

|                   |  |
|-------------------|--|
| <b>JRPP No.</b>   | <b>Item 1 (2009STH006)</b>   |
| <b>DA No.</b>     | <b>DA 251/2009 - Lots 8100 &amp; 8118 DP 1082981 Sloop &amp; Galleon Avenues, Lot 9004 DP1117743 Shallows Drive, Lot 1 DP 584291 Addison Street, Shell Cove - Stage 8B Shell Cove Subdivision comprising of 82 residential lots, 1 large lot, 1 reserve &amp; 4 residue lots</b> |
| <b>Applicant:</b> | <b>Australand Corporation (NSW) Pty Ltd</b>  |
| <b>Report By:</b> | <b>Shellharbour City Council</b>   |

## Assessment Report and Recommendation

---

### Summary

The application is reported to the Joint Regional Planning Panel (JRPP) as the proposed development has a capital investment value of more than \$5 million and Council is the owner of the land on which the development is to be carried out.

The proposal is consistent with the Shell Cove Masterplan and relevant statutory requirements. The objectives and relevant performance criteria/development standards of Council's *Residential Subdivision Development Control Plan* have been met by the proposed development or can be conditioned to meet Council's requirements. The proposal will contribute to meeting the demand for land for residential development in the region.

The application was notified in accordance with Council's *Notifications Development Control Plan*. Five submissions have been received. Relevant matters raised in the submissions do not provide adequate grounds to justify a redesign of the development or to refuse the application.

### Recommendation

**That the Joint Regional Planning Panel approve Development Application No. 251/2009 for the Stage 8B Shell Cove subdivision comprising of 82 residential lots, 1 large lot, 1 reserve & 4 residue lots at Lots 8100 & 8118 DP 1082981 Sloop & Galleon Avenues, Lot 9004 DP1117743 Shallows Drive, Lot 1 DP 584291 Addison Street, Shell Cove under Section 80 of the *Environmental Planning & Assessment Act 1979* subject to the 53 conditions following the conclusion.**

### Background

Applicant: Australand Corporation (NSW) Pty Ltd

Owner: Shellharbour City Council

Location: Lots 8100 & 8118 DP 1082981 Sloop & Galleon Avenues, Lot 9004 DP1117743 Shallows Drive, Lot 1 DP 584291 Addison Street, Shell Cove  
Refer attachments 1 & 2

Zone: 2(f) Mixed Use Residential F under *Shellharbour Local Environmental Plan 2000*

---

## Proposal:

The development site has an area of 8.5 hectares and is contained within the wider Shell Cove project area. Stage 8B is located at the north eastern portion of the Shell Cove development area and, to the west, adjoins existing residential development (Stage 8A). The site is partially bounded to the north by the Shellharbour Cemetery, to the south by an existing unnamed minor watercourse and to the east by vacant future development lands.

Stage 8B comprises of land formerly used as the Shellharbour Golf course. The land has been significantly modified from its original state and comprises grassed areas and trees planted as part of the golf course development between former fairways.

The proposal will create 82 residential allotments with areas ranging from 387m<sup>2</sup> to 723m<sup>2</sup> and one large lot. The large lot is proposed for the development of a retirement village and will be the subject of a separate development application. The subdivision will include a landscaped reserve with area 828m<sup>2</sup> located about midpoint in the subdivision.

## Consultations

### Internal

#### Senior Development Engineer

The Development Engineer raises no objection to the proposal and recommended conditions are included in the conditions for approval following the conclusion of this report.

### External

#### Office of Water NSW, Department of Environment, Climate Change and Water

Under the provisions of the *Environmental Planning & Assessment Act 1979* the proposed development is an integrated development as an approval is required under the *Water Management Act 2000*. The Department has reviewed the proposal and has issued General Terms of Approval (GTA) for works requiring a Controlled Activity Approval. The GTAs have been included (in their entirety) in the recommended conditions following the conclusion of this report.

#### Public Exhibition

The proposal was notified in accordance with our *Notifications Policy Development Control Plan*. Five submissions have been received.

