

Australand Corporation (NSW) Pty Ltd  
PO Box 4148  
SHELLHARBOUR NSW 2529

## 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. 0393/2021 (PAN-112513) for consent to the following development:

**SEVEN TOWNHOUSES AND SEVEN LOT TORRENS TITLE SUBDIVISION -  
PRECINCT B2/C2 STAGE 3002  
(MULTI DWELLING HOUSING)**

**LOT: 9009 DP: 1254656**

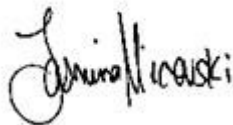
**THE PROMONTORY DRIVE, SHELL COVE**

**Determination date of consent:** 23 September 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.



Jasmina Micevski  
**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. 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
Site Plan/Cover sheet	Frasers Property	0.0/B 1.2/B 1.2.1/B	18.06.2021
Ground Floor Plans	Frasers Property	2.1/B 2.1.1/B 5.01/B 5.07/B 5.13/B 5.19/B	18.06.2021
First Floor Plan	Frasers Property	2.2/B 5.02/B 5.08/B 5.14/B 5.19/B	18.06.2021
Roof Plan	Frasers Property	2.3/B	18.06.2021
Fencing Details	Frasers Property	2.4/B	18.06.2021
Elevations Plan	Frasers Property	3.1/B 5.03/B 5.04/B 5.09/B 5.10/B 5.15/B 5.16/B 5.20/B 5.21/B	18.06.2021
Section Plans	Frasers Property	5.05/B 5.11/B 5.12/B 5.17/B 5.18/B 5.22/B	18.06.2021
BASIX*	Victor Lin & Associates Pty Ltd	Certificate No. 1202902M_02 Certificate No. 1212470M_02	24.08.2021
Waste Management Plan	Australand Corporation		10.06.2021
Subdivision Plan	Frasers Property	1.1/B	18.06.2021
Landscape Plan	DSB Landscape Architects	4248-F101 B 1/1 4248-F201 B 1/2 4248-F202 B 2/2 4248-F301 B 1/1 4248-F401 B 1/2 4248-F402 B 2/2	18.06.2021
Colour/Material Schedule	Frasers Property	2.5/B	18.06.2021
Concept Drainage Plan	Frasers Property	1.3/B 1.3.1/B	18.06.2021

\* 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

Referral Comments:

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

Lot	Street Number	Street Name	Street Type	Locality
3201	38	The Promontory	Drive	Shell Cove
3202	40	The Promontory	Drive	Shell Cove
3203	42	The Promontory	Drive	Shell Cove
3204	44	The Promontory	Drive	Shell Cove
3205	46	The Promontory	Drive	Shell Cove
3206	48	The Promontory	Drive	Shell Cove
3207	50	The Promontory	Drive	Shell Cove

- a. Addresses should be included on the DA plans and ensure lot numbers on the Subdivision admin sheet are the same as Unit & house numbers on DA & construction plans.
- b. The allocated number must be displayed prior to occupation. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.
- c. Letterboxes should be visible from the street and clearly numbered according to the address allocated with street numbers.

#### 6. Floor Plan Options

Conditions 21, 22, 34 and 35 of this consent may not be relevant to all floor plan options approved in condition 3. The Certifier has authority to determine which conditions are relevant and disregard where no pool is provided.

### PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### 7. Section 7.11 Development Contributions

A contribution of \$65,434.44, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. 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 - \$70,348.08
- Less C1.26 CE Passive Open Space contribution – (\$4,913.64)

Open Space (excl. POS embellishment)	\$ 11,486.16
Community Infrastructure	\$ 47,231.22
Roads & Traffic	\$ 1,209.60
Drainage	\$ -
Administration	\$ 5,507.46
TOTAL	\$ 65,434.44

The contribution amount contained in this condition is the base rate indexed to the date the consent is issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the Contributions Plan. Current indexed rates are available from Council.

The Contributions Plan may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au).

#### **8. Registration of Lot 3002**

Prior to the issue of a Construction Certificate Lot 3002 must be registered with NSW Land Title in accordance with the requirements of DA0287/2018.

#### **9. Landscape Inspection Fee (applicable if Council is Certifier)**

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:

- a. landscape inspection prior to occupation of the development, and
- b. landscape inspection following completion of the maintenance period.

#### **10. Landscape Plan**

Prior to the final inspection by the Certifying Authority, the unbuilt upon land must be landscaped and planted with turf, trees and shrubs.

