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**NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION**  
*Issued under the Environmental Planning and Assessment Act*

Being the applicant of Development Application No. 0357/2018 for consent to the following development:

**CONSTRUCTION AND EMBELLISHMENT OF BOARDWALK WITH FUTURE  
MARINA AREA**

**LOT 5065 IN DP 1221924**

**OLD BASS POINT ROAD, SHELLHARBOUR**

**Determination date of consent:** 28 May 2019

**Note:** This Approval will lapse 5 years from the date of consent.

In accordance with section 4.16 of the Act the Development Application has been determined by the GRANTING OF CONSENT SUBJECT TO THE CONDITIONS DESCRIBED BELOW.

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.



**Group Manager City Development**

On behalf of Carey McIntyre, General Manager

## PART A – ADMINISTRATIVE CONDITIONS

### 1. Construction Certificate & PCA Notification

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 following approved Development Application plans and documents as endorsed by Council's stamp except as modified by conditions of this consent. Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Cover sheet and details	Group GSA	L-SF1-0000- E	15.03.19
Overall Plan	Group GSA	L-SF1-1000-E	15.03.19
Boundary and Extent Plan	Group GSA	L-SF1-1001-E	15.03.19
Landscape Schedule Phase-DA	Group GSA	L-SF1-2000-F	15.03.19
Landscape General Arrangement Phase – DA	Group GSA	L-SF1-2001–D	27.06.18
Landscape General Arrangement Phase – DA	Group GSA	L-SF1-2002–D	27.06.18
Landscape General Arrangement Phase – DA	Group GSA	L-SF1-2003-D	27.06.18
Landscape General Arrangement Phase – DA	Group GSA	L-SF1-2004-D	27.06.18
Landscape General Arrangement Phase –DA	Group GSA	L-SF1-2005 -E	15.03.19
Landscape General Arrangement Phase - DA	Group GSA	L-SF1-2006-D	27.06.18
Landscape General Arrangement Phase–DA	Group GSA	L-SF1-2007-A	15.03.19
General Arrangement Section	Group GSA	L-SF1-3002-C	30.05.18
General Arrangement Section	Group GSA	L-SF1-2007-A	30.05.18
Landscape sections	Group GSA	L-SF-3001-C	30.05.18
Landscape Sections	Group GSA	L-SF1-3003-D	15.03.19
Landscape Details	Group GSA	L-SF1-4001-C	30.05.18
Landscape Details	Group GSA	L-SF1-4002-C	30.05.18
Landscape Details	Group GSA	L-SF1-4003-C	30.05.18
Landscape Details	Group GSA	L-SF1-4004-C	30.05.18
Landscape Details	Group GSA	L-SF1-4005-C	30.05.18
Landscape Details	Group GSA	L-SF1-4006-C	30.05.18

Development Application No. 0357/2018  
 Lot 5065, DP 1221924, Old Bass Point Road, Shellharbour

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Landscape Details	Group GSA	L-SF1-4007-C	30.05.18
Landscape Details	Group GSA	L-SF1-4008-C	30.05.18
Landscape Details	Group GSA	L-SF1-4009-C	30.05.18
Landscape Details	Group GSA	L-SF1-4010-C	27.06.18
Landscape Details	Group GSA	L-SF1-4011-B	30.05.18
Landscape Details	Group GSA	L-SF1-4012-B	30.05.18
Visual Impact Assessment	Ethos Urban	N/A	17.05.19
Lighting Intent (plan)	LAS	L145UB-SK07 [A]	May 2018
Access Review	Morris Goding Access Consulting		17.07.2018

#### 4. Compliance with Notations on Drawings

Works must comply with any notations highlighted on the approved plans and specifications.

#### 5. Easements

Structures must not encroach onto any easement where the purpose of the easement is negatively affected or would result with non-compliance with Council's subdivision code.

### PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### 6. Development Assessment- Site Works Plan

A Site Works Plan detailing all weather access control points, sedimentation controls, fencing, and builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

#### 7. Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition, rehabilitation techniques that are necessary to deal with such activities should be referred to.

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 on 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.
  - iv. ensures disturbed areas are promptly rehabilitated.

**Development Application No. 0357/2018**  
**Lot 5065, DP 1221924, Old Bass Point Road, Shellharbour**

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- 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 stabilized (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 10 year ARI event at all inlet and outlet structures.
- j. including measures to prevent the tracking of sediment off the site.

**8. Landscape Inspection Fee**

The developer must lodge with Council an inspection fee of \$157.00 per inspection in accordance with Council's *Fees and Charges* prior to the issue of the Construction Certificate for:

- landscape inspection prior to the release of the Subdivision Certificate
- landscape inspection following completion of the maintenance period

**9. Long Service Levy**

The Long Service Levy must be paid prior to the issue of the Construction Certificate for work exceeding a value of \$25,000.00.

**Note:** This is a levy imposed by the NSW Government and administered by the Long Service Payments Corporation for the purpose of long service payments to building and construction workers.

**PART C - PRIOR TO COMMENCEMENT OF WORKS**

**10. Erosion & Runoff Controls**

Before work starts, appropriate erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses.

These controls may include the following (where applicable):

- a. erect a silt fence,
- b. limit the removal or disturbance of vegetation and topsoil,
- c. divert uncontaminated run-off around cleared or disturbed areas,
- d. install sediment traps/socks around any stormwater inlets and drainage lines,
- e. stockpile topsoil, excavated material, construction and landscaping materials and debris within the site. These should be covered or seeded to prevent loss of these materials,
- f. provide a single vehicle access to the site including measures to prevent the tracking of sediment off the site, and
- g. provide adequate control measures to suppress dust.

These measures must be in place prior to commencement of any excavation or construction works.

## **11. 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. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

## **12. 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 are 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 appropriately qualified and experienced engineer.

## **13. 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.

## **14. Landscape Plan**

A detailed landscape plan must be lodged with Council & Private Certifier prior to any commencement of landscape works. In this regard one hard copy and one electronic copy of the landscape plans prepared by a Landscape Architect must be submitted to the Council prior to the release of the Landscape Construction Certificate.

The landscape plan must be prepared in accordance with the concept landscape plan drawing no. 13294 - L-SF1-0000 Issue E prepared by Group GSA Pty Ltd dated 15/03/2019 and with Council's Landscape DCP, Shell Cove Marina Concept Plan and Shell Cove Precinct D Urban Design Guidelines available from Customer Service or Council's website.

## **15. Engineering - Dial before you Dig**

The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

## **16. 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.

## **17. Subdivision Design Code Compliance**

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

## **18. Retaining Walls**

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall. Any retaining wall must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

## **19. Structural Details**

The following structural details must be provided to the Certifying Authority prior to commencing work:

- a. structural engineer's design for all reinforced concrete footings,
- b. manufacturer's specifications for any patented construction systems.

## **PART D - DURING CONSTRUCTION WORKS**

### **20. 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 6pm Mondays to Fridays
- 7am to 3pm Saturdays.

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

### **21. 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.

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively and,
- b. drains, gutters and roads are maintained clear of sediment at all times.

**Note:** 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.

## **22. Waste Management**

The management of waste must comply with the approved Waste Management Plan. Any variations to the Waste Management Plan must have prior written approval of Council.

## **23. Storage of Materials**

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

## **24. Protection Fencing**

The vegetation/street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

## **25. Cost of Work to be Borne by the Applicant**

The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Councils roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

## **26. Obstruction of Road or Footpath**

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under *Section 138 of the Roads Act* and/or under *Section 68 of the Local Government Act 1993*. Penalty infringement Notices may be issued for any offences and severe penalties apply.

## **27. Excavation and Drainage Easement**

There must be no loss of support of any affected drainage easement as a result of excavation within the site.

