



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. DA0609/2020 for consent to the following development:

CONTAINMENT CELL FOR THE STORAGE OF ASBESTOS AND ASBESTOS IMPACTED SOILS

LOT 9006 DP 1254656

BRIGANTINE DRIVE SHELL COVE NSW 2529

Determination date of consent: 30 April 2021

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

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

This development consent has been divided into different parts according to where, during the development process, each condition may be most relevant. Some conditions may be appropriate to more than one part. All conditions must be complied with.



**Manager – Planning
City Development**

On behalf of Carey McIntyre, Chief Executive Officer

PART A – ADMINISTRATIVE CONDITIONS

1. Construction Certificate & PC 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. Site Audit Statement

A NSW Environmental Protection Agency (EPA) Accredited Site Auditor must be engaged to certify that the site is suitable for its use following completion of the works hereby approved.

The Site Auditor will review the work of the Remediation Consultant and Contractor to produce a Site Audit Statement (SAS) and Site Audit Report (SAR).

These documents are to be submitted to Council prior to Council taking management of the land.

3. Prescribed Conditions

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

4. 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
Shell Cove Capping Options - Qualitative Risk Assessment	SMEC	30012095 rev. 2 Final	21.10.2020
Asbestos Management Plan	Clearsafe	20-9243-01-LC	18.10.2018
Asbestos Clearance Certificate	Clearsafe	20-9540-03-CL	25.02.2019
Statement of Environmental Effects	Frasers Property	Precinct G Asbestos Contaminated material Cell Management SEE rev. 1	11.11.2020

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Not applicable

PART C - PRIOR TO COMMENCEMENT OF WORKS

5. 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.

6. Erosion & Runoff Controls

Before work starts, appropriate erosion and runoff controls must be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, stormwater systems or watercourses.

These controls may include the following (where applicable):

- a. erect a silt fence,
- b. limit the removal or disturbance of vegetation and topsoil,
- c. divert uncontaminated run-off around cleared or disturbed areas,
- d. install sediment traps/socks around any stormwater inlets and drainage lines,
- e. stockpile topsoil, excavated material, construction and landscaping materials and debris within the site. These should be covered or seeded to prevent loss of these materials,
- f. provide a single vehicle access to the site including measures to prevent the tracking of sediment off the site,
- g. provide adequate control measures to suppress dust, and
- h. these measures must be in place prior to commencement of any excavation or construction works.

7. 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 any 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,
- 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, and

- g. actions and safety measures required for the capping works.

PART D - DURING CONSTRUCTION WORKS

8. Site Management Plan and Asbestos Management Plan

The Site Management Plan and approved Asbestos Management Plan must be strictly adhered to during construction works.

9. Capping Layer

The Contaminated Material covered with marker layer and 500mm of capping material is to be further capped with a minimum of 500mm of clean topsoil and appropriately landscaped.

10. Hours for Carrying out of any work

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

11. Maintenance of Erosion & Runoff Controls

The soil and water management controls must be maintained at all times and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively
- b. drains, gutters and roads must be maintained clear of sediment at all times.

It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

12. Storage of Materials

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

PART E – ON COMPLETION OF WORKS

13. Validation Report

On completion of the works hereby approved, a validation report is to be completed by a suitably qualified consultant and submitted to Council for approval. The report is to confirm the cell construction in accordance with the Shell Cove ACM Capping Options - Qualitative Risk Assessment by SMEC dated 21.10.2020.

14. Environmental Management Plan

An Environmental Management Plan for the containment cell is to be developed by a suitably qualified consultant to be submitted to Council upon handover of the land to Council. The

Management Plan is to be attached to the land title in perpetuity.

Prior to handover to Council, the proponent is responsible for inspection and repair if necessary of the containment cell every 6 months.

Documentary evidence must be produced at the handover stage demonstrating that such inspections occurred and a record of any other remedial works that have occurred during this time.

15. Repairs to Public Infrastructure

Any damage to public infrastructure, other than that previously noted in the Dilapidation Report (refer Part C), is the responsibility of the developer. All damage must be repaired and reinstated prior to the issue of the Occupation Certificate. This work must be carried out by Council, or Council approved contractor, at the developer's expense.

PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Not Applicable

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

Not Applicable

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 - General

Works on site

The Environment and Assessment (COVID-19 Development – Construction Work Days) Order 2020 allows for carrying out of any building work or work, or the demolition of a building or work on a Saturday, Sunday or public holiday subject to conditions contained within the attached link

https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/A+Waterloo/BRWC0B5D7E79C28_000032.pdf

Such provisions apply for development occurring within the prescribed period of the Order being until 31 March 2022.

SafeWork NSW

The requirements of SafeWork NSW must be satisfied at all times.

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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.

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 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 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

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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.

END OF NOTICE