In this regard, a landscape plan prepared by a Landscape Architect must be submitted to the Certifying Authority prior to the release of the Construction Certificate.

The landscape plan must be prepared in accordance with the concept landscape plan prepared by DSB Landscape Architects dated 18/06/2021, with Council's DCP and include the following amendments:

Environmental weeds listed on the Shellharbour Environmental Weed List must not be used within the landscape design. In this regard the use of the tree species *Cupaniopsis anacardioides* must be omitted and replaced with the like of a more suitable plant species.

### **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.

### **13. 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 plan no. 1.3.1/B prepared by Frasers Property on 18/06/2021,
- b. drain to the stormwater drainage on Sails Way,
- 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,
- h. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

## **PART C - PRIOR TO COMMENCEMENT OF WORKS**

### **14. 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.

## **15. 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, and
- g. provide adequate control measures to suppress dust.

These measures must be in place prior to commencement of any excavation or construction works.

## **16. 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. 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. detailed engineering drawings 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.

## **17. 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.

## **18. Retaining Walls**

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.

## 19. 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,
- 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,
- g. Measures are required to minimise the impact of construction noise according to the EPA Interim Construction Noise Guideline,
- h. Measures are required to limit dust,
- i. Acid Sulfate Soil: relevant recommended control measures from the Acid Sulfate Soil Management Plan are to be included,
- j. Contaminated Lands Unexpected Finds protocol to be included,
- k. Stop work protocol to be included for any potential cultural heritage items found during excavation or other works and,
- l. Management of Fuels and Chemicals where appropriate.

## PART D - DURING CONSTRUCTION WORKS

### 20. 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.

### 21. Pool Backwash - Drainage

Should disposal of backwash from the filtration unit be required, this must be drained to the sewer.

## **22. Pool Paving - Drainage**

Any paving adjacent to the adjoining boundaries must be suitably kerbed and drained away from adjoining premises.

## **23. Hours of Work During Building 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 public holiday.

## **24. 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.

## **25. 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.

## **26. Storage of Materials**

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

## **27. Stormwater Disposal & Rainwater Tank**

Overflow waters from the rainwater tank and all roof waters not directed to the rainwater tank must be drained to the street gutter/drainage easement.

All connections to Council's gutter or easements must be constructed in accordance with the *Shellharbour Development Control Plan*.

## **28. Survey Certification**

A report from a registered surveyor must be provided to the Principal Certifier 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.

### **29. Retaining Walls**

Any retaining walls must:

- a. have a maximum height of 1 metre, and
- b. be located wholly within the property, including footings and agricultural drainage lines.

This may require the retaining wall to have a minimum boundary setback of 200mm.

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

### **30. Driveway - From Kerb to Property Boundary**

A standard residential vehicular concrete driveway 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 a minimum width of 2.7m and a maximum width of 6m
- 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**

### **31. 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.

### **32. BASIX**

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

### **33. 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.

### **34. 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) <<http://www.swimmingpoolregister.nsw.gov.au>>

### **35. Pool Safety**

The pool must be enclosed with a fence or barrier that complies with AS1926.1-2012, the Swimming Pool Act 1992 and Swimming Pool Regulations 2018. Compliance with this requirement must be verified prior to the issue of the Occupation Certificate.

#### **Note:**

- An approved resuscitation notice must be displayed.
- Gates must swing away from the pool area and must be self-closing.
- Any window that opens into the pool area must be protected in accordance with AS1926.1-2012. Council recommends that windows do not open into pool areas as any protection may obstruct egress from the building in an emergency.
- An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times.
- Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

### **36. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

### **37. 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.

### **38. Completion and Certification 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 Certifier on completion of the landscape works certifying that the landscape is in accordance with the approved Landscape Plan.

## **PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

### **TORRENS TITLE SUBDIVISION**

#### **39. Stormwater and Water Cycle Management Plan**

A modification application to DA0287/2018 under section 4.55 of the *Environmental Planning and Assessment Act* is required to be approved prior to issue of the final subdivision certificates.

The modification relates to the changes proposed to the Stormwater and Water Cycle Management Plan as part of this consent.

