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NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under the Environmental Planning & Assessment Act 1979 Section 81(1)(a)

Being the applicant of Development Application No. 651/2015 (JRPP Reference 2015STH026) for consent to the following development:

23 DWELLINGS & 23 LOT TORRENS TITLE SUBDIVISION

LOT: 1279 DP: 1175512

(PROPOSED LOTS 2039 & 2040 IN DP 1203745)

THE FARM WAY, SHELL COVE

Determination date of consent: **12 JANUARY 2016**

In accordance with section 80 of the Act the Development Application has been determined by the GRANTING OF CONSENT BY THE JOINT REGIONAL PLANNING PANEL (SOUTHERN REGION) 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.

PART A - ADMINISTRATIVE CONDITIONS

A1 Construction Certificate & PCA Notification *Environmental Planning & Assessment Act 1979 Section 81A*

Before any site works, building or use is commenced, the person having the benefit of the development consent must:

- a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier, and
- b. appoint a Principal Certifying Authority.

A2 Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2000*. The prescribed conditions include compliance with the *Building Code of Australia*.

A3 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 except as modified by conditions of this consent.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
Site Plan – Ground Floor Plan	Australand Property Group Pty Limited	2.1 Version G	07.09.2015
Site Plan – First Floor Plan	Australand Property Group Pty Limited	2.2 Version D	03.09.2015
CN 9701 Architectural Plans	Frasers Property	5.1 - 5.3 Version B	08.10.2015
CN 9702, 9703, 9704 with Studio Architectural Plans	Frasers Property	5.4 & 5.5 Version C 5.6 & 5.7 Version B	08.10.2015
CN 9705 & 9706 Architectural Plans	Frasers Property	5.8 – 5.10 Version B	08.10.2015
CN 9707 with Studio, 9708 & 9709 Architectural Plans	Frasers Property	5.11 & 5.12 Version C 5.13 & 5.14 Version B	08.10.2015
CN 9710 Architectural Plans	Frasers Property	5.15 - 5.17 Version B	08.10.2015
CN 9801 & 9802 Architectural Plans	Frasers Property	5.18 - 5.19 Version C 5.20 Version B	08.10.2015
CN 9803, 9804 & 9805 Dwelling Architectural Plans	Frasers Property	5.21 & 5.22 Version C	08.10.2015
CN 9803 & 9804 - Garage Plans	Frasers Property	5.23 Version B	08.10.2015
CN 9805 & 9806 - Garage Plans, Elevations & Sections	Frasers Property	5.24 Version B	08.10.2015
CN 9806, 9807 with Studio & 9808 Architectural Plans	Frasers Property	5.25 & 5.26 Version C 5.27 Version B	08.10.2015
CN 9808 & 9809 Garage Plans	Frasers Property	5.28 Version B	08.10.2015
CN 9809, 9810 & 9811 Dwelling Architectural Plans	Frasers Property	5.29 & 5.30 Version C	08.10.2015
CN9810 & 9811 Garage Plans	Frasers Property	5.31 Version B	08.10.2015
CN 9812 & 9813 Architectural Plans	Frasers Property	5.32 & 5.33 Version C 5.34 Version B	08.10.2015
BASIX Certificate	Victor Lin & Associates Pty Ltd	Certificate No.651000M	12.10.2015
NatHER's Certificate	Victor Lin & Associates Pty Ltd	Certificate No.14540207	12.10.2015
Subdivision Plan	Australand Property Group Pty Limited	1.1 Version C	16.12.2015
Site Waste Management Plan	-	-	As lodged with DA
Landscape Plan	Eco Design	L-01 – L-06 Revision A	17.08.2015

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Lot 1279 DP 1175512, The Farm Way Shell Cove

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Date
The Assessment of Air Quality and Noise	Wilkinson Murray Pty Limited	Report no. 05135-CP Version E	January 2010.
Marked up plans	-	-	As submitted to Council 16.12.2015

* 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.

A4 Easements

Structures must not encroach onto any easement.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Section 94 Contributions

A contribution of \$225,118.64, subject to annual indexation, must be paid to Council towards the provision of community infrastructure and services prior to the issue of the Construction Certificate. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013.

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

B2 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 Site Plan 2.1 Rev F prepared by Australand on 03/09/2015,
- b. lots CN9801 to CN9813 drain to the council pipe, and CN9701 to CN9710 drain to the street,
- 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 designed to cater for a 1 in 20 year Average Recurrence Interval storm event,
- e. show that overflow drainage paths are designed to cater for 1 in 100 year Average Recurrence Interval storm event,
- f. comply with Council's *Shellharbour Development Control Plan (Chapter 25 & Appendix 12)* unless variation is specifically noted and approved on DA concept drainage plan,
- g. include reference to 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, and

h. be to the satisfaction of the Certifying Authority.

