
- c. provision of Public Risk Insurance, and
- d. details of timing and length of works.

22 Tree Removal

The existing trees/vegetation nominated for removal must be removed prior to any construction works. Trees removed are to be mulched and used to mulch the existing trees and/or vegetation to be retained. Any environmental weed vegetation must be removed from the development site and must not be used for mulch purposes.

23 Dilapidation Report

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

24 Public Liability

Prior to the commencement of works, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20M in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

PART D - DURING CONSTRUCTION WORKS

25 Hours of Work During Building Work

Noise generating activities, including excavation, construction and delivery of equipment and materials, must only be carried out between:

- 7am to 5pm Mondays to Fridays
- 8am to 1pm Saturdays.

Work must not be carried out on Sundays or public holidays.

26 Maintenance of Soil and Water Management Plan (SWMP)

The soil and water management controls must be maintained at all times during each stage of the development and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

27 Waste Management

The management of waste must comply with the approved Waste Management Plan. All receipts such as waste disposal dockets must be retained (refer Part F). Any variations to the Waste Management Plan must have prior written approval of the Certifying Authority.

Material excavated from the site must be taken to an approved land fill site. Excavated material disposed to another site must benefit from a development consent where consent is required.

28 Storage of Materials

Building materials and equipment must not be stored on the road reserve/footpath area.

29 Contamination - Unexpected Finds Contingency

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

30 Aboriginal Heritage

In the event that possible Aboriginal cultural object are encountered during works, all activity in the immediate area must cease and the area cordoned off. The NSW Office of Environment Heritage must be contacted for assessment of the object.

31 Acid Sulfate Soils

Works must comply with the Acid sulfate soil management plan.

32 Design Code Compliance

All works to be dedicated as a Council asset must be installed/constructed in accordance with Council's *Subdivision Design Code*.

33 Lots and Site Filling

All lot and site filling shall be performed under level 1 Geotechnical supervision in accordance with AS 3798-2007 or subsequent amendments.

34 Road Construction and Road Drainage Construction

The site manager must arrange for a satisfactory inspection by Shellharbour City Council of the following works:

- a. all road drainage works prior to backfilling of the work, and
- b. all road construction inspections as per Council's *Subdivision Design Code*.

35 Geotechnical Testing - Drainage

Geotechnical testing must be carried out and results submitted to the Certifying Authority to verify that the pipe trench bedding and backfill complies with the requirements outlined in Australian Standard *AS 3725 - Design for Installation of Buried Concrete Pipe*. Geotechnical testing must verify that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill performed at the rate of one test per 50m of pipeline with not less than two tests in any section of pipe exceeding 25m in length.

36 Replacement Fencing

New fencing to replace the existing boundary fencing as shown on the approved concept landscape plan should have a height of 1.8m above ground level and be constructed of material/s in consultation with affected land owners.

PART E - PRIOR TO OCCUPATION

Nil Applicable

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

37 Final Plan of Subdivision

Prior to the release of the final plan of subdivision, it will be necessary to obtain a Subdivision Certificate. In this regard, it will be necessary to submit:

- a. an application for a Subdivision Certificate,
- b. a Practical Completion Certificate,
- c. five paper prints of the final plan of subdivision,
- d. the original and two paper copies of the 88B Instrument and Administration Sheet,
- e. fees appropriate at the time of submission of the application, and
- f. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to traffic&subdivision@shellharbour.nsw.gov.au

The email and the electronic copy should be named "Subdivision Title & Stage".

All sections of the plan, 88B Instrument and Administration Sheet including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan.

38 Inspection of Stormwater Pipes

All stormwater pipes within road reserves and within any drainage easements intended to be dedicated to Council must be inspected by CCTV. The CCTV must be carried out after all earthworks and road pavement works within the locality of the pipelines have been completed. A copy of the CCTV inspection must be recorded and submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate. Damaged pipes must either be replaced or repaired to the Principal Certifying Authority's satisfaction prior to the issuing of a Subdivision Certificate.

