



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. DA0128/2020 for consent to the following development:

MARINA REFUELLING AND SEWERAGE FACILITY WITH UNDERGROUND FUEL STORAGE, DRIVEWAY ACCESS AND A TEMPORARY OFFICE

LOT 1000 DP 1246645 AND LOT 9000 DP1254656

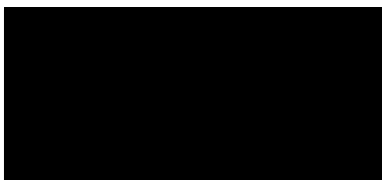
15 MARITIME DRIVE SHELL COVE NSW 2529

Determination date of consent: 2 July 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.



Grant Meredith
Group Manager City Development

On behalf of Carey McIntyre, General Manager

PART A – ADMINISTRATIVE CONDITIONS

1. Other Approvals

The development must comply with the advice of the Environmental Protection Agency, as contained in their letter dated 15/05/2020, consisting of two pages, and which forms part of this Notice of Determination. The advice is detailed in Part H of this consent.

The person having the benefit of the development consent must also complete the requirements outlined by SafeWork NSW as detailed in Part H of this consent.

2. 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.

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	Advisian	301015-02681-MA-DSK-0062 issue E 301015-02681-MA-DSK-0063 issue B	11/03/2020 05/03/2020
Plans	Moore Management	19030-00-MECH-LAY-001 rev. D 09030-00-MECH-LAY-002 rev. D 19030-00-PR-PID-001 rev. C 19030-04-MECH-GA-001 rev. E 19030-04-MECH-GA-002 rev. D	24/02/2020 24/02/2020 19/12/2019 24/02/2020 24/02/2020
Temporary Office Details	Coates hire	Standard Hire Fleet Drawing two sheets	Un-dated
Operational Details	Moore Management	19030-FN001 19030-FN002	03/12/2019 24/02/2020
SEPP 33 Assessment Report	Moore management	19030 SEPP 33 rev. R2	25/02/2020
Acoustic Assessment	ARUP	AC21 Issue	13/02/2020
Waste Management Plan			
Stormwater and Water Cycle Management Plan	Advisian	301015-03163	11/03/2020
Access Statement	Cheung Access	J000420	16/03/2020
Acid Sulphate Soils Assessment and Management Report	Advisian	-	1/04/2020

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Utilities Report	Coffey	754-WOLGE205169AA	22/05/2017
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4. Compliance with Notations on Drawings

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

5. Prescribed Conditions

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

6. Building Numbering

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

BLDG	STREET NUMBER	STREET NAME	STREET TYPE	LOCALITY
Marina Refuelling & Sewerage Facility	15	Maritime	Drive	Shell Cove

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Maintenance and Operations Manuals

Prior to the issue of a Construction Certificate draft/indicative operation and maintenance manuals must be submitted to Council.

Final versions of the manuals must be submitted to Council prior to the issue of an Occupation Certificate..

8. Construction Environmental Management Plan (CEMP)

Prior to the issue of a Construction Certificate a construction environmental management plan (CEMP) must be submitted to the Principal Certifying Authority including but not limited to the following environmental safeguards:

- a. Acid Sulfate Soils Management to be undertaken as detailed in Acid Sulfate Soils Management Plan written by Advisian , dated 01/04/2020,
- b. Waste Management to be undertaken in accordance with the Waste Management Plan provided,
- c. Construction noise management according to the Environmental Protection Agency Interim Construction Noise Guideline.
- d. Dust control measures,
- e. Sediment and erosion control as per the plan outlined in Stormwater and Water Cycle Management Plan, written by Advisian, dated 11/03/2020,
- f. Contaminated Lands Unexpected Finds and Asbestos protocols,

- g. Stop work protocol to be included for any potential heritage items found during excavation or other works, and
- h. Management of fuels and chemicals.

9. Acoustic Mitigation

Prior to the issue of a Construction Certificate the acoustic assessment must be reviewed and resubmitted to Council detailing the specific selection of the equipment and the acoustic assessment associated with that. Specific information regarding interim façade requirements for Precinct A1 and Precinct A2 proposed residential developments must also be provided as part of this report.