The submissions raised a range of matters. These have been addressed in the following table.

| Issue raised in submission   | Comment   |
|--|---|
| <ul style="list-style-type: none"><li>▪ Walkway access to Shellharbour Village</li></ul> What will happen to the walkway to the village? | <p>The applicant has provided comment. 'The existing temporary walkway between Sloop Avenue and Sophia Street, providing access to the Shellharbour Village and South Shellharbour beach has been provided by the Shell Cove project as a measure of goodwill to the community. The path is temporary and will be severed and closed at various times in the future due to construction activity in this area.</p> <p>.... unable to provide definitive commitment as to the location and timing of any temporary or permanent diversion of the path. However, the project intends to re-establish a temporary walkway to Shellharbour Village via Sophia Street after construction activity has ceased.'</p> |

| Issue raised in submission   | Comment  |
|--|--|
| <ul style="list-style-type: none"> <li>Vehicle access to Stage 8B.</li> </ul> <p>No new access - combined estates will only have access through a one lane link to Brindabella, the marine boulevard access may be light years away!</p>   | <p>The applicant has provided comment. 'Current access to the stage 8 precinct is via Condor Drive, a 2 lane road off Brindabella Drive. There are no single roads providing access to this precinct.</p> <p>The traffic assessment included in the Statement of Environmental effects notes that the existing Shell Cove road networks have sufficient capacity to accept the traffic loading from the proposed stage 8B with or without the development of the future proposed Harbour Boulevard.'</p>   |
| <ul style="list-style-type: none"> <li>Vehicle access during stage 8B construction</li> </ul> <p>Will heavy machinery have its own access from the north?</p>  | <p>With urban expansion developments such as Shell Cove, it is general practice, and a reasonable expectation, that construction access to a subdivision site is via earlier completed stages (i.e. after completion of dwelling construction phase). It is noted that construction traffic is short term. Any alternative access to a subdivision construction site would need to assess any possible impacts on other residential areas and road networks. Notwithstanding this, a recommended consent condition requires consideration of an alternate route for heavy vehicles during the construction phase of the subdivision.</p> |
| <ul style="list-style-type: none"> <li>Inadequate public open space</li> </ul> <p>There are no greenways for such large combined areas ... only minimal reserve space (2 house blocks) surrounded by housing.</p>  | <p>Existing, and future, public open space of Shell Cove exceed Council's requirements. A reserve of about 828m<sup>2</sup> forms part of the subdivision design.</p>  |
| <ul style="list-style-type: none"> <li>Playground Facilities</li> </ul> <p>Stage 8B should contain its own children's playground. The proposal does not meet the requirements for playgrounds.....a park is required within about 400 metres walking distance .... The playground might well be 400 metres 'as the crow flies', but it is about 700 metres walking distance. One would have to walk it via Caravel Cres and Condor Drive.</p> <p>The developer should not be considering the future playground, marked on the map as being 310 metres from the central point, as accommodating Stage 8B playground requirements, because:</p> <ol style="list-style-type: none"> <li>It is not known when the future development will take place. The whole Shell Cove project will not be completed until after 2020. We do not know and cannot know when the future playground would be built.</li> <li>The future playground would be on the other side of Harbour Boulevard. Harbour Boulevard is intended to be the main thoroughfare for this part of Shell Cove. ... It would not be a safe option for the children to need to cross such a busy road to access the park.</li> </ol> <p>As it is anticipated that there will be younger children living in this development, there must be provision made right from the beginning for play areas and playgrounds for children. Young children and their carers must not have to depend on playgrounds and parks which exist in other stages of the development. The future playground, as spoken of by the developer, may not be constructed for at least 11 more years – by which time the children who will be the first residents of Stage 8B will have no need for a young child's playground.</p> | <p>Shell Cove currently has a surplus of playgrounds. It is considered that the existing playgrounds in adjoining Stage 2 will adequately service the additional lots of Stage 8B. One playground approximates 400m to the beginning of a shared pedestrian-cycle path with a total distance of 690m. The other playground approximates 600m from Stage 8B (distance measured from proposed lot 8228 just north of the proposed reserve).</p> <p>With the progressive development of the Shell Cove project additional playgrounds will be constructed. A future playground will be constructed and located within 400m of Stage 8B.</p> |
| <ul style="list-style-type: none"> <li>Pedestrian &amp; cycleway facilities</li> </ul> <p>Footpaths 1.2 metres in width do not constitute cycle paths or even shared use paths. The recommended width of shared use paths is 3 metres. With narrow roads</p>   | <p>A cycleway / shared pedestrian-cycle path does not form part of this development application.</p>   |