39 Final Geotechnical Report

A final geotechnical report prepared by a suitably qualified and experienced geotechnical consultant must be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate. The report must include, but is not necessarily limited to,:

- a. all earthwork operations,
- b. a fill plan showing extent and depth of fill,

- c. certification that all earthworks within the site have complied with Council's *Subdivision Design Code*. This shall include appropriate test results, test location diagram and date of testing,
- d. certification that all recommendations contained in geotechnical reports lodged in support of this development have been satisfied,
- e. the exact extent of any restricted building zones or any other restrictions affecting any of the allotments. Particular attention shall be paid to the location of drainage lines, which must be burdened with a title restriction in the Section 88B Instrument,
- f. identification of all land affected by landslip or instability constraints (if applicable), and
- g. verification that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill.

40 Works As Executed Plans - Subdivision

Works As Executed plans must be submitted to the Principal Certifying Authority by a Registered Surveyor with the Subdivision Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum, the plan must show:

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement (where relevant),
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans

All levels must relate to Australian Height Datum.

41 Compliance Certificate

Prior to the issue of a Compliance Certificate by the Certifying Authority, a satisfactory Works As Executed Plans, CCTV of stormwater drainage and evidence of all other testing and construction works in accordance with the approved Construction Certificate plans and Council's *Subdivision Design Code* must be submitted to Council.

The Compliance Certificate must be requested in writing.

42 Final Wetland Operation and Maintenance Manual

The adopted Wetland Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the objectives and criteria identified in the approved Water Cycle Management Plan.

43 Flood Risk Signage

Signage must be provided in areas subject to inundation to warn people that the site may be subject to flooding and to follow the designated evacuation routes prior to the issue of a Subdivision Certificate.

44 Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

45 Completion of Landscape Works

Prior to the issue of a Subdivision Certificate, the unbuilt upon land, with the exception of the paving, must be landscaped in accordance with the approved landscape plan.

A report from a suitably qualified person must be provided to the Principal Certifying Authority on completion of the landscape works certifying that the landscape works have been carried out in accordance with the Landscape Plan approved with the Construction Certificate and relevant conditions of this consent.

46 Public Reserve Inspection

The public reserve must be inspected by Council and be to the satisfaction of Council prior to the release of the Subdivision Certificate. It is the responsibility of the developer to notify Council for the inspection/s.

47 Verification of Waste Management

Documentation verifying that all waste streams were managed in accordance with the Waste Management Plan must be provided to the Principal Certifying Authority prior to the issue of a Subdivision Certificate. All records, such as waste disposal docketts or photographic evidence, must be retained by the Principal Certifying Authority.

48 Repairs to Public Infrastructure

Any damage to public infrastructure, other than that previously noted in the Dilapidation Report (refer Part C), is the responsibility of the developer. All damage must be repaired and reinstated prior to the issue of the Subdivision Certificate. This work shall be carried out by Council, or Council approved contractor, at the developer's expense.

49 Release of Certificate

The Subdivision Certificate shall not be released until all works required for the development, subject of this consent, have been completed.

PART G – AFTER ISSUE OF SUBDIVISION CERTIFICATE

50 Maintenance Period of Wetlands

The proponent is responsible for all maintenance of the wetlands and vegetated stormwater assets during the three (3) year maintenance period and upon Councils acceptance that the wetlands and vegetated stormwater assets are of a satisfactory condition at the end of the three (3) year maintenance period. Approaching hand over at the conclusion of the three (3) year maintenance period, a site meeting with Council must be arranged by the proponent. The objective of the meeting will be to identify any outstanding actions that require rectification by the proponent before asset hand over. Annual reports documenting implementation measures and containing all monitoring results must be submitted to Council during this period.

51 Maintenance of Civil Works

All civil works must be maintained for a minimum period of 12 months commencing from the date of issue of the Subdivision Certificate, unless otherwise agreed to by Council. The developer must ensure that any defective works must be rectified and/or replaced during the maintenance period in accordance with the approved Construction Certificate plans. All costs arising during the maintenance period must be borne by the developer. Roads and drainage shall be maintained in its original construction condition for this liability period. The developer must notify Council for a re-inspection at the end of the maintenance period.