## **PART E - PRIOR TO OCCUPATION**

### **28. Occupation Certificate**

Compliance with all conditions of Parts A to E must be verified by the Principal Certifying Authority prior to issue of a final Occupation Certificate. The building must not be used until the Principal Certifying Authority issues an Occupation Certificate.

### **29. Section 73 Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. This Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

### **30. 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 an Occupation Certificate. All records, such as waste disposal dockets or photographic evidence, must be retained by the Principal Certifying Authority.

### **31. 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 Occupation Certificate at the developer's expense.

### **32. Landscape Practical Completion Inspection**

All completed landscape works must be inspected by Council prior to the issue of a practical completion certificate. It is the responsibility of the developer to notify Council for the landscape inspection.

### **33. Landscape Maintenance Period**

To ensure establishment of the landscape, the completed works must be maintained for a 12 month period following the issue of the Subdivision Certificate. It is the responsibility of the developer to ensure that any defective landscape works shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

### **34. Verification - Excavated Material**

As applicable- Documentation verifying that all excavated material was taken to the designated landfill site detailed on the approval Waste Management Plan must be provided to the Principal Certifying Authority, prior to the issue of an Occupation Certificate. All records, such as waste disposal dockets or photographic evidence, must be retained by the Principal Certifying Authority.

## **PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

Not Applicable

## **PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION**

### **35. Signage**

The location and dimensions of any associated signage must be in accordance with the approved plans. Additional signage must not be erected or displayed without first gaining development consent from Council, unless carried out as Exempt Development.



### **36. Landscape Handover Inspection**

The landscape works on land to be dedicated to Council requires a handover inspection to be carried out at the end of the maintenance period. In this regard, the developer is to notify Council one month prior to handover to arrange an inspection with Council and the developer. Council will take full maintenance responsibility of all landscape works following a satisfactory result at the end of the maintenance period.

#### **Note:**

- All landscape fixtures including street furniture and waste receptacles that comprise of steel fittings must be a minimum of 304 stainless steel marine grade or have a suitable protective coating or paint system.
- Specifications are to comply with the Shellharbour City Council Subdivision Code.

### **37. Outdoor Lighting**

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting where applicable. The maximum luminous intensity from each luminaire must not exceed the Level 1 control relevant under Table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

### **38. Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill.

### **39. Waste Receptacles**

Adequate receptacles must be used to store all landfill and recyclable waste streams pending disposal. Provision must be made for the separation and recycling of waste.

The landfill and recyclable waste bins must be stored in the waste storage area located in accordance with the approved plans. At no time shall the bins be located within the car parking, landscaping or manoeuvring areas.

## **PART H – OTHER APPROVALS**

Not Applicable

### ***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

### 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.

### 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.

### SafeWork NSW

The requirements of SafeWork NSW must be satisfied at all times.

### 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.

### Lapsing of Development Consent

In accordance with Part 4, Division 4.9, section 4.53 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.

### Review of Determination

If you are dissatisfied with this decision, Part 8, Division 8.2 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.

Division 8.2 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 Division 4 in respect of an application made by the Crown.

### 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 4.55 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.

**Development Application No. 0357/2018**  
**Lot 5065, DP 1221924, Old Bass Point Road, Shellharbour**

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## **BASIX**

Please note that the requirement for lodging a modification of development consent under section 4.55 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

## **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.

## **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](http://www.1100.com.au) <<http://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.

## **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* (Commonwealth) 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.

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

The development must comply with the *Building Code of Australia* where applicable and all related standards and legislation.

## **Disposal of Hazardous Material**

Special arrangements are required for the disposal of hazardous building materials, particularly asbestos. For information on hazardous material disposal locations, contact Council's Waste Services Department on 4221 6111.

## **Right to Appeal**

If you are dissatisfied with this decision, Part 8, Division 8.3, section 8.7 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.

**END OF NOTICE**