| Issue raised in submission   | Comment   |
|--|---|
| <p>resulting in calm traffic, it should be reasonably safe for cyclists to travel on-road. The developer shouldn't try to tick some 'enviro' box and call every pedestrian path a 'pedestrian/cycle' path.</p> <p>Shellharbour Council's proposed Shared Use Pathway Strategy 2008, which has not been adopted, does not allow for cyclists within the harbour precinct. The harbour precinct is a 'Dismount Zone' – cyclists will not be allowed on paths within the area.</p> <p>For several years now more bicycles have been imported into Australia than cars. The proposed development does not acknowledge this fact. Children and adults will have to ride their bikes on the road from their houses to the limited proposed shared pathways. This is dangerous.</p> |   |
| <p>▪ Solar access</p> <p>With only 34% of the lots oriented to the north, the developer is missing a golden opportunity to contribute to making this community energy efficient..... impose conditions upon the developer to maximise energy efficiency by the simplest method of all – providing adequate solar access.</p> <p>Present housing indicates that large houses will be built that exacerbate that lack of solar access.</p> <p>All tiers of Government are now encouraging residents to become more environmentally conscious and to install solar power and rainwater tanks. To have the best quality solar power roofs must be facing north. However, in this DA only 34% of the housing lots face north.</p>   | <p>The Statement of Environmental Effects states that 28 of the lots are orientated within 20° of north. Part 4.3.4 of Council's <i>Residential Subdivision Development Control Plan</i> says 'lots should be orientated within 20° of north where possible and practical.'</p> <p>The proposed number of lots with desirable lot orientation is considered satisfactory in context of a subdivision layout that logically integrates with the adjoining internal street patterns.</p> <p>It should be noted that solar efficiency is influenced by a number of variables in addition to lot orientation such as building design, siting &amp; size of openings, landscaping, siting of open space areas, and the like.</p> <p>Future residential development will be subject to the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>. BASIX ensures homes are designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for houses and units.</p> |
| <p>▪ <i>Residential Subdivision Development Control Plan (DCP)</i> minimum lot size requirement</p> <p>A number of proposed lots are said not to comply with DCP standards. It does not make sense to provide DCP standards if non-compliance is allowed.</p> <p>Having a smaller lot in no way contributes to a diversity of housing. Australand themselves say it is to 'maximise yield'. All it will achieve is a ghetto of cheap housing – one that the community neither wants or needs. To achieve their objectives two or three storey apartments would be more appropriate to achieve density and lifestyle choices. The proposal is more a response to the Global Financial crises than to provide an alternative choice.</p>                                       | <p>The density of Stage 8B is 14.4 lots per hectare. This residential density complies with the DCP requirement that proposed subdivisions achieve a gross residential density of 12-15 dwellings per hectare.</p> <p>Minor readjustments of lot layout &amp; size (to comply with policy) will achieve essentially the same residential density as is proposed. However, for the reasons put forward by the applicant, and described elsewhere in this report, a redesign of the subdivision is not required.</p>  |
| <p>▪ SEPP 71 Waiver</p> <p>The requirement for a Masterplan under SEPP 71 has said to been waived (3.2, pg. 5). The document states that the 1994 preliminary Masterplan was only generally complied with regarding major roads, residential precincts and open space networks (3.4, pg. 5). It further states that a 2000 review led to a separate town centre. Since this time pg. 6 of the 24 July 2007 Shell Cove Update business paper appears to indicate that negotiations have taken place for Australand to acquire the town centre site in stages (including the retail centre) to aid the construction of the Boatharbour which is now indefinitely delayed anyway. There is a concern that such a town centre will provide overwhelming</p>                      | <p>Some of the issues raised are not relevant to the current development application.</p> <p>The waiver of a Masterplan as required under cl 18 of the <i>State Environmental Planning Policy No. 71 - Coastal Protection</i> can only occur with the agreement of the Minister. Council is not involved in the determination to waive the need for a Masterplan for a development.</p> <p>The consent authority must take into account matters for consideration as detailed in the SEPP. The proposal satisfies relevant matters and is discussed elsewhere in this report.</p>   |

