

Frasers Property Australia
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NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION
Issued under the Environmental Planning and Assessment Act 1979 Section 4.18

Being the applicant of Development Application No. DA0598/2019 for consent to the following development:

STRATUM SUBDIVISION OF LOT 4028 AND CONSTRUCTION OF MARINA SERVICES BUILDING

LOT 4005 DP 1219051, LOT 4006 DP 1219051

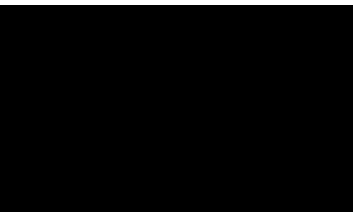
COVE BOULEVARD, SHELL COVE NSW 2529

Determination date of consent: 31 March 2020

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.



Jasmina Micevski
Manager – Planning

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. 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
Drawing List – Development Application	H & E Architects	DA1-0000 rev. 08	24/10/2019
Site Plan	H & E Architects	DA1-0500 rev. 08	24/10/2019
Site Analysis	H & E Architects	DA1-0600 rev. 05	16/08/2019
Ground Level – Proposed GA Plan	H & E Architects	DA1-1100 rev. 09	16/08/2019
GA Elevations	H & E Architects	DA1-3100 rev. 07	24/10/2019
GA Sections	H & E Architects	DA1-4200 rev. 08	24/10/2019
Area Schedules	H & E Architects	DA1-0620 rev. 06	16/08/2019
Operational Waste Management Plan	Elephants Foot Recycling Solutions	Revision E	31/10/2019
Stratum Subdivision - Proposed MSB & PARK	Beveridge Williams	1601522 Version B (three (3) sheets)	27/08/2019
Cover Sheet	Group GSA Pty Ltd	13294-L-MB-0000 issue E	25/10/2019
Materials Schedule	Group GSA Pty Ltd	13294-L-MB-1000 issue E	25/10/2019
General Arrangements	Group GSA Pty Ltd	13294-L-MB-2000 issue F	25/10/2019
Civil Engineering Plans	Henry & Hymas	18698_DA_C000 rev. 01 18698_DA_C100 rev. 03 18698_DA_C101 rev. 03 18698_DA_C200 rev. 02 18698_DA_SE01 rev. 01 18698_DA_SE02 rev. 01	19/08/2019 31/10/2019 31/10/2019 31/10/2019 19/08/2019 19/08/2019
Acoustic Report	ARUP	Job Number 256688 Doc ref: AC17	30/09/2019
Lighting Category Allocation	LAS	L145UC_SK03 - 01, 02 rev. B	20/09/2019

4. Compliance with Notations on Drawings

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

5. Building Numbering

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

- 13 Marina Drive, Shell Cove

The allocated number must be displayed prior to occupation.

Where plans and details are provided to service suppliers, numbers must be in accordance with the above.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Landscape Inspection Fee

If Council is appointed the Principal Certifying Authority, landscaping will be inspected. An inspection fee will be charged in accordance with Council's Fees and Charges.

7. Construction Environmental Management Plan (CEMP)

A Construction Environmental Management Plan (CEMP) must be prepared including but not limited to:

- a. Sediment and erosion controls prepared in accordance with Soil and Construction; Managing Urban Stormwater Fourth Edition Volume 1 (The Blue Book) (Landcom 2004). This plan must include a process for dewatering during construction that avoids sediment entering the storm water system;
- b. Management of fuels and chemicals;
- c. Construction noise controls be managed according to the EPA Interim Construction Noise Guidelines;
- d. Dust control measures;
- e. Cultural Heritage stop work protocol;
- f. Contaminated lands unexpected finds protocol;
- g. Acid Sulphate Soils unexpected finds protocol.

