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Australand Corporation (NSW) Pty Ltd
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0 4 APR 2008

**NOTICE TO APPLICANT OF DETERMINATION OF AN APPLICATION TO AMEND A
DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979, as amended

Under Section 96 of the Act, notice is hereby given of the determination by the consent authority of the Development Application No. 337/2007 (Pt 2).

The Application for Amendment has been APPROVED UNDER DELEGATED AUTHORITY.

Previous Consent

This Consent amends Development Consent No. 337/2007 relating to the land described as:

THREE LOT TORRENS TITLE SUBDIVISION

LOT: 206	DP: 857030
LOT: 8032	DP: 1072187
LOT: 1168	DP: 1076113

**SHALLOWS DRIVE & BOOLLWAROO PARADE (BASS POINT TOURIST ROAD)
SHELL COVE**

Amended Consent

Amendments approved under DA No. 337/2007 (Pt 2) are:

- deletion of Condition Nos 6, 7, 8, 9, 11 & 13
- deletion of Condition No. 45 and replacement with new condition.

Approved plans relating to the development are:

- Plans stamped Development Application No. 337/2008

The Application for Amendment has been determined UNDER DELEGATED AUTHORITY SUBJECT TO THE CONDITIONS SPECIFIED IN THIS NOTICE.

The conditions of consent are set out as follows:

ADMINISTRATION
CENTRE:
Lamerton House
Lamerton Crescent
Shellharbour City
Centre

COUNCIL MEETING
CHAMBER:
Cnr Shellharbour
& Lake Entrance
Roads, Warilla

DEVELOPMENT APPLICATION NO. 337/2007 (PT 2)
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CONSTRUCTION CERTIFICATE (SUBDIVISION) & PCA NOTIFICATION

1. The person having the benefit of the development consent must:
 - a. obtain a construction certificate (subdivision) from Shellharbour City Council or an accredited certifier (S81A)
 - b. appoint a principal certifying authority (S81A).

LONG SERVICE LEVY

2. The Long Service Levy payment must be paid prior to the release of the Construction Certificate.

LEGISLATION

3. The subdivision must be carried out in strict conformity with the plans, specifications and conditions approved by Council and in compliance with the requirements of the Environmental Planning Instruments, relevant Development Control Plans and the *Building Code of Australia*.
4. This consent is a development consent under the provisions of the *Environmental Planning and Assessment Act, 1979*, as amended, and it will now be necessary to obtain a construction certificate (subdivision).

In this regard, it will be necessary to submit:

- a. an application for a construction certificate (subdivision)
- b. four paper prints or copies of the relevant subdivision plan
- c. fees appropriate at the time of submission of the application.

FINAL PLAN

5. 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:
 - i. an application for a subdivision certificate
 - ii. a satisfactory final plan of subdivision, an electronic copy and six paper prints together with an original 88B Instrument and two paper copies for endorsement by the Principal Certifying Authority. The electronic copy must be in ISG coordinates and must be submitted in DXF, DWG or DGX format. All sections of the plan, the signatures and seals section of the plan, including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan
 - iii. fees appropriate at the time of submission of the application.
6. Condition Deleted – DA No. 337/2007 (Pt 2)
7. Condition Deleted – DA No. 337/2007 (Pt 2)
8. Condition Deleted – DA No. 337/2007 (Pt 2)
9. Condition Deleted – DA No. 337/2007 (Pt 2)

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10. A restriction must be placed on the 88B Instrument creating an interallotment drainage easement and easement for services, 1m (minimum) wide, over all interallotment drainage pipelines and services. Favourable consideration will be given by Council to remove this easement if services and drainage are mutually exclusive.

GENERAL

11. Condition Deleted – DA No. 337/2007 (Pt 2)
12. Sydney Water (Illawarra Branch) may require a contribution towards new water and sewerage services or amplification of the existing system for the development, the subject of this consent.
13. Condition Deleted – DA No. 337/2007 (Pt 2)

TOWN PLANNING

Bonds & Contributions

14. The following contributions must be paid to Council in accordance with the provisions of Section 94 of the *Environmental Planning & Assessment Act, 1979*, as amended, and Council's *Section 94 Contributions Plan 2005 (Amendment 1)* (Dated 28 September 2005):

- Community facilities/services - \$21,409.91

The whole of the contribution amount of \$21,409.91 must be paid prior to the issue of a subdivision certificate adjusted in accordance with the following condition.

Note: The contribution amounts quoted are the base rate indexed to the date the consent is issued.

The *Section 94 Contributions Plan 2005 (Amendment 1)*, dated 14 September 2006 may be inspected at Shellharbour City Council's offices, Lamerton House, Lamerton Crescent, Shellharbour City Centre.