#### **40. Final Plan of Subdivision**

Prior to the release of the final plan of subdivision, it will be necessary to obtain a Subdivision Certificate. In this regard, it will be necessary to submit:

- a. an application for a Subdivision Certificate,
- b. two paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet,
- d. fees appropriate at the time of submission of the application, and
- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to [traffic&subdivision@shellharbour.nsw.gov.au](mailto:traffic&subdivision@shellharbour.nsw.gov.au) The email and the electronic copy should be named "Subdivision Title & Stage - DA No/Year Street Address Final Plan".

All sections of the plan, 88B Instrument and Administration Sheet including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan.

#### **41. Services & 88B Instrument**

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifier and the relevant utility provider.

Restrictions must be placed on title with respect to:

- a. access and maintenance for structures on the boundary or immediately adjacent to
- b. drainage structures.

#### **42. Works As Executed Plans - Subdivision**

Works As Executed plans must be submitted to the Principal Certifier by a Registered Surveyor with the Subdivision Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum the plan must show (where applicable):

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

These plans must be accompanied by a compliant ADAC XML digital file. All details to be in accordance with the ADAC Data Capture Guidelines specification, which is available on Council's website.

#### **43. Release of Certificate**

The subdivision certificate resulting from this consent must not be released until the walls of the dwellings have been constructed to a minimum height of 1 metre above ground level. Evidence that this requirement has been satisfied must be provided in the form of a report by a registered surveyor. The survey report must show all allotment boundaries and the relative position of the buildings to the site boundaries. The distance of buildings must be in accordance with the approved plans.

### **PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION**

#### **44. BASIX Commitments**

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

### **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.

<b>Advisory Notes – Project Specific</b>
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#### **Compliance with *Building Code of Australia***

Council has not carried out a detailed assessment of this application with regard to compliance with the *Building Code of Australia*.

The Principal Certifier, prior to determining the Construction Certificate application, must assess compliance with the *Building Code of Australia* and all related standards and legislation.

#### **Compliance with *Building Code of Australia***

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

<b>Advisory Notes - General</b>
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#### **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) <<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.

Development Application No. 0393/2021  
Lot 9009, DP 1254656, The Promontory Drive, Shell Cove

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**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)  
<<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

**END OF NOTICE**

Australand Corporation (NSW) Pty Ltd  
PO Box 4148  
SHELLHARBOUR NSW 2529

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Being the applicant of Development Application No. 0393/2021 (PAN-112513) for consent to the following development:

**SEVEN TOWNHOUSES AND SEVEN LOT TORRENS TITLE SUBDIVISION -  
PRECINCT B2/C2 STAGE 3002  
(MULTI DWELLING HOUSING)**

**LOT: 9009 DP: 1254656**

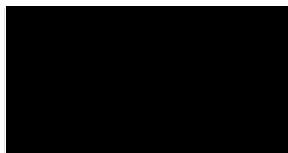
**THE PROMONTORY DRIVE, SHELL COVE**

**Determination date of consent:** 23 September 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.



Jasmina Micevski  
**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. 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
Site Plan/Cover sheet	Frasers Property	0.0/B 1.2/B 1.2.1/B	18.06.2021
Ground Floor Plans	Frasers Property	2.1/B 2.1.1/B 5.01/B 5.07/B 5.13/B 5.19/B	18.06.2021
First Floor Plan	Frasers Property	2.2/B 5.02/B 5.08/B 5.14/B 5.19/B	18.06.2021
Roof Plan	Frasers Property	2.3/B	18.06.2021
Fencing Details	Frasers Property	2.4/B	18.06.2021
Elevations Plan	Frasers Property	3.1/B 5.03/B 5.04/B 5.09/B 5.10/B 5.15/B 5.16/B 5.20/B 5.21/B	18.06.2021
Section Plans	Frasers Property	5.05/B 5.11/B 5.12/B 5.17/B 5.18/B 5.22/B	18.06.2021
BASIX*	Victor Lin & Associates Pty Ltd	Certificate No. 1202902M_02 Certificate No. 1212470M_02	24.08.2021
Waste Management Plan	Australand Corporation		10.06.2021
Subdivision Plan	Frasers Property	1.1/B	18.06.2021
Landscape Plan	DSB Landscape Architects	4248-F101 B 1/1 4248-F201 B 1/2 4248-F202 B 2/2 4248-F301 B 1/1 4248-F401 B 1/2 4248-F402 B 2/2	18.06.2021
Colour/Material Schedule	Frasers Property	2.5/B	18.06.2021
Concept Drainage Plan	Frasers Property	1.3/B 1.3.1/B	18.06.2021

\* 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

Referral Comments:

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

Lot	Street Number	Street Name	Street Type	Locality
3201	38	The Promontory	Drive	Shell Cove
3202	40	The Promontory	Drive	Shell Cove
3203	42	The Promontory	Drive	Shell Cove
3204	44	The Promontory	Drive	Shell Cove
3205	46	The Promontory	Drive	Shell Cove
3206	48	The Promontory	Drive	Shell Cove
3207	50	The Promontory	Drive	Shell Cove

- a. Addresses should be included on the DA plans and ensure lot numbers on the Subdivision admin sheet are the same as Unit & house numbers on DA & construction plans.
- b. The allocated number must be displayed prior to occupation. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.
- c. Letterboxes should be visible from the street and clearly numbered according to the address allocated with street numbers.

#### 6. Floor Plan Options

Conditions 21, 22, 34 and 35 of this consent may not be relevant to all floor plan options approved in condition 3. The Certifier has authority to determine which conditions are relevant and disregard where no pool is provided.

### PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### 7. Section 7.11 Development Contributions

A contribution of \$65,434.44, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Construction Certificate. 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 - \$70,348.08
- Less C1.26 CE Passive Open Space contribution – (\$4,913.64)

Open Space (excl. POS embellishment)	\$ 11,486.16
Community Infrastructure	\$ 47,231.22
Roads & Traffic	\$ 1,209.60
Drainage	\$ -
Administration	\$ 5,507.46
<b>TOTAL</b>	<b>\$ 65,434.44</b>

The contribution amount contained in this condition is the base rate indexed to the date the consent is issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the Contributions Plan. Current indexed rates are available from Council.

The Contributions Plan may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au).

#### **8. Registration of Lot 3002**

Prior to the issue of a Construction Certificate Lot 3002 must be registered with NSW Land Title in accordance with the requirements of DA0287/2018.

#### **9. Landscape Inspection Fee (applicable if Council is Certifier)**

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:

- a. landscape inspection prior to occupation of the development, and
- b. landscape inspection following completion of the maintenance period.

#### **10. Landscape Plan**

Prior to the final inspection by the Certifying Authority, the unbuilt upon land must be landscaped and planted with turf, trees and shrubs.

In this regard, a landscape plan prepared by a Landscape Architect must be submitted to the Certifying Authority prior to the release of the Construction Certificate.

The landscape plan must be prepared in accordance with the concept landscape plan prepared by DSB Landscape Architects dated 18/06/2021, with Council's DCP and include the following amendments:

Environmental weeds listed on the Shellharbour Environmental Weed List must not be used within the landscape design. In this regard the use of the tree species *Cupaniopsis anacardioides* must be omitted and replaced with the like of a more suitable plant species.

### **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.

### **13. 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 plan no. 1.3.1/B prepared by Frasers Property on 18/06/2021,
- b. drain to the stormwater drainage on Sails Way,
- 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,
- h. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate.

## **PART C - PRIOR TO COMMENCEMENT OF WORKS**

### **14. 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.

## **15. 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, and
- g. provide adequate control measures to suppress dust.

These measures must be in place prior to commencement of any excavation or construction works.

## **16. 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. 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. detailed engineering drawings 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.

## **17. 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.

## **18. Retaining Walls**

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.

## 19. 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,
- 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,
- g. Measures are required to minimise the impact of construction noise according to the EPA Interim Construction Noise Guideline,
- h. Measures are required to limit dust,
- i. Acid Sulfate Soil: relevant recommended control measures from the Acid Sulfate Soil Management Plan are to be included,
- j. Contaminated Lands Unexpected Finds protocol to be included,
- k. Stop work protocol to be included for any potential cultural heritage items found during excavation or other works and,
- l. Management of Fuels and Chemicals where appropriate.

## PART D - DURING CONSTRUCTION WORKS

### 20. 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.

### 21. Pool Backwash - Drainage

Should disposal of backwash from the filtration unit be required, this must be drained to the sewer.

## **22. Pool Paving - Drainage**

Any paving adjacent to the adjoining boundaries must be suitably kerbed and drained away from adjoining premises.

## **23. Hours of Work During Building 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 public holiday.

## **24. 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.

## **25. 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.

## **26. Storage of Materials**

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

## **27. Stormwater Disposal & Rainwater Tank**

Overflow waters from the rainwater tank and all roof waters not directed to the rainwater tank must be drained to the street gutter/drainage easement.