| Issue raised in submission  | Comment   |
|---|---|
| <p>competition for the business/retail sectors in the Shellharbour Village due to their close proximity. There is also a concern that there was a lack of genuine participation regarding the decision to negotiate with Australand. This includes insufficient accessibility regarding information for both the community and councillors at the time. The Shell Cove Update also formed part of the council agenda that was not open for community addresses at the time. The incorporation of a Masterplan for consideration in this proposal is therefore essential.</p> <p>The document letter provided by the Department of Planning specifically notes that the waiving of a Masterplan under SEPP 71 does not extend to a waiver towards other relevant provisions under SEPP 71 (Coastal Protection). It is unclear where SEPP 71 is analysed in the document apart from provisions of a Masterplan.</p> <p>This waiver should be rescinded. What was its purpose? To provide a sustainable and integrated development especially in the context of global warming it is imperative that a Master Plan be implemented.</p> |   |
| <ul style="list-style-type: none"> <li>▪ Flora &amp; fauna impact &amp; scenic quality</li> </ul> <p>One could not call an area consisting of small blocks, houses jammed tightly together with very small, probably paved courtyards a scenic attraction. In such an area, the birdlife and fauna that inhabits the area now will disappear. I believe that these concerns should be addressed when examining the DA.</p> <p>The site was and is an oasis for flora and fauna particularly birds.</p> <p>The site was one of the most beautiful golf courses in the State. Few would consider a housing development as an improvement on the scenic quality.</p>   | <p>The matter of the golf course relocation is not relevant to this application. The land is zoned residential and the proposal is consistent with objectives of the residential zone.</p> <p>The development site has been modified during previous land use activities, e.g. land clearance, livestock grazing, construction of the former golf course. Existing vegetation is generally associated with fairway landscaping of the former golf course.</p> <p>The development site is not identified as having flora and/or fauna listed under the <i>Threatened Species Conservation Act 1995</i> or other statutory legislation.</p> |
| <ul style="list-style-type: none"> <li>▪ Traffic</li> </ul> <p>Traffic volumes could exceed the desirable maximum of 3000 v/d in the short section of Brindabella Road south of Rani Avenue affecting the access and amenity of seven houses.</p>   | <p>The issue was discussed with Council's Traffic Engineer and it was concluded that 3000 v/d is the guide for the road infrastructure design and that there are many examples of roads with narrower roadways that are allowing traffic flow much larger than 3000 v/d.</p>  |
| <ul style="list-style-type: none"> <li>▪ Drainage</li> </ul> <p>The area has been flooded on at least 2 occasions in the last 30 years. There is also a creek nearby. At present storm water from the nearby Shellharbour Cemetery, the Bus Depot and Shellharbour Road flows on this site. Even though there is a proposal to create artificial wetlands within the site that may or may not happen as that is a proposal for the future. Prior to the creation of those wetlands, there will be an enormous flow of water - an enormous amount of water with nowhere to go.</p>   | <p>The submitted drainage design complies with the requirements outlined in Shellharbour City Council <i>Subdivision Code</i> and Shellharbour City Council <i>Stormwater Policy</i>.</p>   |
| <ul style="list-style-type: none"> <li>▪ Sea Levels</li> </ul> <p>This development is a coastal development - it is only a few hundred metres away from south Shellharbour Beach. Experts have told us that sea levels are rising and that fact will impact upon this development.</p>  | <p>The site approximates 1km from the coast.</p> <p>The Flood study, prepared by Cardno Lawson Treloar (ref no W4733, dated 17/07/09), in section 5.4 <i>Downstream Boundary</i> indicates that in preparing the flood model for different storm events the sea level rise due to storms and global warming has been taken into account.</p>  |
| <ul style="list-style-type: none"> <li>▪ Geotechnical</li> </ul> <p>It is a concern that no geotechnical studies have</p>   | <p>A Geotechnical report for the road design will be provided at Construction Certificate stage and a</p>   |

| Issue raised in submission   | Comment  |
|--|--|
| occurred.  | Geotechnical report for lot classifications will be provided at Subdivision Certificate stage of this application. These requirements form part of the recommended consent conditions.   |
| <ul style="list-style-type: none"> <li>▪ General</li> </ul> <p>The Developer has clearly stated that the main aim of the development is “maximum yield.” ... request that the concerns and fears of members of the community are carefully examined to ensure that this development, which will sit on a flood plain, becomes a development which will be a sustainable community - that there will be plans in place for the houses to use solar energy and rainwater tanks, that they will have gardens large enough to grow trees, that the roads will be wide enough to allow for emergency services to have quick access to the area and that there will be proper provision for cycleways.</p> | <p>Council's <i>Residential Subdivision Development Control Plan</i> requires subdivision proposals to attain a residential density of between 12-15 dwellings per hectare. The proposal satisfies this development standard. Road design and network can satisfy the requirements of this DCP.</p> <p>Future development on the lots to be created by the proposal will be subject to relevant legislation, Council's Development Control Plans and policies.</p> |

The matters raised in the submissions do not provide reasonable grounds to refuse the application, require the proposal to be redesigned or require additional information to be prepared and submitted for consideration and approval at the development application stage.