15. The Section 94 contribution set out in the above condition/s will be recalculated during September each year in accordance with the indexing methods outlined in the *Section 94 Contributions Plan 2005 Amendment 1* (Dated 14 September 2006), with amended rates being available from Council.
16. The temporary road must be closed by 31 December 2011. The applicant should note that if the road is required beyond this date, a modification will be required to this condition of consent via Section 96 of the *Environmental Planning & Assessment Act, 1979*.

ENGINEERING REQUIREMENTS

General

17. Road and drainage plans, prepared by a suitably qualified Engineer, in accordance with Council's Standards, must be submitted to the Principal Certifying Authority for approval. All road and drainage work must then be constructed in accordance with Council's construction Standards and approval at no cost to Council.

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18. A site meeting with Council's Engineer, the applicant and the contractor must be held not less than 7 days prior to the commencement of work on site.
19. A set of Council endorsed engineering plans must be kept on site at all times during the construction phase
20. The developer must maintain the road and drainage works for a defects liability period of six months from the date of registration of the final plan of subdivision.

Drainage

21. Stormwater drainage must, as a minimum, be designed for the critical flood event with an average recurrence interval of 1 in 5 years with satisfactory provision for safe passage of runoff generated by the critical flood event with an average recurrence interval of 1 in 100 years.
22. The impact of the Probable Maximum Flood (PMF) in relation to the performance of overflow paths and its impact on filled areas must be assessed. The objective of this assessment is to ensure that the impacts of the PMF are properly managed. Details to be submitted with the Construction Certificate Application
23. All concrete stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 standard in accordance with the current edition of AS 3725 and the Concrete Pipe Association of Australia publication 'Concrete Pipe Selection and Installation'.
24. All concrete pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV. A copy of the CCTV inspection must be recorded on video tape and submitted to Council prior to the release of the final plan of subdivision or placement of final seal on roads, whichever occurs earlier. Damaged pipes must either be replaced or repaired to Council's satisfaction prior to the release of the final plan of subdivision.

Road Standards

25. All roads and road intersections within the development must have sight distance provided in accordance with AUSTROADS requirements.
26. The geometric design of all roads, traffic facilities, intersection treatments, mid-block devices and entry features must be such as to permit an 12.5m single unit truck to manoeuvre in order to enter and leave each road travelling in a forward direction and without leaving the carriageway.
27. The vertical and horizontal alignment of all streets and all street intersections within the development must have site distance provided in accordance with AUSTROADS' requirements.
28. The pavement design for the proposed roads must be carried out by a qualified Geotechnical/Civil engineer in accordance with ARRB Special Report No 41 'Into a New Age of Pavement Design' and AUSTROADS 'A guide to the Structural Design of Road Pavements', based on test results undertaken by a NATA registered laboratory. The pavement design must be submitted to Council for approval prior to the laying of pavement material.

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29. Services conduits must be placed across carriageways prior to the placing of any pavement material. In this regard a copy of the services plans must be submitted to The Principal Certifying Authority prior to the placement of pavement material. Alternatively, the services crossings must be under bored.
30. Insitu density tests must be performed by a NATA registered laboratory on the subgrade, sub-base and base as directed by Council.
31. Benkelman beam testing on all new internal subdivision roads must be performed in a manner satisfactory to Council prior to final plan release. Council's acceptance criteria is based on the tolerable deflections given in Figure 29 of ARRB Special Report No 41 'Into a New Age of Pavement Design' and AUSTRROADS 'A guide to the Structural Design of Road Pavements'.
32. Sub-pavement drainage must be installed on the high side of all roads, where the subgrade is below natural surface level and elsewhere as directed by the Principal Certifying Authority.
33. A sign and linemarking diagram including recommended speed zonings must be submitted for consideration to the Local Traffic Committee prior to the release of the construction certificate.
34. Prior to the commencement of any works external to the boundary of the site, the applicant must apply to Council for a Section 138 Consent, under the *Roads Act 1993*. Detailed plans of all proposed works must be supplied along with a Traffic Management Plan.
35. Before the commencement of work or the issue of a construction certificate, the owner or contractor must provide evidence to the Council of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

Geotechnical

36. All lot and site filling must be performed under level 1 Geotechnical supervision in accordance with AS 3798-1996 or subsequent amendments.
37. A Geotechnical Engineer's report must be submitted to the Principal Certifying Authority with the Subdivision Certificate application. The report must be prepared by a Chartered Professional Engineer with professionally recognised geotechnical experience and must include:
 - a. certification of compaction densities and the stability of all filling,
 - b. the classification of each lot in accordance with the Australian Standard 2870-Residential Footings and Slabs or subsequent amendments,
 - c. the classification of each lot in relation to risk of slope instability, and
 - d. the required site preparation and construction constraints within the building envelope of each lot appropriate to the assessed risk of slope instability.

