

Frasers Property Australia
48 Cove Boulevard
SHELL COVE NSW 2529

NOTICE TO APPLICANT OF DETERMINATION OF AN APPLICATION TO MODIFY A DEVELOPMENT CONSENT

Issued under the Environmental Planning and Assessment Act 1979

Notice is hereby given of the determination by the consent authority of the Development Application No. DA0058/2020 (Part 2) (Modification Reference No. DAM0070/2021 PAN-105559).

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

CURRENT CONSENT

This Consent modifies Development Consent No. DA0058/2020 relating to the land described and the following proposed development:

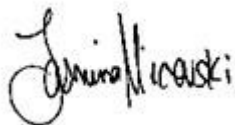
**CONSTRUCTION OF RESIDENTIAL FLAT BUILDINGS COMPRISING OF THREE
TOWERS, 64 APARTMENTS AND BASEMENT CARPARK**

LOT 5071 DP 1238340

15 CORMORANT WAY SHELL COVE NSW 2529

Determination date of consent: 8 October 2020¹

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



Jasmina Micevski
**Manager - Planning
City Development**

On behalf of Carey McIntyre, Chief Executive Officer

1. As Modified DA0058/2020 (Part 2) DAM0070/2021 on 28 June 2021.

MODIFIED CONSENT RELATES TO:

Modifications approved under DAM0070/2021 are:

- Include pedestrian door to loading dock Building C increasing width of door by 1.3 metres,
- Removal of the corridor voids in Building A,
- Modify parapet lines Buildings A-C and increase roof slab by 70mm,
- Modify the ground floor façade materials and retaining wall materials,
- Modification to landscaping across development relating to paving materials.
- Modification of condition 3 relating to approved plans and documents

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 Certifier.

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 Modified under DA0058/2020 (Part 2) DAM0070/2021

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 Plan	WMK Architecture	17225 DA000 issue B	06.11.2019
Site Plan and Analysis	WMK Architecture	17225 DA002 issue A	06.12.2019
Basement Plan	WMK Architecture	17225 DA100 issue A	13.01.2020
Ground Floor Plan (approved under DA0058/2020(part DAM0070/2021) 2)	WMK Architecture	17225 DA101 issue D	27.05.2021
Level 1 Plan (approved under DA0058/2020(part DAM0070/2021) 2)	WMK Architecture	17225 DA102 issue C	27.05.2021
Level 2 Plan (approved under DA0058/2020(part DAM0070/2021) 2)	WMK Architecture	17225 DA103 issue C	27.05.2021

Development Application No. DAM0070/2021
Lot 5071 DP 1238340, 15 Cormorant Way SHELL COVE NSW 2529

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Level 3 Plan (approved under 2) DA0058/2020(part 2) DAM0070/2021)	WMK Architecture	17225 DA104 issue C	27.05.2021
Roof Plan (approved under 2) DA0058/2020(part 2) DAM0070/2021)	WMK Architecture	17225 DA105 issue B	27.05.2021
DDA Compliance Floor Plan	WMK Architecture	17225 DA990 issue A 17225 DA991 issue A 17225 DA992 issue A 17225 DA993 issue A 17225 DA994 issue A 17225 DA995 issue A	25.06.2019
Elevations (approved under 2) DA0058/2020(part 2) DAM0070/2021)	WMK Architecture	17225 DA500 issue B 17225 DA501 issue B	27.05.2021 27.05.2021
Material Finishes (approved under 2) DA0058/2020(part 2) DAM0070/2021)	WMK Architecture	17225 DA550 issue B	27.05.2021
Sections (approved under 2) DA0058/2020(part 2) DAM0070/2021)	WMK Architecture	17225 DA600 issue C	27.05.2021
BASIX*	Efficient Living Pty Ltd	Certificate No. 1024508M_03	14.01.2020
Waste Management Plan	MRA Consulting Group	Version 2 Status - Final	10.01.2020
Landscape Plan (approved under 2) DA0058/2020(part 2) DAM0070/2021)	GSA Group	13294-LPEA 0000 issue D 13294-LPEA 2000 issue D 13294-LPEA 2001 issue D 13294-LPEA 2002 issue D 13294-LPEA 2003 issue D 13294-LPEA 2004 issue D	01.06.2021
Concept Drainage Plan	WMK	DA100 Issue P2 DA101 Issue P2 DA102 Issue P2 DA103 Issue P2 DA104 Issue P2 DA105 Issue P1	6.11.2019
Civil Plans	Arcadis	C-E2-BE-001 Issue 1 C-E2-BE-101 Issue 1 C-E2-BE-105 Issue 1 C-E2-BE-111 Issue 1 C-E2-BE-115 Issue 1 C-E2-BE-401 Issue 1 C-E2-BE-501 Issue 1	16.12.2019
Acid Sulfate Management Plan	Coffey	GEOTWOLL02058CH-AA Rev 3	13.02.2017
Geotechnical Site Investigation	SMEC	30012095-R10	11.12.2019
Noise Impact Assessment	Acoustic Logic		27.05.2020