52 Landscape Maintenance Period

To ensure establishment of the landscape, the completed landscaping works must be maintained for a 24 month period following the issue of the Subdivision Certificate. It is the responsibility of the developer to ensure that any defective landscaping and/or plantings shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

Nil Applicable

PART H – OTHER APPROVALS

53 DEPARTMENT OF PRIMARY INDUSTRIES - WATER



Department of
Primary Industries
Water

Contact: Jeremy Morice
Phone: 02 4224 9736
Fax: 02 4224 9740
Email: jeremy.morice@dpi.nsw.gov.au

Our ref: 10 ERM2017/0536
Our file:
Your ref: DA198/2017

The General Manager
Shellharbour City Council
PO Box 155
Shellharbour City Centre NSW 2529

Attention: Victoria Nicholson

24 September 2017

Dear Madam

Re: Integrated Development Referral – General Terms of Approval

Dev Ref: DA198/2017

Description of proposed activity: Shell Cove – Wetland 7 and Open Space

Site location: Lot 30 DP 229374, Lot 8032 DP 1072187, Sophia Street & Boollwarroo Parade Shellharbour

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

Level 0, 84 Crown Street WOLLONGONG PO Box 53 WOLLONGONG NSW 2520 Australia t (02) 4224 9744 | f (02) 4224 9740 | e water.enquiries@dpi.nsw.gov.au

Template Ref: CAAD4, Version 1.2 – July 2015

THIS IS NOT AN OPERATIONAL CONSENT

-2-

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Jeremy Morice
Water Regulation Officer
Water Regulatory Operations, Water Regulatory Operations South
NSW Department of Primary Industries – DPI Water

General Terms of Approval

for work requiring a controlled activity approval
 under s91 of the *Water Management Act 2000*

Number	Condition	File No:
Site Address:	Lot 30 DP 229374, Lot 8032 DP 1072187, Sophia Street & Boollwarroo Parade Shellharbour	
DA Number:	DA198/2017	
LGA:	Shellharbour City Council	
Plans, standards and guidelines		
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA118/2017 and provided by Council: <ul style="list-style-type: none"> (i) Statement of Environmental Effects (ii) Landscape Masterplan (iii) Civil and Drainage Plans Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.	
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.	
3	The consent holder must prepare or commission the preparation of: <ul style="list-style-type: none"> (i) Construction Civil and Drainage Plans (ii) Soil and Water Management Plan (iii) Final Landscape Plan including itemised costings (iv) Soil and Water Management Plan 	
4	All plans must be prepared by a suitably qualified person and submitted to the DPI Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/ Water-Licensing/Approvals . <ul style="list-style-type: none"> (i) Vegetation Management Plans (ii) Laying pipes and cables in watercourses (iii) Riparian Corridors (iv) In-stream works (v) Outlet structures (vi) Watercourse crossings 	
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.	
Rehabilitation and maintenance		
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved	

Number	Condition	File No:
	by the DPI Water.	
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.	
Reporting requirements		
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.	
Security deposits		
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.	
Access-ways		
10	The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by DPI Water.	
Disposal		
11	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks, are left on waterfront land other than in accordance with a plan approved by DPI Water.	
Drainage and Stormwater		
12	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.	
13	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.	
Erosion control		
14	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
Excavation		
15	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.	
16	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by DPI Water.	
Maintaining river		
17	The consent holder must establish a riparian corridor along the unnamed watercourse in accordance with a plan approved by DPI Water.	
END OF CONDITIONS		

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

Mandatory inspections of the building work must be carried out by the Principal Certifying Authority at various stages of construction in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

It is recommended that you discuss with your Principal Certifying Authority the occasions when the building work is to be inspected prior to work commencing.

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 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 Failure to Comply with Consent

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

AN5 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.

AN6 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 six months after the date on which you receive this notice.

AN7 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.

Development Application No. 198/2017
Lot 30 DP 229374, Part Lot 4003 DP 1235539, Sophia Street & Old Bass Point Road Shellharbour

AN8 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.

AN9 Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in New South Wales). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AN10 Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on 1800810443.

AN11 Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au. Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd
PO Box 6507
SILVERWATER NSW 2128

Attention: Land Services Department

END OF NOTICE

THIS IS NOT AN OPERATIONAL CONSENT