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Sediment Control and Water Quality Control

38. The developer must submit a 'Soil and Water Management Plan' to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The Soil and Water Management Plan must include:
 - a. A programme for the progressive stabilisation of the site;
 - b. A programme for the treatment/flocculation of sediment ponds including time frames and proposed chemical dosage;
 - c. Specific measures to control dust generated as a result of construction activities on site.
39. Temporary sediment ponds must be fenced where the batter slope exceeds a slope of 1 vertical to 5 horizontal.
40. Runoff from the subdivision must be drained through water pollution control facilities so that the quality of the water discharging into the receiving waters downstream of the facility meets the requirements of the Department of Environment & Climate Change and the Department of Water & Energy.

Public Reserves

41. No trees must be removed from the site without specific Council consent. In this regard consent will only be granted at this stage for removal of trees for road construction.

Street Lighting

42. All street lighting must comply with Integral Energy Street Lighting Policy and illumination requirements. A street lighting plan must be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. All costs associated with the installation of street lighting must be borne by the developer.

Works as Executed

43. A Work As Executed Plan must be submitted to the Principal Certifying Authority by a Registered Surveyor, with the Subdivision Certificate application. As a minimum, the plan must show:
 - a. The extent, depth and final levels of filling,
 - b. The location of all underground service conduits,
 - c. All deviations from the approved Civil Engineering Plans,
 - d. The location of interallotment drainage connections,
 - e. The volume of water quality control ponds,
 - f. Batter slopes within dual use open space drainage reserves,
 - g. Approved road names.
 - h. Certification from a registered surveyor that all stormwater pipes and other services are wholly within an appropriate easement.

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Aboriginal Archaeology

44. The terms of the Consent and Permit to Collect issued by the Department of Environment and Conversation dated 29 September 2006 must be strictly adhered to.
45. Condition Deleted – DA No. 337/2007 (Pt 2)

Project Requirements for Shell Cove e.g. Superintendent, Contracts etc

- 45A. New Condition – DA No. 337/2007 (Pt 2)
 - a. All contractors involved in site stripping or excavation tasks must receive copies of the Consent/Permit and *Aboriginal Heritage and Protection Controls* and must adhere to all their conditions and requirements.
 - b. All workers involved in site stripping or excavation tasks must complete a cultural heritage induction from the Project's Archaeologist, including how to identify an artefact and the procedures/protocols if uncovered. The induction must occur before commencing groundbreaking construction work.
 - c. A superintendent must be appointed by Australand to oversee all works undertaken by the Contractor on site, with a full time site presence. The Superintendent and his/her staff must complete the induction provided by the Project's Archaeologist.
 - d. If an artefact is uncovered, development work must cease in the immediate area of the site. The Project Archaeologist must be notified and Contractors must comply with all directions from the Archaeologist.

DEPARTMENT OF WATER & ENERGY

General Terms of Approval

Rivers & Foreshores Improvement Act (1948)

46. All works proposed must be designed, constructed and operated to minimise sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore and to minimise adverse impacts on aquatic and riparian environments.
47. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of council or the consent authority and best management practices as outlined in the NSW Department of Housing's 'Managing Urban Stormwater: Soils and construction' Manual (4th Edition 204) – the 'Blue Book'.
48. The Part 3A Permit from DWE is raised for the works of FREEHOLD land only. This permit is null and void for any works on Crown Land.
49. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from DWE is the responsibility of the Permit holder and the owner or occupier of the land.
50. Works as Executed survey plans of a professional standard and including information required by DWE shall be provided to DWE upon request.

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- 51. If, in the opinion of a DWE officer, works are being carried out in such a manner that they may damage or adversely affect the watercourse or foreshore environment, the DWE officer may issue an oral or written direction to immediately stop all work/s.
- 52. If any DWE Part 3A permit conditions are breached, the Permit holder shall restore the site in accordance with these conditions and any other necessary remedial actions as directed by DWE. If any breach of the Part 3A Permit Conditions requires a site inspection by DWE, then the Permit holder shall pay a fee prescribed by DWE for this inspection and all subsequent breach inspections.

Note: The permit is attached to this consent.

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.

26 NOV 2007

Endorsement of date of consent.....

NOTES:

- 1. This amended development consent replaces the consent originally given to you and any other amendment.
- 2. Failure to comply with any of the conditions of consent may result in a Penalty Infringement Notice of \$600 being issued against the owner/applicant/builder.
- 3. If you are unsure of the date, which this consent becomes valid, refer to Section 83 of the Act.
- 4. To find out the date this consent will lapse, refer to Section 95 of the Act.
- 5. 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 60 days after the receipt of this notice.

- 1. Even though this consent is issued under the *Environmental Planning and Assessment Act, 1979*, the provisions of a restrictive covenant, agreement, instrument or other statutory provision may prevent the development which is the subject of this consent. You may wish to seek independent legal advice in this regard prior to acting on the consent.

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2. You are advised that the plans and conditions of this consent must be complied with and you may only vary them if you make a written application, pay the correct fee and we give you written approval to amend the application.



Graham H Mitchell
Manager Development Services

on behalf of Brian A Weir, General Manager