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
CPTED Report	Ethos Urban	218107	12.2.2020
Report on Phase 2 Contamination Assessment	Douglas Partners	40999.26	10.2010
Targeted Site Investigation	Douglas Partners	78599.10	02. 2016
Disability Access Report	Cheung Access	J000353	29.01.2020
Traffic Report	Colston Budd, Rogers and Kafes Pty Ltd	TR/10787/jj	14.1.2020
Proposed Civil, Utility, Sewer & Water Services Strategy	Arcadis	AA006310-E2-001 rev. A	16.12.2019

* 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. Compliance with Notations on Drawings

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

5. House Numbering

With reference to submitted plan (DWG No: DA002, Rev:A) the development will be numbered as follows:

DESCRIPTION OF PRIMARY ADDRESS ACCESS POINT	STREET NUMBER	STREET NAME	LOCALITY
Building A	11	Lapwing Avenue	Shell Cove
Building B	15	Cormorant Way	Shell Cove
Building C	17	Cormorant Way	Shell Cove

Primary addresses shall be included on the Construction Certificate plans.

The finished building shall have effective visible identification of each primary address, with number signage displayed prominently, oriented to the correct road and on contrasting background.

Prior to lodgement for Construction Certificate, contact GIS department to obtain unit sub-address numbers for each residential unit.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Section 7.11 Contributions

A contribution of \$660,016.35, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services. This amount has been calculated in accordance with Shellharbour City Council's Local Infrastructure Contributions Plan 2019 9th Review 14 August 2019 in the following manner:

- Residential contribution – Precinct 2 – Shellharbour - \$709,579.08

- Less Credit Passive Open Space Embellishment – City East – (\$49,562.73)

In accordance with the *Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020* this contribution must be paid prior to the issue of the first Occupation Certificate for a building to which this consent relates unless the Construction Certificate for the development is issued after 25 September 2022, in which case the contribution is payable prior to the issue of the Construction Certificate.

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* at the date of payment. 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

7. 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 DA100 to DA105 prepared by WMK on 28/05/2020,
- b. drain to the stormwater drainage connections within lot 5071, DP 1238340,
- 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.

8. 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.

9. 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.

10. Development Assessment - SEPP 65 Design Verification Statement

The Principal Certifier must not issue a Construction Certificate for residential flat building development unless the Principal Certifier has received a design verification from a qualified designer. The verification must be in the form of a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of -State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.

11. Amendments to Landscape Plan

Amended landscape plans and plant details are to be submitted for approval by the Principal Certifier prior to the issue of a Construction Certificate with the following amendments:

- a. the plant species *Agapanthus africanus* and *Rapheolepis indica* 'Snow Maiden' are to be omitted and are to be replaced with the plant species *Clivia miniata* and *Camellia sasanqua* 'Petite'.
- b. Increase density of planting on southern boundary in front of retaining walls to ensure suitable screening. This will require planting within adjacent public land.

12. Acid Sulfate Soils Management

Prior to issue of the Construction Certificate a site specific Acid Sulfate Soils Management Plan (AASMP) must be developed using the management options required in the Acid Sulfate Management Plan: Precinct E, Northern Lands, WL6 and WL7 Shell Cove, NSW Coffey (2017) for implementation should ASS be encountered during excavations.

The plan must include requirements to ensure that excavations in the Eastern part of the site must be observed for acid sulfate soils by a suitably qualified person, and all other excavations on site be observed by the appropriate contractor for ASS.