10. Shell Cove Marina Refuelling and Sewerage Pump out Procedures and Guidelines

A Shell Cove Marina Refuelling and Sewerage Pump Out Procedures and Guidelines document will be required to be submitted prior to the issue of a construction certificate, that includes;

- a) Procedure for refuelling of vessels,
- b) Procedure for refuelling fuel tank,
- c) Procedure for sewerage pump out from vessel,
- d) Procedure for sewerage pump out from holding tank to Sydney Water main,
- e) Training and Induction requirements, and
- f) Minor and Major Spill Emergency Procedure.

The procedures and guidelines must be compliant with all relevant Australian Standards and the *Protection of the Environment Operations Act 1997*.

11. 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.

12. 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

13. Construction Environmental Management Plan Implementation (CEMP)

A copy of the CEMP required by condition 8 must be available on site at all times. All contractors are to be inducted with the CEMP before commencing on site.

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.

14. Sediment and Erosion Controls

Sediment and erosion controls are to be installed as outlined in the CEMP (ESCP) from Shell Cove Boat Harbour Precinct, Boat Refuelling & Sewer Pump Out Facility, Stormwater and Water Cycle Management Plan, Advisian (11 March 2020) and maintained appropriately throughout construction.

15. 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.

16. 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.

PART D - DURING CONSTRUCTION WORKS

17. Contractor Induction

- All contactors must be inducted onto site and understand the requirements of the Construction Environmental Management Plan. (CEMP).
- A copy of the CEMP is onsite and made available to all contractors.

18. Underground Petroleum Storage System (UPSS) Installation

The UPSS as outlined in Operational details Moore Management (28 November 2019) must be installed by a duly qualified person in accordance with the Australian Standard 4897/2008 - The Design, Installation and Operation of Underground Petroleum Storage Systems.

19. 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.

20. 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.

21. Storage of Materials

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

PART E - PRIOR TO OCCUPATION

22. Underground Petroleum Storage Systems Equipment Integrity Test

Following Installation a duly qualified person must conduct an Equipment Integrity Test of the Underground Petroleum Storage Systems in accordance with AS 4897/2008 and submit the report to the principle certifier prior to the issue of an Occupation Certificate.

23. Underground Petroleum Storage Systems Fuel System Operational Plan

Prior to the issue of an Occupation Certificate a Fuel System Operational Plan must be developed in accordance with AS 4897/2008 and a copy submitted to the principle certifier. The plan is to be kept on site and implemented by the person responsible for the Underground Petroleum Storage System and include (but not limited to) systems and measures for inventory control and loss investigation (inventory control, leak and spill

response); and maintenance & testing (protection systems, leak monitoring systems, equipment integrity test schedule).

24. Acoustic Mitigation

Any recommendations made by the reviewed acoustic assessment required by Condition 9 must be implemented prior to issue of an Occupation Certificate Evidence that this has been done must be provided to the Principal Certifying Authority.

25. 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 within 48 hours of its application,
- b. access control should be set in place to exclude unauthorised access to restricted areas. Signage should be placed in areas that are restricted to staff only,
- c. operating hours in accordance with condition 31 of this consent,
- d. any specific maintenance obligations of all materials, structures and the like.

The Plan must be approved in writing by Council prior to submission.

26. 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.

27. 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.

28. 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.

29. 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.

30. Sign for Visitor Parking

A sign, legible from the street, must be permanently displayed to indicate the availability of visitor parking for the re-fuelling facility prior to the release of the Occupation Certificate.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not Applicable

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

31. Development Assessment - Hours of Operation

The approved hours of operation shall be restricted to the following:

- Monday to Saturday: 6am - 9pm; and
- Sunday: 7am - 9pm.

32. Plan of Management

The re-fuelling facility is to be managed in accordance with the Plan of Management as required by condition 25 in perpetuity.

Any amendments to the Plan of Management are to be agreed in writing with Shellharbour City Council prior to implementation.