## Considerations

### Financial/resources implications

Nil

### Legal & policy implications

When determining a development application, the requirements of Section 79C of the *Environmental Planning & Assessment Act 1979* must be taken into account. The following matters are considered relevant:

#### State Environmental Planning Policy No 71 Coastal Protection (SEPP)

The development is located within the Coastal Zone. Clause 8 of the SEPP must be taken into account along with Part 4 Development Control. The proposal is consistent with the provisions of the SEPP which are aimed at protecting and managing the attributes of the New South Wales coast.

#### Shellharbour Local Environmental Plan 2000

The lots comprising the subject site are all zoned 2(f) Mixed Use Residential F. The proposal is permissible in the zone subject to development approval.

The objectives of the zone are:

- a. To allow for mixed use residential neighbourhoods to be developed providing for a range of household preferences and needs.
- b. To enable the development of a regional boat harbour facility and associated commercial and recreational activities.

The proposed residential subdivision provides a range of residential lot sizes which can support a range of housing forms and housing needs. The proposal is consistent with the land zone objectives.

---

## Residential Subdivision Development Control Plan

The proposal satisfies the general objectives outlined in Part 3 of the *Residential Subdivision Development Control Plan* (DCP).

Part 4 outlines development standards that a proposed subdivision needs to satisfy. With exception of lot size the proposal satisfies the requirements of Part 4. Part 4.3.1 states 'lot sizes between 250m<sup>2</sup> - 450m<sup>2</sup> will only be considered on land with a cross slope of 5% or less and then only as integrated development'.

The subdivision proposes 19 of the 82 residential lots as 'compact lots' with lot areas varying from 387m<sup>2</sup> to 440m<sup>2</sup>. These compact lots are co-located throughout the subdivision; refer Attachment 3. A variation to the minimum lot size policy requirement of 450m<sup>2</sup> was sought by the applicant. The justification provided by the applicant includes the following comments:

- 'a. Building envelopes achievable greater than the required minimum of 10m x 15m;
- b. Proposed lots have cross slopes of less than 5% (actual ranging from approximately 0% to 4%);
- c. Built form able to comply with all requirements of Council's *Shell Cove Development Control Plan*, including private open space criteria (principally due to the regular shape and minimum lot width of 13m adopted for the compact lots);
- d. Solar access provisions capable of being achieved ..... (noting) that all residents will be required ... to meet BASIX legislation;
- e. Shell Cove has trialled the development of smaller lots via integrated housing mechanism. This has included the development of 15 homes on lot sizes down to 280m<sup>2</sup> by Australand and the sale of integrated development sites to third parties. This form of development has proved marginal'.  
[Council comment - Integrated housing sites have not been developed as integrated housing and instead have been subdivided into conventional sized lots];
- 'f. The more compact allotments will provide a more affordable housing option enabling a broader section of the community to live at Shell Cove .... to include first home buyers and empty nesters/retirees .... to enable .... development of a cohesive and diverse community;
- g. A key objective of the DCP is for the provision of allotments of size and dimension to allow for a diversity of housing form, densities and lifestyle choices. The proposal is consistent with this key objective with the provision of a variety of lot sizes purposefully spread through the subdivision.'

Council generally concurs with the justification put forward and accordingly supports the policy variation sought to create the smaller lots proposed as part of the subdivision for this development site. It is unlikely that the smaller lot will be evident at the streetscape level; future built form on these lots are likely to contribute to a cohesive residential streetscape.

## Likely impacts of development

The subdivision layout and design integrates with the adjoining residential, and future, development of the Shell Cove precinct. The size and regular shape of the lots will allow subsequent built form on these lots to be compatible with the existing character and amenity of the adjoining locality and streetscape. The design of the road network of the proposed Stage 8B subdivision has taken into consideration the future traffic demands.

Relevant conditions have been recommended to minimise and manage any potential impact that may arise during the construction works of the subdivision.

---

### Suitability of the Site for Development

The land is zoned residential and is not subject to site attributes or constraints that will prevent the development of the land for residential purposes. The development site has been previously cleared for grazing and subsequently constructed and used as a golf course; the site has not been identified as containing significant flora or fauna.