B3 Stormwater Conduit in Road Reserve and Connection with Kerb

Where the existing connection point is not available in either normal kerb and gutter or roll type kerb and gutter, the kerb must be saw cut to provide for the connection of the pipe. The saw cut must ensure that a minimum of 50mm of cover is available on all 3 sides of the pipe to permit adequate strength and thickness for the concrete finish.

Galvanized steel pipe, sewer grade UPVC pipe or 'Corflow' spirally reinforced PVC pipe must be used from the property boundary to the kerb and gutter. The kerb and gutter connection must be a 100mm diameter galvanised steel circular section for 150mm kerb and gutter or a 150mm x 50mm galvanised rectangular steel section for roll kerb ensuring that the galvanised section is fully encased by concrete.

A maximum of two pipes of 100mm diameter may be used to discharge to the kerb and gutter.

These details must be submitted with application for a Construction Certificate.

B4 Impact on Existing Easements

Plans submitted with the Construction Certificate must show all drainage easements:

- a. are free of encroachments from any structure, including footings and eave overhangs (driveways and paved areas are excluded from this condition),
- b. are free of any cut and fill platforms, and
- c. will have no loss of support as a result of excavations.

B5 Easements & Engineer's Details

The walls of any structure adjoining the easement boundary must be designed by a suitably qualified engineer to withstand all forces should the easement be excavated to existing pipe invert level. This may require footings to be designed such that they are set to below pipe invert level, or alternatively founded on sound rock. Details to be submitted to the Certifying Authority prior to issue of Construction Certificate.

B6 Amendments to Approved Plans

The amendments described below must be incorporated into the development and must be shown on the plans prepared for the purpose of obtaining a Construction Certificate:

- a. the kitchen window of the studio dwellings is to have a sill height of at least 1500mm above floor level or have obscure glazing up to 1500mm above floor level. The intent of this is to minimise overlooking into the rear open space of the dwelling on the same allotment, noting that the studio dwelling may have separate occupancy,
- b. the large window of the kitchen-living/dining area of the studio dwellings is to be redesigned to minimise overlooking into the neighbouring open space area, or its location on this elevation be switched with the smaller window on the same elevation.
- c. where an upper level window on the side elevations of a dwelling will face directly a window of an adjoining dwelling, the window must be offset by at least 0.5m, or must have a sill height of at least 1500mm above floor level or must have obscure glazing 1.5m above floor level,
- d. the window changes on the marked up plans referred to in condition A3, and

- e. the acoustic attenuation measures for dwellings located within 40m of the Harbour Boulevard in accordance with 'The Assessment of Air Quality and Noise' prepared by Wilkinson Murray Pty Limited Report no. 05135-CP Version E dated January 2010 .

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 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.

C2 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.

Council records indicate that fill may be present in this area. The engineer's design must make specific reference to fill as a consideration.

C3 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 is not transported on wheels or tracks of vehicles or plant and deposited on the roadway, and
- f. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in civil engineering.

C4 Open or Occupy a Roadway or Footpath - Section 138 Roads Act 1993

For works within the road reserve a Road Opening Permit under section 138 of the *Roads Act 1993* is required.

An application must be made to Council for the temporary occupation of the road reserve prior to works commencing. Please note the application *may* require the following:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. a Traffic Management Plan,
- c. provision of Public Risk Insurance, and
- d. details of timing and length of works.

PART D - DURING DEMOLITION & CONSTRUCTION WORKS

D1 Hours of Work During Demolition and Construction Work

Noise generating activities, including excavation, construction and delivery of equipment and materials, must only be carried out between:

- 7am to 6pm Mondays to Fridays
- 8am to 1pm Saturdays

unless otherwise agreed to by Council in writing. Work must not be carried out on Sundays or public holidays.

D2 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.

D3 Waste Management

The management of waste must comply with the approved Waste Management Plan. All receipts such as waste disposal dockets must be retained (refer Part E). Any variations to the Waste Management Plan must have prior written approval of Council.

D4 Storage of Materials

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

D5 Survey Certification

A report from a registered surveyor must be provided to the Certifying Authority on completion of the ground floor slab formwork **prior to the concrete being poured**.

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.

D6 Cut/Fill

The cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans, and
- c. have a maximum grade of 45° (1:1) where there is no retaining wall or no other method of stabilising the cut/fill area.