13. Construction Environmental Management Plan (CEMP)

Prior to issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) must be submitted including but not limited to the following environmental safeguards:

- a. The CEMP should direct all workers to the site specific Acid Sulfate Soils Management Plan (AASMP) which must be using the management options set forth in Acid Sulfate Management Plan: Precinct E, Northern Lands, WL6 and WL7 Shell Cove, NSW Coffey (2017) for implementation should ASS be encountered during excavations.
- b. Waste Management plan in accordance with Shell Cove Masterplan Precinct E: Waste Management Plan. MRA Consulting Group. (10/01/20). Outlined in the plan must be that any excavated fill stockpiled that is designated for disposal must be tested for waste classification.
- c. Measures are required in the CEMP to minimise the impact of construction noise according to the EPA Interim Construction Noise Guideline.
- d. Condition required in the CEMP to limit dust.
- e. Sediment and erosion controls are required according to plans provided in Shell Cove - Precinct E2 Apartments Proposed Civil, Utility , Sewer & Water Services Strategy by Arcadis (2019)/the Civil Plans by Arcadis (2019) and in accordance with "Managing Urban Stormwater: Soils & Construction" (Landcom, 2004).
- f. Unexpected finds protocol to be included in the CEMP.

- g. Stop work protocol to be included in the CEMP for any potential heritage items found during excavation or other works.
- h. A procedure is required in the CEMP to minimise risk to native fauna during vegetation removal.
- i. Management of Fuels and Chemicals.

14. Stormwater Management and Water Quality

Prior to issue of the Construction Certificate, documentary evidence must be produced to the Principal Certifier giving written confirmation from Arcadis that the water quality targets required in the 'Shell Cove Boat Harbour Precinct - Stormwater Quality Management Strategy' by Advisian (2009) will be met with the stormwater system (rainwater tanks and precinct E3 raingardens) as proposed (addendum to 2009 report or email).

15. Acoustic Mitigation

Prior to issue of the Construction Certificate, the acoustic mitigation measures recommended within section 6.4 of Acoustic Logic amended 'Shell Cove, Precinct E Apartments, Noise Impact Assessment' (27/05/2020) must be implemented in the design of the building, including further detailed acoustic review.

The specifications of noise management treatments proposed for both building materials and services equipment is required. In this regard, as recommended by Acoustic Logic (2020) the design of noise management treatments should consider noise emitted by:

- a. the car park entrance drive way and roller door and its impact in particular on residents and bedrooms directly adjacent;
- b. the communal pool and recreational garden areas located within the development;
- c. mechanical plant to service the project site.

16. Crime Prevention Through Environmental Design

Prior to the issue of a Construction Certificate plans must be submitted to the Principal Certifier detailing how the development has achieved the recommendations in section 6.1 of Ethos Urban's Crime Prevention Through Environmental Design report reference 218107, dated 12/02/2020.

17. Reflectivity of Materials

The visible light reflectivity (reflectivity index) of the roof and other external building materials/colours (including exposed windows) must not exceed 20%. Written evidence that this requirement is not exceeded must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

18. External Lighting Of Building

Documentary evidence must be provided to the Principal Certifier demonstrating that the external lighting strategy of the building does not exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive effects of outdoor lighting. The lighting strategy must be prepared by a suitably qualified, practicing lighting engineer or lighting designer.

19. Waste Management Plan - Operational

Prior to the issue of a Construction Certificate, a Waste Management Plan - operational, must be developed demonstrating how the building management will manage its operational waste. The plan must include:

- a. How waste will be managed by the operator of the development,
- b. How waste will be disposed and appropriately collected by a private contractor,
- c. Detail arrangements for ensuring bins are stickered and ensuring relevant residents are aware of how to use the waste system correctly, and
- d. Identify potential barriers to maximising resource recovery and minimising landfill disposal and develop possible workable solutions to overcome identified barriers.

The waste removal strategy for the site relies on the collection of waste by a private contractor. No responsibility of waste removal is borne on Council.

20. Waste Storage Area

The waste storage areas must have sufficient size to store separate waste bins for both landfill and recyclables waste streams. Details of the dimensions of the waste storage area are to be shown on the Construction Certificate plans submitted to the Certifying Authority.

