

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. DA0402/2019 for consent to the following development:

SHELL COVE MARINA - FORESHORE CONSTRUCTION SOUTH

**LOT 9000 & 9009 DP1254656, LOT 9002 DP254656, LOT 1 & 2 DP1022866,
LOT 4022 & 4028 DP 1254658, LOT 1000 DP 1246645,
(FORMALLY LOT 4002 DP 1235539 & LOT 4008 DP 1219051)**

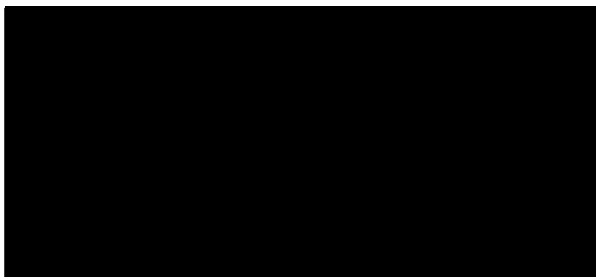
HARBOUR BOULEVARD, SHELL COVE NSW 2529

Determination date of consent: 24 June 2020

Note: This Approval will lapse 7 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

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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
Cover sheet	Group GSA	13294-L-F2-001 issue H	10/03/2020
Overall Plan	Group GSA	13294-L-F2-001B issue A	22/11/2017
Landscape Schedule	Group GSA	13294-L-F2-001 issue H	10/03/2020
Planting Schedule	Group GSA	13294-L-F2-003 issue E	04/10/2018
General Arrangement Plans	Group GSA	13294-L-F2-A001 issue I 13294-L-F2-A002 issue I 13294-L-F2-B001 issue I 13294-L-F2-B002 issue I 13294-L-F2-C001 issue H 13294-L-F2-C002 issue H 13294-L-F2-D002 issue F 13294-L-F2-BR001 issue G	21/05/2019 10/03/2020 10/03/2020 21/05/2019 21/05/2019
Waste Management Plan	Elephants Foot Recycling Solutions	Rev. C	4/03/2019
Landscape Details	Group GSA	13294-L-F2-4000 issue F 13294-L-F2-4001 issue D 13294-L-F2-4002 issue E 13294-L-F2-4003 issue A 13294-L-F2-3004 issue D	21/05/2019 21/05/2019 21/05/2019 21/05/2019 21/05/2019
Play Trail Plan	Group GSA	13294-L-F2-P001 issue D	31/10/2018
Landscape Schedule	Group GSA	13294-L-F2-P002 issue D	02/11/2018
Staging Plans	Group GSA	Plan 01-13294-L-F2-ST-001 issue F Plan 02-13294-L-F2-ST2-002 issue E	31/10/2018 31/10/2018
Concept Drainage Plan	Group GSA	13294-L-F2-CD-001 issue A	06/03/2020

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Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Water Station Location Plan	Group GSA	13294-L-F2-WS-001 issue A	06/03/2020
Statement of Environmental Effects	Ethos Urban	218894	30/05/2019
Foreshore Buildings	Fleetwood Urban Pty Ltd	1026301, 02, 03 & 04	05/05/2020
Lighting design	LAS	L14SUB-SK11-A, 01, 02 & 03	21/05/2019

4. Compliance with Notations on Drawings

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

5. Staging of Development

The development shall be staged in accordance with the approved plans noted in condition 3.

All conditions of the consent apply to each stage, unless otherwise specified.

Each stage must not be occupied or used until the Certifying Authority issues a Partial Completion Certificate or Occupation Certificate.

6. Substation installation

The terms of this Notice of Determination does not grant or imply approval for any substation within Lot 4022 DP1254658, including the substation shown on plan 13294-L-F2-D-002 issue F.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Landscape Inspection Fee

The developer must lodge with Council an inspection fee 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 Practical Completion Certificate
- landscape inspection following completion of the maintenance period prior to handover to Council
- Landscape Plan Construction Certificate Assessment for Open Space.

8. Landscape Plan

A detailed landscape plan must be lodged with Council for approval prior to the commencement of any 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 Certifying Authority prior to the release of the Landscape Construction Certificate.

The landscape plan must be prepared in accordance with the landscape concept plan package drawing no. 13294-L-F2-001 Revision H prepared by Group GSA Pty Ltd dated 10/03/2020 and in accordance the relevant documents listed below:

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- a) Shellharbour City Council's Open Space, Recreation and Community Facilities Needs Study Report 2010
- b) Shellharbour City Council Development Control Plan
- c) Shellharbour City Council Subdivision Design Code
- d) Everyone Can Play NSW State Guidelines 2019,

Works to be completed under the Concept Plan Approval, Concept Plan prevails if any conflict.

The landscape plan must also include the following amendments:

- i. Tree planting details within hard surfaces is to be shown on the detailed landscape plan with the submission of Construction Certificate.
- ii. All timber edging to retain mix planting adjacent to a turfed area is to be replaced with a concrete or masonry edging.
- iii. Omit the use of the plant species Pennisetum 'Purple Lea', this species is considered an environmental weed within the Shellharbour Local Government Area.

Note: The use of the tree species Eucalyptus botryoides, Angophora floribunda and Melaleuca decora should be used sparingly in close proximity to play and seating areas. These tree species are well suited to the coastal environment however, the use of these species creates a natural foreshore vegetation and the use of architectural plants should be incorporated into the design.

9. Construction Environmental Management Plan

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

- Sediment and erosion controls;
- Unexpected Acid Sulfate Soil management protocols;
- Management of fuels and chemicals;
- Contaminated lands unexpected finds and asbestos protocols;
- Construction noise controls;
- Dust control measures;
- Cultural Heritage stop work protocol; and,
- Native fauna protection measures.

