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NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Issued under the Environmental Planning and Assessment Act 1979

Being the applicant of Development Application No. DA0368/2019 for consent to the following development:

**13 TORRENS TITLE SUBDIVISION AND CONSTRUCTION OF 13 TOWNHOUSES
WITH DETACHED GARAGES AND THREE STUDIO UNITS
STAGE 59, PRECINCT A
(MULTI DWELLING HOUSING)**

LOT 1091 DP 1254727

HARBOUR BOULEVARD SHELL COVE NSW 2529

Determination date of consent: 20 September 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.



Nancy Sample
Senior Development Assessment Officer

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. Compliance with Notations on Drawings

Works must comply with notations made on the approved plans.

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. 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
Site Plan	Frasers Property	0.0/D, 1.2.1/D, 1.2.2/D	18/06/2019
Floor Plans	Frasers Property	2.1.1/D, 2.1.2/D, 2.2.1/D, 2.2.2/D, 5.01/C, 5.04/C, 5.05/C, 5.10/C, 5.14/C, 5.15/C, 5.19/C, 5.23/C, 5.24/C, 5.28/C, 5.30/C, 5.31/C, 5.36/C,	18/06/2019
Section Plans	Frasers Property	5.03/C, 5.08/C, 5.09/C, 5.13/C, 5.18/C, 5.22/C, 5.27/C, 5.34/C, 5.35/C, 5.39/C	18/06/2019
Elevations Plans	Frasers Property	3.1/D, 3.2/D, 3.3/D, 5.02/C, 5.06/C, 5.07/C, 5.11/C, 5.12/C, 5.16/C, 5.17/C, 5.20/C, 5.21/C, 5.25/C, 5.26/C, 5.28/C, 5.29/C, 5.32/C, 5.33/C, 5.37/C, 5.38/C,	18/06/2019
BASIX*	Victor Lin & Associates Pty Ltd	Certificate No. 1013756M	26/06/2019
Waste Management Plan	Frasers	Waste management Plan Construction Phase	27/06/2019
Subdivision Plan	Frasers Property	1.1.1/D, 1.1.2/D	18/06/2019
Landscape Plan	Eco Design	L-01 rev. B, L-02 rev. B,	29/05/2019
Colour/Material Schedule	Arkee	CN5901-5913	Un-dated
Concept Drainage Plan	Frasers Property	1.3.1/D, 1.3.2/D	18/06/2019
Noise & Vibration Impact Assessment	Wilkinson Murray	05135-BR version D	June 2018
Acid Sulfate Soil Management Plan	Coffey	WOLEN209869-R01	25/10/2017

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Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Shell Cove Boat harbour Precinct Traffic Study	LFA	60041194	24/03/2009

* The approved BASIX Certificate may only be updated, without the need to lodge a modification to the development consent, where any change to the BASIX Commitments does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans.

4. Prescribed Conditions

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

5. Compliance with Notations on Drawings

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

6. House Numbering

House numbering will be as follows, as annotated on the approved subdivision plan:

LOT	STREET NUMBER	STREET NAME	STREET TYPE	LOCALITY	FONZIE	ALTERNATE
5901	217	Harbour	Boulevard	Shell Cove	10 Rockpool Lane	
5902	219	Harbour	Boulevard	Shell Cove		12 Rockpool Lane
5903	221	Harbour	Boulevard	Shell Cove		14 Rockpool Lane
5904	223	Harbour	Boulevard	Shell Cove		16 Rockpool Lane
5905	225	Harbour	Boulevard	Shell Cove		18 Rockpool Lane
5906	227	Harbour	Boulevard	Shell Cove		20 Rockpool Lane
5907	229	Harbour	Boulevard	Shell Cove	22 Rockpool Lane	
5908	231	Harbour	Boulevard	Shell Cove		24 Rockpool Lane
5909	233	Harbour	Boulevard	Shell Cove		26 Rockpool Lane
5910	235	Harbour	Boulevard	Shell Cove		28 Rockpool Lane
5911	237	Harbour	Boulevard	Shell Cove		30 Rockpool Lane
5912	239	Harbour	Boulevard	Shell Cove		32 Rockpool Lane
5913	241	Harbour	Boulevard	Shell Cove	34 Rockpool Lane	