D7 Retaining Walls

Any retaining walls must:

- a. have a maximum height in accordance with the approved plans, 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.

PART E - PRIOR TO OCCUPATION

E1 Registration of Land

Evidence of the registration of the subdivision of Subdivision Construction Certificate No. 411/2013.2, approved under Development Consent No. 411/2013, with NSW Land and Property Information must be provided to the Principal Certifying Authority prior to issue of any, including interim, Occupation Certificate.

E2 Occupation Certificate

All conditions in Parts A, B; C, D & E of this consent are preconditions for the purpose of section 109H of the *Environmental Planning & Assessment Act 1979*.

Compliance with all preconditions must be verified by the Principal Certifying Authority prior to issue of a final Occupation Certificate. The buildings must not be occupied until the Principal Certifying Authority issues an Occupation Certificate.

E3 Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer www.sydneywater.com.au > *Building and Developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 2092 for assistance. Please make early application 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.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

E4 BASIX

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

E5 Works As Executed - Stormwater Drainage

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted the Certifying Authority by a registered surveyor certifying compliance of all drainage works with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

E6 Verification of Waste Management

Documentation verifying that all waste streams were managed in accordance with the Waste Management Plan must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate. All records, such as waste disposal docketts or photographic evidence, must be retained by the Principal Certifying Authority.

E7 Completion of Landscape Works

Landscape works must be carried out 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 Certifying Authority 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

F1 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. five 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

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.

F2 Works As Executed Plans - Subdivision

Works As Executed plans must be submitted to the Principal Certifying Authority 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:

- 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.

F3 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 Certifying Authority and the relevant utility provider.

Restrictions shall be placed on title to address the following:

- a. kerbside collection of waste is not permitted from Harbour Boulevard,

- b. vehicular access for those lots having frontage to Harbour Boulevard is not permitted from Harbour Boulevard,
- c. acoustic attenuation for lots within 40m of Harbour Boulevard in accordance with 'The Assessment of Air Quality and Noise' prepared by Wilkinson Murray Pty Limited Report no. 05135-CP Version E dated January 2010, and
- d. general fill.

F4 Release of Certificate

The Subdivision Certificate must not be released until the walls of the dwellings and garages have been constructed to a minimum height of 1m above ground level. Evidence that this requirement has been satisfied must be provided in the form of a registered surveyor's identification survey report. This survey report must show all allotment boundaries and the position of the buildings in relation to the boundaries. The distance of the buildings to the boundaries must be in accordance with the approved plans.

PART G - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

G1 BASIX Commitments

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

REASONS FOR THE IMPOSITION OF CONDITIONS

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

Advisory Notes – Project Specific
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ANP1 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 Certifying Authority, prior to determining the Construction Certificate application, must assess compliance with the *Building Code of Australia* and all related standards and legislation.

ANP2 Long Service Levy

The Long Service Levy must be paid prior to the issue of the Construction Certificate.

Advisory Notes – General

AN1 Critical Stage Mandatory Inspections

Mandatory inspections of the building work must be carried out by the Principal Certifying Authority at various stages of construction in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

It is recommended that you discuss with your Principal Certifying Authority the occasions when the building work is to be inspected prior to work commencing.

AN2 Erection of Signs

The principal contractor and the Principal Certifying Authority will need to have a sign (or signs) erected and maintained on the development site that provides their name and contact telephone number (during and outside work hours for the principal contractor), and stating that unauthorised entry to the site is prohibited. The principal contractor and Principal Certifying Authority can have separate signs or they can both use one sign if they choose.

A maximum penalty of 10 penalty units applies for failure to erect and maintain sign(s) detailing principal contractor and Principal Certifying Authority identification.

AN3 WorkCover Authority

The requirements of WorkCover Authority must be satisfied at all times.

AN4 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

AN5 Lapsing of Development Consent

In accordance with section 95 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses five years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

AN6 Right to Appeal

If you are dissatisfied with this decision, section 97 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within six months after the date on which you receive this notice.

AN7 Review of Determination

If you are dissatisfied with this decision, section 82A 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.

AN8 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 96 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.

AN9 BASIX

Please note that the requirement for lodging a modification of development consent under section 96 of the *Environmental Planning & Assessment Act 1979* may result in the requirement for a revised BASIX certificate to be submitted for assessment.

AN10 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.

AN11 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 (Cth)* 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.

AN12 Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au. Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd
PO Box 6507
SILVERWATER NSW 2128

Attention: Land Services Department



Grant Meredith
Group Manager City Development

On behalf of Carey McIntyre, General Manager