The proposed stage 8B subdivision development forms part of the overall Shell Cove project. The Shell Cove masterplan includes the development of about 3,000 residential dwellings, a 18 hole championship golf course, town centre, school, commercial development and a boatharbour/marina. The development of the site is a logical expansion of the adjoining residential development and is consistent with the Shell Cove masterplan. The residential road network is designed to integrate with the existing, and future, road network in accordance with the masterplan.

This site is considered to be suitable for the proposed development.

### **Public/social impact**

There is a demand for residential land in the region. The subdivision design provides a mix of lot sizes and accordingly, will promote choices in housing options and broaden the demographic base of the Shell Cove community. The proposal integrates with existing and future development of the Shell Cove precinct. The proposal satisfies, or can be conditioned to satisfy, relevant statutory requirements.

### **Options**

1. Approve the application subject to conditions.
2. Refuse the application and give reasons for refusal.

### **Political Donations Disclosure**

Not Applicable

### **Conclusions**

The proposal is consistent with the masterplan developed for the overall Shell Cove project. The proposal satisfactorily addresses relevant statutory requirements. The objectives and relevant performance criteria/development standards of Council's *Residential Subdivision Development Control Plan* have been met by the proposed development or can be conditioned to meet Council's requirements. The matters raised in the submissions to Council, and relevant to the proposal, do not provide adequate grounds to justify a redesign of the development nor to refuse the application. The proposal will increase the supply of land for residential development.

For these reasons, the proposed development is supported.

### Conditions

## **PART A – ADMINISTRATIVE CONDITIONS**

### **A1 Construction Certificate (Subdivision) & PCA Notification Environmental Planning & Assessment Act 1979 Section 81A**

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



- 
- a. obtain a Construction Certificate for the respective stages from Shellharbour City Council or other accredited certifier
  - b. appoint a Principal Certifying Authority.

**Note:** For Torrens Title Subdivision, the appointed Principal Certifying Authority must be Shellharbour City Council.

## **A2 Prescribed Conditions**

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

## **A3 Development in Accordance with Plans**

The development must be in accordance with the following except as modified by conditions of this consent.

| <b>Name of Plan</b> | <b>Prepared By</b> | <b>Drawing No./Revision</b> | <b>Drawing Date</b> |
|---------------------|--------------------|-----------------------------|---------------------|
| Subdivision Plan    | BMD Consulting     | CS-0193-DA01 Rev E          | 08 / 10 / 2009      |
| Subdivision Plan    | BMD Consulting     | CS-0193-DA04 Rev A          | 20 / 10 / 2009      |

## **A4 Easements**

Structures must not encroach onto any easement.

## **A5 Staging of Development**

Building work shall be staged as follows, unless otherwise approved by Council in writing:

Stage 1 - lots 8201 to 8246 inclusive

Stage 2 - lots 8253 to 8268 inclusive and lot 8283

Stage 3 - lots 8250 to 8252 inclusive, lots 8269 to 8282 inclusive and lots 8247 to 8249 inclusive.

All conditions of this consent apply to each stage, where relevant.

## **PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (SUBDIVISION)**

### **B1 Sydney Water ‘Notice of Requirements’**

Consent for this development is conditional upon satisfactory arrangements with Sydney Water (Illawarra Branch) for the provision of adequate facilities for water supply and the removal or disposal of sewage.

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 to the ‘*Building Developing & Plumbing*’ section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to ‘*Water Servicing Coordinator*’ under ‘*Developing your Land*’ or telephone 13 2092 for assistance.

---

Following application, a 'Notice of Requirements' will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

A copy of Sydney Water's 'Notice of Requirements' must be submitted to the Certifying Authority prior to the Subdivision Construction Certificate being issued.

## **B2      Controlled Activity Approval – NSW Office of Water**

The applicant must obtain a Controlled Activity Approval under the *Water Management Act 2000* from the NSW Office of Water.

Application forms for a Controlled Activity Approval are available from the Department or the Department's website [www.dwe.nsw.gov.au/water\\_trade/rights\\_controlled.shtml](http://www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml)

The Controlled Activity Approval must be submitted to the Principal Certifying Authority prior to the release of the Subdivision Construction Certificate for Stage 1.