8. Acoustic Mitigation

The following acoustic mitigation measures must be implemented for the Marina Services Building as described within the recommendations of report *Frasers Property Australia Shell Cove Waterfront - Marina Services Building DA - Acoustic report.*, dated 30 September 2019 Ref: AC17

Detailed plans submitted prior to the issue of a Construction Certificate must include the following measures for the proposed development Lot 4028 DP PPN 1254658 to minimise the potential acoustic impacts on proposed residential developments in Precincts C1 and C2:

- a. Mechanical Plant & Equipment
 - i. Specification of maximum sound power levels for all items of plant as part of the project documentation;
 - ii. Use of attenuators to control fan noise as required;
 - iii. Acoustic louvres to control noise from plantroom ventilation openings;
 - iv. Acoustic screens around external plant, where required;

- v. Incorporation of sound absorptive treatments in plantroom spaces; and
- vi. Vibration isolators to reduce vibration input to the building structure.

b. Marina Services Building Noise Management

- ii. Signage must be implemented to make patrons aware of the close proximity to residences and the need to keep noise to a minimum;
- iv. The building envelope design will need to consider all emission paths, such as walls, roof, mechanical ductwork and floor (for raised areas). Acoustically absorptive finishes should also be incorporated into the interior design of the MSB, particularly the ceiling of the members lounge area. Minimum acoustic performance requirements shall be established to achieve the applicable acoustic criteria.

9. Services and Systems Compatibility

Proposed services and systems, including but not limited to, essential fire safety measures, air-conditioning, security, appliances, fixtures and fittings must demonstrate compatibility with Council's existing services and systems requirements. Information satisfying this requirement must be submitted with the Construction Certificate.

10. Flooding

The building envelope of the proposed development is to be provided at a level equal to or greater than the Flood Planning Level.

11. Section 7.11 Development Contributions

A contribution of \$636.95, 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 / Subdivision Certificate. This amount has been calculated in accordance with Shellharbour City Council's Section 94 Contributions Plan 2016 Amendment 1 dated 8 March 2017 OR Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9th Review 14 August 2019 in the following manner:

- Non-residential contribution - Tier 1 - \$636.95

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

12. 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.

13. 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.

14. 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 drawing no. 18698_DA_C100 Revision 03 prepared by Henry & Hymas on July 2019,
- b. drain to the council pit,
- c. indicate the method of disposal of all stormwater and must include rainwater tanks (if applicable), 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.

PART C - PRIOR TO COMMENCEMENT OF WORKS

15. 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.

16. Construction Environmental Management Plan Implementation (CEMP)

The site must be prepared in accordance with the CEMP including sediment controls, bunded areas and spill kits, and be installed prior to the commencement of any demolition; excavation or construction works upon the site. These measures must be maintained throughout the entire construction phases of the development.

17. 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 the PCA prior to the commencement of work.

PART D - DURING CONSTRUCTION WORKS

18. Contractor Induction

All contractors must be inducted onto site and understand the requirements of the CEMP.

A copy of the CEMP is onsite and made available to all contractors.

19. Construction Environmental Management Plan Implementation

All environmental controls must be implemented in accordance with the approved CEMP and maintained throughout the construction phase of the project.

20. Acid Sulfate Soil Unexpected Finds Protocol

Stockpiles and excavations must be observed for obvious signs of Acid Sulfate Soil (ASS) oxidation, such as rotten egg smell or jarosite staining. If signs are evident, works are to cease and a suitably qualified consultant engaged to prepare an Acid Sulfate Soils Management Plan to guide the management of ASS onsite.

21. 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.

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 the PCA.

23. Storage of Materials

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

24. 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.

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 level/s in relation to the natural ground level are in accordance with the approved plans.

25. Connection to Council Pit and/or Pipe

Any connection to a Council pit and/or pipe must:

- a. be made at the pipe obvert (pipe only),

- b. be through a hole that is neatly made by cutting or drilling with any reinforcement encountered cut away,
- c. not protrude past the inner surface of the pit and/or pipe,
- d. have all junctions finished with 2:1 cement mortar,
- e. have a minimum pipe size of 150mm in diameter and either sewer grade PVC or concrete, and
- f. when the diameter of the connection is more than 1/3 the diameter of the Council pipe, connection is to be made by construction of a standard pit.

All construction is to be carried out as per Council's Subdivision Code requirements.

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

An inspection fee will apply in accordance with Council's Fees & Charges.

PART E - PRIOR TO OCCUPATION

26. Verification of Acoustic Requirements

Evidence of compliance with the acoustic requirements detailed in condition 9 must be reported by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

27. Treatment of Blank Walls

The blank walls of the building and the walls of the ramp leading up to the green roof viewing platform, must be painted using graffiti resistant paint.