Letterboxes should be visible from the street and clearly numbered according to the address allocated.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Section 94 Contributions

A contribution of \$158,790.90, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2016 Amendment 1 dated 8 March 2017* in the following manner:

- Residential contribution – Precinct 2, Shellharbour - \$170,715.00
- Less Credit for C1.26 Passive Open Space Embellishment – City East - \$(11,924.10)

The contribution amount contained in this condition is the base rate indexed to the date the consent is issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the *Contributions Plan*. Current indexed rates are available from Council.

The *Contributions Plan* may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from www.shellharbour.nsw.gov.au

8. Landscape Requirements

Prior to the issue of a Construction Certificate an amended landscape plan must be submitted to the Principal Certifying Authority for approval. The plans must include the following amendments:

- The proposed landscape adjacent to the front fencing along Harbour Boulevard for Units CN5902-CN5912 shall incorporate one deciduous tree with a minimum mature height of 3 metres.
- Landscaping to be provided within the property boundary adjacent to each driveway and fencing of each unit along Rock Lane.
- The use of the plant species *Rhaphiolepis* 'Oriental Pearl' & *Rhaphiolepis* 'Snow Maiden' are considered environmental weeds and shall be replaced with *Camellia sasanqua* 'Petite Pink' and *Camellia sasanqua* 'Petite White'.

9. Detailed Drainage Design

A detailed drainage design of the site must be submitted and approved prior to the release of the Construction Certificate. The detailed plan must:

- a. be generally in accordance with Concept Drainage Plan_CN5901-CH5907 1.3.1/D & Concept Drainage Plan_CN5808-CN5913 1.3.2/D prepared by Frasers Property Australia on 19/5/2019,
- b. drain to the stub within the lot,
- c. indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines,
- d. be to the satisfaction of the Certifying Authority,
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- f. overflow drainage paths are to be provided and be designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- g. comply with Council's *Shellharbour Development Control Plan* unless variation is specifically noted and approved on DA concept drainage plan,

- h. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

10. Building Plan Approval - Sydney Water

The approved plans must be submitted to a Sydney Water Tap in™ 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 Tap in™ has issued the appropriate electronic approval prior to the commencement of any works.

11. Landscape Inspection Fee (if Council is PCA)

The developer must lodge with Council an inspection fee of \$739.00 in accordance with Council's *Fees and Charges* prior to the issue of the Construction Certificate for:

- landscape inspection prior to occupation of the development
- landscape inspection following completion of the maintenance period

PART C - PRIOR TO COMMENCEMENT OF WORKS

12. 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.

13. 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.

14. 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 and slabs,
- b. structural engineers design for all structural steel beams, framing and connections,
- c. roof truss and bracing details, and
- d. manufacturer's specifications for any patented construction systems.

15. 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.

16. 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 you will need to apply for approval under Section 138 of the *Roads Act 1993*. There is no additional cost as this is paid for at the time of development application.

To lodge your application you will need to submit the following information:

- a. details of the proposed works in the road and footpath area,
- b. traffic management plan,
- c. provision of public risk insurance and,
- d. details of timing and length of works.

PART D - DURING CONSTRUCTION WORKS

17. 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.

18. Maintenance of Erosion & Runoff Controls

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.

19. 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.

20. Storage of Materials

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

21. Survey Certification

A report from a registered surveyor must be provided to the Certifying Authority on completion of the ground floor slab formwork prior to the concrete being poured and/or prior to external walls being raised above ground floor level where there is no ground floor slab.