21. Soil and Water Management Plan (SWMP)

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

The SWMP must take into account the requirements of Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas.
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodible velocities.
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on the site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (including landscaping),

- g specifies measure to control dust generated as a result of construction activities on site,
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal,
- i. design scour protection for the 10 year ARI event at all inlet and outlet structures.
- j. including measures to prevent the tracking of sediment off the site.

22. Flooding Residential Development

The Flood Planning Level (FPL) (1% AEP + 500mm Freeboard), the 1% Annual Exceedance Probability (AEP) flood level and the Probable Maximum Flood (PMF) Level for this development is given as follows (as per flood level of Wetland 6):

	Flood Planning Level (FPL)(1% AEP + 500mm Freeboard)	1% Annual Exceedance Probability (AEP) Flood Level	Probable Maximum Flood (PMF) Level
Building A	4.4 m AHD	3.9 m AHD	5.0 m AHD
Building B	4.4 m AHD	3.9 m AHD	5.1 m AHD
Building C	4.4 m AHD	3.9 m AHD	5.1 m AHD

- a. Habitable floor levels shall be equal to or greater than the FPL,
- b. Basement car parking
 - i. must be protected from inundation to levels resulting from either the 1% AEP flood plus freeboard of 0.5 m or the PMF whichever is greater
 - ii. must have reliable access for pedestrians from the basement in the PMF event
 - iii. All openings such as vehicular and pedestrian entry points, ventilation grates etc must all be located above the 1% AEP flood plus freeboard of 0.5 m or the PMF whichever is greater.
- c. All structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Councils Development Control Plan and,
- d. An IEAust NER Structural Engineer's certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the PMF is to be submitted with the Construction Certificate Application.

23. Engineer Designed Pavement

All car parking areas, manoeuvring areas and the access aisle must be paved, drained and marked. The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. AUSTRROADS Guide to Pavement Technology can be used as the design guideline for the pavement design.

The laybacks and crossings must be designed to accommodate expected traffic loadings. In this regard they must be constructed to a commercial/industrial standard with the work carried out by Council or a Council approved contractor at the Developer's expense, including all alteration to public infrastructure where necessary.

24. Landscape Inspection Fee

The developer must lodge with Council an inspection fee of \$757.00 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.

25. 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.

26. Waste Collection Loading Dock

Prior to the issue of a Construction Certificate detailed plans are to be submitted to the Principal Certifier for approval increasing the setback of the waste collection loading dock by 0.5 metres. The landscaping forward of the waste collection loading dock is to be suitably increased to fill the space between the dock and the front boundary.

27. Retaining Walls

Prior to issue of a Construction Certificate plans must be submitted to the Principal Certifier for approval, detailing the height of the retaining walls located along the southern side of the development adjacent to lot 5074 DP1238340. No single retaining wall face must be greater than 1.5metres high and that any proposed level changes greater than 1.5metres will need to incorporate a stepped retaining wall with intermediate landscaping.

PART C - PRIOR TO COMMENCEMENT OF WORKS

28. 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.

29. 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.

30. Sediment and Erosion Controls

Sediment and erosion controls are to be installed as outlined in the CEMP/sediment erosion control plan and maintained appropriately throughout construction.

31. Construction Environmental Management Plan (CEMP) and Acid Sulphate Soil Management Plan (ASSMP) on site

A copy of the CEMP and ASSMP must be available on site at all times. All contractors are to be inducted with the CEMP and ASSMP (if relevant) before commencing on site.

32. 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.

33. 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

34. 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 5pm Saturdays.

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

35. 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.

36. Storage of Materials

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

37. 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 level/s in relation to the natural ground level 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.

Australian Height Datum must be used.

38. Building Height - Survey Certification

The building must not exceed the height shown on the approved plans.

A report from a registered surveyor must be provided to the Certifying Authority on completion of the roof frame, prior to covering the roof, certifying that the height of the building is in accordance with the approved plans.

39. Cut/Fill

The cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans,
- c. have a maximum grade of 45° (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area, and
- d. not exceed 1m in depth outside the external walls of a building, unless otherwise approved in writing by Council.

40. Retaining Walls

Any retaining walls must:

- a. not exceed the maximum heights as detailed on plan drawn by WMK Architects reference 17225 DA101 Issue C dated 12/8/2020,
- b. be located wholly within the property, including footings and agricultural drainage lines, and
- c. be treated with suitable anti-graffiti paint/render.

Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

41. Contamination - Unexpected Finds Contingency

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

42. Excavation Material

Any Excavated Natural Material (ENM) and Virgin Excavated Natural Material (VENM) that has been confirmed and documented not to include any acid sulfate soil (not from the alluvial layer) may be reused on site.

Excavated material to be disposed of must be tested for waste classification prior to disposal.

43. Acoustic Mitigation

Acoustic mitigation measures for the proposed development must be implemented during construction in accordance with the recommendations and requirements outlined in condition 15.

44. Residential Flooding Survey Certification

A survey certificate, signed by a Registered Surveyor, shall be submitted for approval to the Principal Certifier when the formwork for the main floor area and basement entry ramp is completed. This certificate shall certify that any main floor area and basement entry will be constructed at the designed level.

45. Driveway and/or 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 widths in accordance with the approved DA plans,
- 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

46. Occupation Certificate

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

47. 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 Certifier 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.

48. BASIX

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

49. 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.

50. 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 Certifier prior to the issue of an Occupation Certificate. All records, such as waste disposal docketts or photographic evidence, must be retained by the Principal Certifier.

51. Completion of Landscape Works

The unbuilt upon land, with the exception of the paving, must be landscaped in accordance with the approved landscape plans by GSA Group reference 2001-2004 issue C dated 18/11/2019. 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 Certifier prior to issue of an Occupation Certificate, on completion of the landscape works certifying that the landscape is in accordance with the approved Landscape Plan.

52. 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.

53. SEPP 65 Design Verification Statement

The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the Principal Certifier has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of *-State Environmental Planning Policy No 65 Design Quality of Residential Flat Development*.

54. Certification of Adaptable Housing

Certification must be provided from an appropriately qualified person in adaptable housing that the adaptable housing units have been designed and constructed to meet the performance requirements of Australian Standard 4299-1995 Adaptable Housing (or any subsequent version). The certification must be accompanied with relevant documentation as detailed in AS 4299-1995 and submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

55. Operational Plan of Management

The developer shall prepare an Operational Management Plan which addresses all operational and management procedures to be employed, to ensure that the Common Open Space (COS), can operate safely and without disturbance to the surrounding locality.

Matters to be addressed include (but are not limited to):

- a. management of deliveries, all loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way,
- b. maintenance regime - graffiti removal etc,
- c. security management - lighting, CCTV, access etc, and
- d. the necessary operational and maintenance requirements of all landscaped areas. Such requirements must ensure that the landscaping is maintained in perpetuity and in accordance with the Landscaping Plans by Group GSA.

- e. operating hours for pool.
- f. building manager available to move waste bins from basement to ground floor waste collection area when required.

56. Intercom for Parking Levels

The basement parking levels must be accessible to visitors and residents by the location of an intercom (or card controller system) at the car park entry and wired to all units. The intercom must comply with Australian Standards AS1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.

Such access control must be installed prior to the issue of the Occupation Certificate.

57. Relevant Leases, Licenses and Easements

Prior to issue of the Occupation Certificate the necessary leases, licenses or easements as relevant need to be obtained from the appropriate authorities including Shellharbour City Council.

58. Flood Risk Signage

Signage is to be provided in the basement carpark to warn people that the site may be subject to flooding and to follow the designated evacuation routes from the basement car park including vehicle exit ramp and fire stairs.

59. Pool Safety

The pool must be enclosed with a fence or barrier that complies with AS 1926-2012, the Swimming Pool Act 1992 and Swimming Pool Regulations 2008. Compliance with this requirement must be verified prior to the issue of the Occupation Certificate.

60. Swimming Pool Registration

The swimming pool must be registered on the NSW State Wide Swimming Pool Register prior to the issue of an Occupation Certificate.

The following details will be required during registration: owner name, address, contact details, the type of pool, and the approximate age of the pool. A 'self-assessment' checklist will also need to be completed when registering the swimming pool.

Registration of the swimming pool can be completed free of charge by visiting: www.swimmingpoolregister.nsw.gov.au <<http://www.swimmingpoolregister.nsw.gov.au>>

61. Sign for Visitor Parking

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

62. Restrictions on Title

Prior to the issue of an Occupation Certificate a restriction must be placed on title providing public pedestrian right of way between Cormorant Way and the wetlands lot: 5074 DP: 1238340. Documentary evidence from the Land and Property Information must be produced to demonstrate that the right of way has been legally created.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not Applicable

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

63. BASIX Commitments

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

64. Allocation of Visitor Parking

The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in the strata subdivision.