28. Landscape Maintenance Period

To ensure establishment of the landscape, the completed landscape 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 landscaping shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

29. 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.

30. 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.

31. 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.

32. Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

33. 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.

34. Completion of Landscape Works

The unbuilt 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 Certifying Authority 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.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

TORRENS SUBDIVISION (STRATUM)

35. Torrens Subdivision (Stratum)

Development consent for the subdivision has been approved under the *Environmental Planning & Assessment Act 1979*. It will now be necessary to obtain a Torrens Subdivision Certificate application form.. In this regard, it will be necessary to submit:

- a. a Torrens Subdivision Certificate application form,
- b. three paper prints or copies of the subdivision plan and the Plan Administration sheet. Plans are not to be creased,
- c. fees appropriate at the time of submission of the application, and

d. information as detailed on the Subdivision Certificate application form.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

36. Signage

This consent does not include the approval of any signage. Signage must not be erected or displayed without first gaining development consent from Council, unless carried out under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

37. Hours of Delivery

Deliveries to the approved Marina Services Building shall be restricted to between 7am and 7pm Monday to Friday.

38. Plan of Management

An Operational Plan of Management is to be submitted prior to the issue of an Occupation Certificate. The Plan must include but not be limited to:

- a. removal of graffiti - the operator of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application,
- b. delivery times included in the plan are to reflect those specified in condition 37,
- c. access control should be set in place to exclude unauthorised access to restricted areas. Signage should be placed in areas that are restricted to members only,
- d. the following hours of operation are approved for the building use:
 - i. The Marina Management Office including a meeting room, is to operate from 7am to 6pm during non daylight savings periods, and extended hours for daylight savings, Monday to Sunday,
 - ii. The Public toilets are restricted to the hours between 6am and 10pm, seven days and available for public use, unless approved otherwise in writing by Shellharbour City Council,
 - iii. The member's only area including a lounge, toilets, showers and laundry facilities is accessible 24 hours, Monday to Sunday to members only. A register must be kept at all times for any members using the building between the hours of 10pm and 6am.
- e. In accordance with development provision 2.6 - *Trial periods for development approvals for use of land or buildings of Shellharbour Development Control Plan*, a trial period for the use of the building to its members for 24 hour access is enacted by the issue of this Notice of Determination. The trial period shall be for 12-months from the issue of the Occupation Certificate. In this regard, during the 12 months, a register must be kept to identify any operational responses to **management issues or complaints received from members, the community or other users.**

A section 4.55(1a) modification application for the removal of the trial period condition should be lodged no less than 60 days before the expiry of the trial period. In determining an application to remove the trial period condition, Council will have regard to the operation of the use within the preceding trial period and any submission received of the application (if required).

The use must always be operated/managed in accordance with the Plan of Management and signed and dated by the operator. A copy of the Plan must be submitted to Group Manager – City Development.

39. Refuse Storage Requirements

Ongoing waste management shall be designed to maximise source separation and recovery of recyclables. Educational signage shall be provided in the bin storage area to clearly identify food organics and garden organics (FOGO), garbage, and recycling bins, and the materials accepted in each.

The provision of educational signs shall be located in the communal storage area. The signs shall clearly identify materials that can be collected for FOGO, Recycling and Garbage.

The communal waste/recycling storage area or room/s shall be sized to meet the waste and recycling needs of future use and designed so that the size and layout is capable of accommodating reasonable future changes in use of the development. Design and construction of the storage area shall prevent the egress of vermin. A central floor waste shall be provided for cleaning purposes in accordance with the requirements of Sydney Water.

Between collection periods, all waste/recycling materials generated onsite will be securely enclosed in bins and stored in the designated bin storage room.

40. Building Use

The building has been approved as a non-habitable structure. Approval is not given or implied to any other use under this consent.

The Marina Service Building must not be used as a Licenced Premises.

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

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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.

WorkSafe NSW

The requirements of Worksafe 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.

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.

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.

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.

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 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

Compliance with *Building Code of Australia*

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

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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.

END OF NOTICE