All connections to Council's gutter or easements must be constructed in accordance with the *Shellharbour Development Control Plan*.

## **28. Survey Certification**

A report from a registered surveyor must be provided to the Principal Certifier 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.

## **29. Retaining Walls**

Any retaining walls must:

- a. have a maximum height of 1 metre, and
- b. be located wholly within the property, including footings and agricultural drainage lines.

This may require the retaining wall to have a minimum boundary setback of 200mm.

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

## **30. Driveway - From Kerb to Property Boundary**

A standard residential vehicular concrete driveway 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 a minimum width of 2.7m and a maximum width of 6m
- 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**

### **31. 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.

### **32. BASIX**

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

### **33. 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.



### **34. 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) <<http://www.swimmingpoolregister.nsw.gov.au>>

### **35. Pool Safety**

The pool must be enclosed with a fence or barrier that complies with AS1926.1-2012, the Swimming Pool Act 1992 and Swimming Pool Regulations 2018. Compliance with this requirement must be verified prior to the issue of the Occupation Certificate.

#### **Note:**

- An approved resuscitation notice must be displayed.
- Gates must swing away from the pool area and must be self-closing.
- Any window that opens into the pool area must be protected in accordance with AS1926.1-2012. Council recommends that windows do not open into pool areas as any protection may obstruct egress from the building in an emergency.
- An effective fence height of 1.2m, and including the prescribed non climbable zone, must be maintained at all times.
- Boundary fences forming part of the pool fence, and including the prescribed non climbable zone, must be no less than 1800mm in height.

### **36. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 2092.

### **37. 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.

### **38. Completion and Certification 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 Certifier on completion of the landscape works certifying that the landscape is in accordance with the approved Landscape Plan.

## **PART F - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

### **TORRENS TITLE SUBDIVISION**

#### **39. Stormwater and Water Cycle Management Plan**

A modification application to DA0287/2018 under section 4.55 of the *Environmental Planning and Assessment Act* is required to be approved prior to issue of the final subdivision certificates.

The modification relates to the changes proposed to the Stormwater and Water Cycle Management Plan as part of this consent.

#### **40. Final Plan of Subdivision**

Prior to the release of the final plan of subdivision, it will be necessary to obtain a Subdivision Certificate. In this regard, it will be necessary to submit:

- a. an application for a Subdivision Certificate,
- b. two paper prints of the final plan of subdivision,
- c. the original and two paper copies of the 88B Instrument and Administration Sheet,
- d. fees appropriate at the time of submission of the application, and
- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to [traffic&subdivision@shellharbour.nsw.gov.au](mailto:traffic&subdivision@shellharbour.nsw.gov.au) The email and the electronic copy should be named "Subdivision Title & Stage - DA No/Year Street Address Final Plan".

All sections of the plan, 88B Instrument and Administration Sheet including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan.

#### **41. Services & 88B Instrument**

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifier and the relevant utility provider.

Restrictions must be placed on title with respect to:

- a. access and maintenance for structures on the boundary or immediately adjacent to
- b. drainage structures.

#### **42. Works As Executed Plans - Subdivision**

Works As Executed plans must be submitted to the Principal Certifier by a Registered Surveyor with the Subdivision Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum the plan must show (where applicable):

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

These plans must be accompanied by a compliant ADAC XML digital file. All details to be in accordance with the ADAC Data Capture Guidelines specification, which is available on Council's website.

#### **43. Release of Certificate**

The subdivision certificate resulting from this consent must not be released until the walls of the dwellings have been constructed to a minimum height of 1 metre above ground level. Evidence that this requirement has been satisfied must be provided in the form of a report by a registered surveyor. The survey report must show all allotment boundaries and the relative position of the buildings to the site boundaries. The distance of buildings must be in accordance with the approved plans.

### **PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION**

#### **44. BASIX Commitments**

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

### **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.

<b>Advisory Notes – Project Specific</b>
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#### **Compliance with *Building Code of Australia***

Council has not carried out a detailed assessment of this application with regard to compliance with the *Building Code of Australia*.

The Principal Certifier, prior to determining the Construction Certificate application, must assess compliance with the *Building Code of Australia* and all related standards and legislation.

#### **Compliance with *Building Code of Australia***

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

<b>Advisory Notes - General</b>
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#### **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) <<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.

**Development Application No. 0393/2021  
Lot 9009, DP 1254656, The Promontory Drive, Shell Cove**

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***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)  
<<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

**END OF NOTICE**