65. Car Parking Provision

At all times the number of private parking spaces for the residential apartments must be 93 spaces.

The following proportional mix must be complied with at the very minimum:

- a. minimum 1 space per 1 bedroom unit,
- b. minimum 1-2 spaces per 2 and/or 3 bedroom units.

Pairs of stacked parking spaces must be allocated together to the same apartment.

The number of visitor car parking spaces must be 31 vehicle spaces.

The visitor car parking spaces must always be available for visitor parking and must not at any time be allocated, sold or leased to an individual owner/occupier. In this regard, the visitor car parking spaces must form part of the common property in the strata subdivision.

66. Enclosure of Balconies

At no time shall any of the balconies within the development site be enclosed.

67. Air Conditioning Units to Façade

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building without screening or an enclosure.

68. Parking

Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of vehicle parking loading/unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

69. Waste Management

Waste management shall be in accordance with the Waste Management Plan and shall be designed to maximise source separation and recovery of food organics and recyclables. Educational signage shall be provided in all waste storage rooms, bulky waste storage rooms and FOGO storage rooms to clearly identify food organics and garden organics (FOGO), garbage, and recycling bins, and the materials accepted in each.

The communal waste, bulky waste and FOGO storage area or room/s shall be sized to meet the waste and recycling needs of all future tenants 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 rooms and these rooms maintained to a reasonable standard in terms of hygiene and cleanliness.

70. Plan of Management

The development shall be managed by the Plan of Management (POM) as required by condition 55 in perpetuity.

71. Offensive Noise

The use of the Communal Open Space including the swimming pool must not give rise to the transmission of offensive noise. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).

PART H – OTHER APPROVALS

Not Applicable

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes – Project Specific
--

Flood Emergency Kit

A Flood Emergency Kit should be prepared to the satisfaction of the Principle Certifying Authority prior to issue of the Occupation Certificate. The kit should be located within a habitable room in which the floor level is at or above the PMF level, and made conspicuous and easily accessible to occupants and visitors at all times. The Kit should include but not be limited to the following items as minimum:

- a. A Flood Emergency Response letter, prepared by a practicing engineer with experience in Floodplain Risk Management, that details;
 - local flood; levels, depths, duration, timing, extents, dwelling floor levels and their relationship to local flood levels
 - closest PMF refuge areas and safe evacuation routes (both internal and external to site)
 - dwelling floor levels and relationship to local flood levels
 - possibility of over floor flooding and expected depths
 - possibility of local roads being closed due to flooding,
 - the need and capability for occupants to wade out or use a vehicle to escape rising flood water
 - access and egress availability for emergency services
 - consideration of local Emergency Plans and Council adopted Flood Study recommendations
- b. Emergency service contact information (SES, Police, Ambulance, Hospital etc)
- c. Provision of emergency communications ie battery operated AM/FM radio and Two-way radios etc
- d. Food, water, First Aid, medical supplies, batteries, chargers and other essential supplies for all occupants and visitors if a stay-in-place evacuation strategy is advised by the SES

Advisory Notes – General

Critical Stage Mandatory Inspections

Mandatory inspections of the building work must be carried out by the Principal Certifier 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 Certifier the occasions when the building work is to be inspected prior to work commencing.

Erection of Signs

The principal contractor and the Principal Certifier 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 Certifier 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 Certifier 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 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

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.

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 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)

Development Application No. DAM0070/2021
Lot 5071 DP 1238340, 15 Cormorant Way SHELL COVE NSW 2529

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 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.

Advisory Notes – Amended Consent

AN1 Modified Consent

This modified development consent replaces the consent originally given to you and any other amendment.

AN2 Right to Appeal

If you are dissatisfied with any decision of this consent, then you have the right to appeal to the Land & Environment Court. You must do this within twelve months after receipt of this notice.

AN3 Review

Under section 96AB of the *Environmental Planning & Assessment Act 1979*, an applicant for the modification of a development is able to request a review by Council.

AN4 Advisory Notes of Previous Consent

The general advisory notes of the original consent, and any other amendment, may remain relevant to this consent.

END OF NOTICE