10. Signage Content

Prior to the issue of any Construction Certificate, the final messaging and content of the wayfinding and information signage must be approved by Shellharbour City Council.

The issuing of this development consent does not infer approval of the signage content.

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11. Colour Schedule

Prior to the issue of the Construction Certificate that includes the neighbourhood park, details of the colours and materials to be used for the play equipment included within the park must be submitted for approval to the Principal Certifying Authority. The colours must comply with the requirements of the Design Guidelines for Medium Density Housing & Apartments - Precincts B2 and C2 and Precinct A and reflect the coastal nature of the surrounding area.

12. Outdoor Lighting

Evidence must be provided to the Principal Certifying Authority that the 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. Outdoor Lighting

13. Flooding Commercial Development

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard) for this site is given in

- Figure 8.1 of Shell Cove Precinct B2 and C2, Flood Assessment
- Figure 18 of Shell Cove Precinct D Stage 1 Roads DA Flood Assessment
- Figure 8.1 of Shell Cove Boat Harbour Precinct, Precinct A Flood Assessment

The 1% AEP Level for this site is given in;

- Figure 5.2 of Shell Cove Precinct B2 and C2 Flood Assessment
- Figure 6 of Shell Cove Precinct D Stage 1 Roads DA Flood Assessment
- Figure 5.2 of Shell Cove Boat Harbour Precinct, Precinct A Flood Assessment

The Probable Maximum Flood (PMF) Level for this site is given in;

- Figure 5.3 of Shell Cove Precinct B2 and C2 Flood Assessment
- Figure 7 of Shell Cove Precinct D Stage 1 Roads DA Flood Assessment
- Figure 5.3 of Shell Cove Boat Harbour Precinct, Precinct A Flood Assessment

The development shall comply with the following restrictions:

- a. **BUILDING COMPONENTS AND METHOD:** All structures to have flood compatible components up to and including the Flood Planning Level in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan,
- b. **STRUCTURAL SOUNDNESS & ENGINEERS CERTIFICATE:** An IEAust NER Structural Engineer's certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the FPL is to be submitted with the Construction Certificate Application and,
- c. **STORAGE OF MATERIALS:** There shall be NO external storage of materials below the design floor level which may cause pollution or be potentially hazardous during PMF flood.

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14. Retaining Wall Structural Engineer

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.

15. 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. satisfactorily drain all public areas,
- b. 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,
- c. be to the satisfaction of the Certifying Authority,
- d. 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

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. Open Space/Landscape Requirements

- a) All hard landscape items, park furniture items and play equipment items that are required to be fitted and /or secured with metal fixtures must be a grade 316 stainless steel, mild steel with marine paint protective system.
- b) Metal deterrents are to be fitted in areas where any raised surfaces, feature walls, retaining walls and seating walls that can provide opportunities for skate board, scooters and bicycle activities.
- c) All receptacles are to be provided with an enclosure. Rubbish collection points must be located within a maximum distance of 55 metres from the back of the kerb for disposal purposes.
- d) Water outlets must be installed at 60 metre spaces within landscaped beds and fitted with a tap key.

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18. Shellharbour Engineering Code Compliance

All works to be dedicated as a Council asset must be installed/constructed in accordance with the Shellharbour Engineering Code.

19. 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.

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 are not transported on wheels or tracks of vehicles or plant and deposited on the roadway.

PART D - DURING CONSTRUCTION WORKS

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. Contractor Induction

- All contractors must be inducted onto site and understand the requirements of the Construction Environmental Management Plan (CEMP).

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- A copy of the CEMP is onsite and made available to all contractors.
- All works undertaken on site must be in line with the conditions outlined in the CEMP.

23. 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.

24. Storage of Materials

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

PART E - PRIOR TO OCCUPATION

25. Landscape Practical Completion Inspection

All completed landscape works must be inspected by the Certifying Authority prior to the issue of a Practical Completion Certificate. It is the responsibility of the developer to notify the Certifying Authority for the landscape inspection.

26. Playground Safety Certification

The developer is required to submit to Council a playground safety certification report. The report must be prepared by a playground safety professional for all play equipment items and surrounding play areas.

27. 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 Practical Completion 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.

28. Plan of Management

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

- a. removal of graffiti - the operator/manager of the site must be responsible for the removal of all graffiti from any part of the foreshore area within 48 hours of its application,
- b. access control should be set in place to exclude unauthorised access to restricted vehicles. Signage should be placed in areas that are restricted to pedestrians only,

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- c. 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,
- d. any specific maintenance obligations of all materials, structures and the like.

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 Use/Occupation Certificate for each stage of the development. 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. 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 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.

32. 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.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not Applicable

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

33. Signage

The location and dimensions of the signage must be in accordance with the approved plans, unless otherwise approved in writing by Shellharbour City Council. Additional signage must not be erected or displayed without first gaining development consent from Council, unless

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carried out as exempt development under State Environmental Planning Policy (Exempt and Complying Development Code) 2008.

34. 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 Practical Completion 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.

35. 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 12 month 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.

36. 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.

37. Waste Receptacles

The landfill and recyclable waste bins must be stored in the waste storage area located in accordance with the approved plans.

38. Plan of Management

The foreshore is to be managed in accordance with the approved Plan of Management as required by condition 28. Any amendments to the Plan of Management must be approved in writing by Shellharbour City Council.

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.

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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.

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

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- 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.

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.

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