PART H – OTHER APPROVALS

33. SafeWork NSW

The person having benefit of this Development Consent is required to complete the following:

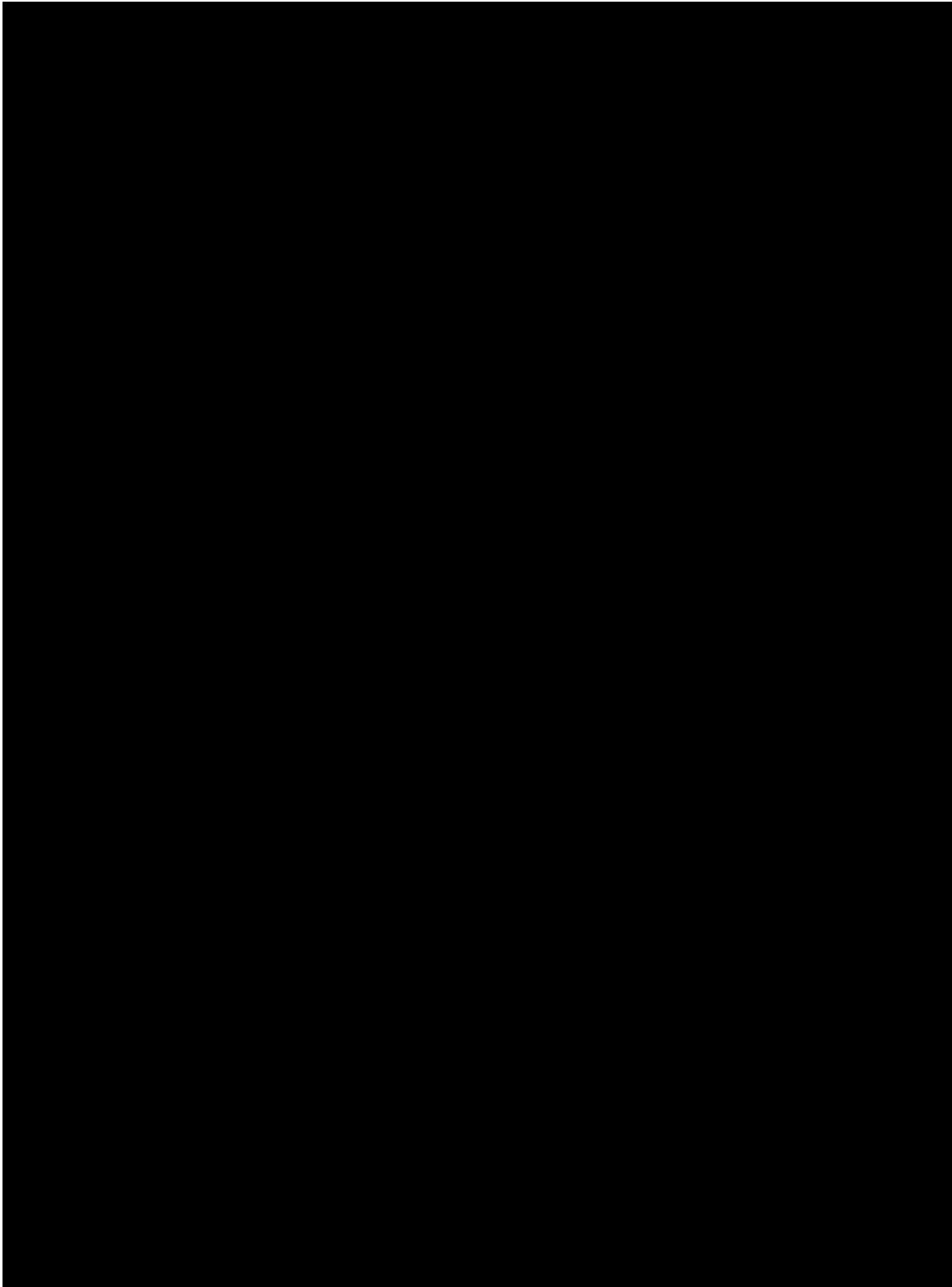
- (a) Notification of Schedule 11 Hazardous Chemical, this can be done at the SafeWork NSW website using the link below.

<https://www.safework.nsw.gov.au/notify-safework/dangerous-goods-notifications>

- (b) A manifest in accordance with Schedule 12 of the Work Health and Safety Regulation 2017.
- (c) A written emergency plan and lodge a copy with Fire and Rescue NSW.

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34. Environment Protection Agency



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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

Storage Tank Vent Height

Storage tank should be vented to an elevation of 600 mm above the relevant flood level.

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.

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 seven 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 twelve months after the date on which you receive this notice.

Review of Determination

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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.

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*

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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.

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.

END OF NOTICE