The report must certify all of the following:

- a. the distance of the structure to all boundaries of the allotment are in accordance with the approved plans,
- b. the height of the floor levels are in accordance with the approved plans, and
- c. the garage floor level complies with the garage floor level shown on the approved plans and grades comply with Council's gradient standards.

22. Driveway and Layback - From Kerb to Property Boundary

A standard residential vehicular concrete driveway and layback must be constructed between the kerb and the property boundary. The driveway must:

- a. maintain a perpendicular alignment from the kerb to the property boundary line,

- b. have a minimum width of 2.7m and a maximum width of 6m
- c. not interfere with the existing public utility infrastructure,
- d. be located 500mm clear of all drainage structures and 2m from the street tree,
- e. be finished with a slip resistant coating, and
- f. be constructed by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Where there is conflict between the location of the proposed driveway and the assets of a service utility, such as Telstra pits/manholes, the relevant service provider must be contacted **prior to any driveway works commencing**. It is an offence to modify or tamper with the assets of a service provider.

PART E - PRIOR TO OCCUPATION

23. 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.

24. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

25. BASIX

All commitments listed in the BASIX Certificate for the development must be carried out prior to the issue of an Occupation Certificate.

26. 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 docketts or photographic evidence, must be retained by the Principal Certifying Authority.

27. Completion of Landscape Works

The unbuild upon land, with the exception of the paving, must be landscaped in accordance with the approved landscape plan prior to the issue of an Occupation Certificate. Landscape or turf areas must not be reduced or replaced with hard impermeable surfaces. Any variations to the design or species used must be authorised by Council in writing before any changes are made.

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 is in accordance with the approved Landscape Plan.

28. 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. This work must be carried out by Council, or Council approved contractor, at the developer's expense.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

TORRENS TITLE SUBDIVISION

29. 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. five paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet,
- d. fees appropriate at the time of submission of the application, and
- e. 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 - DA No/Year Street Address Final Plan".

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.

30. Services & 88B Instrument

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority and the relevant utility provider.

31. Release of Certificate

The Subdivision Certificate for Stage 59 must not be released until the walls of the dwellings and garages have been constructed to a minimum height of 1 metre above ground level. Evidence that this requirement has been satisfied must be provided in the form of a report by a registered surveyor. The survey report must show all allotment boundaries and the relative position of the buildings to site boundaries. The distance of buildings must be in accordance with the approved plans.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

32. BASIX Commitments

All commitments listed in the BASIX Certificate for the development must be maintained for the life of the development.

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 – Project Specific
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Separate Occupancy of the Studio above the Garage

The Studio above the Garage has been approved as Ancillary Development to the main dwelling and in this regard shall not be used as a Separate Sole Occupancy Unit. There must be some functional connection between the Principle Development and the Ancillary Studio.

Compliance with *Building Code of Australia*

Council has not carried out a detailed assessment of this application with regard to compliance with the *Building Code of Australia*.

The Principal Certifying Authority, prior to determining the Construction Certificate application, must assess compliance with the *Building Code of Australia* and all related standards and legislation.

Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate where the building and construction cost is \$25,000.00 and above.

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.

Corrosion Protection of Metal Roofing

Attention is drawn to the provisions of Table 3.5.1.1a of the *Building Code of Australia* (Housing Provisions) regarding corrosion protection of metal roofing in coastal areas.

Sydney Water - Contribution

Sydney Water (Illawarra Branch) may require a contribution towards new water and sewerage services or amplification of the existing system for the development, the subject of this consent.

Sydney Water - Subdivision & Services

As Torrens Title subdivision is proposed, Sydney Water should be consulted with regard to the need for separate services to be provided for each dwelling.

Sydney Water Information

Sydney Water has produced a Land Development Manual. The manual outlines the process for getting a Section 73 Certificate in a single, easy to read document. The manual is available from the [Land Development](#) page in the Plumbing, Building & Developing section of the Sydney Water website.

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.

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.

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.

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.

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/>> or telephone on 1100 before excavating or erecting structures (this is the law in New South

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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.

Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au <<http://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