## **B3      Landscape Works**

Street tree planting and landscaping of public reserves must be undertaken by the developer to Council's satisfaction and at the developer's cost. In this regard, two copies of a landscape plan prepared by a Landscape Architect must be submitted to and approved by Council prior to the issue of the Subdivision Construction Certificate for Stage 1. The time schedule for street tree planting must be detailed on the landscape plan. The landscape plan must be prepared in accordance with Council's *Landscape Guidelines Development Control Plan*, available from Council's Customer Service or can be downloaded from Council's website.

The public reserve should include one large feature tree.

The landscaping plans and the civil design plans must be designed and assessed concurrently and neither will be approved in isolation.

## **B4      Road & Drainage Plans**

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

## **B5      Road Standards & Design**

All roads and road intersections within the development must have sight distance provided in accordance with AUSTROADS requirements.

The geometric design of all roads, traffic facilities, intersection treatments, mid-block devices and entry features must be such as to permit a 12.5m single unit truck to manoeuvre in order to enter and leave each road traveling in a forward direction and without leaving the carriageway. Details to be submitted with the Construction Certificate Application.

The vertical and horizontal alignment of all streets and all street intersections within the development must have sight distance provided in accordance with 'AUSTROADS' requirements.

---

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.

#### **B6 Road Pavement Design**

The engineering construction drawings must contain all details of the proposed pavement design. Details of the final layer (ie 2 x 20mm layers or 1 single 30mm layer) and the timing of its placement must be included in the engineering drawings.

#### **B7 Sign & Linemarking Diagram**

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.

#### **B8 Sediment Control & Water Quality Control**

The developer must submit a 'Soil and Water Management Plan' to the Principal Certifying Authority for approval prior to the release of the Subdivision 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.

Temporary sediment ponds must be fenced where the batter slope exceeds a slope of 1 vertical to 5 horizontal.

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 Environment Protection Authority and the Department of Infrastructure, Planning & Natural Resources.

#### **B9 Drainage Design**

A detailed drainage design of the site must be submitted and approved prior to commencement of work. The plan must be generally in accordance with plan prepared Worley Parsons (ref no 30105-01089, dated 20 July 2009). The plan must 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.

The detailed stormwater design must cater for the safe passage of overland flow for the 1% AEP storm event.

#### **B10 Interallotment Drainage**

Inter-allotment drainage must be provided to dispose of stormwater from those allotments that do not have fall to the street to which the lot fronts.

#### **B11 Drainage Design – Critical Flood Event**

Stormwater drainage and inter-allotment 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. The conveyance and discharge of runoff generated by the critical flood event with an average recurrence interval of 1 in 100 years must be over public land.

### **B12 Stormwater Pollution Control Facilities**

The developer must install litter interception measures at the stormwater outlets from the site. All costs associated with the installation of the litter interception measures must be borne by the developer. The proposed litter interception measures must have all of the following characteristics:

- a. Treat not less than 95% of the catchment for the design stormwater discharge, which represents 25% of the 1 in 1 year ARI discharge.
- b. Capture 100% of the particulate matter and litter in the stormwater discharge larger than 2 mm for the design discharge.
- c. Not permit trapped matter to be washed out or re-suspended during stormwater discharges greater than the design discharge.
- d. Be easily accessed, maintained and cleaned using plant and equipment commonly in use by Shellharbour City Council.

### **B13 Site Management Plan**

Prior to the issue of the Subdivision Construction Certificate, the applicant must submit to and obtain approval for a construction and site management plan, from the Principal Certifying Authority and Council, 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. 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
- e. 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
- f. access to the site during the subdivision construction phase by all heavy vehicles should not be via existing residential areas where an alternative route exists. An agreed route should be negotiated prior to works commencing.

### **B14 Waste Management Plan**

A Waste Management Plan for the management of all waste streams generated by the development must be prepared and submitted with the Subdivision Construction Certificate for approval.

Material excavated from the site must be taken to an approved land fill site. Excavated material may only be taken to an alternative site with prior written approval of Council.

---

**Note:** Excavated material must not be added to the 'landscape mound' approved under Development Consent No. 947/2000(Pt 2).

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

### **C1 Site Meeting**

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.

### **C2 Section 138 *Roads Act 1993***

For works proposed within the road reserve, the requirements of Section 138 of *the Roads Act 1993* apply. In this regard, if any other works are proposed and / or occupation of the road reserve proposed a Road Opening Application must be made.

This application must be made prior to any works commencing within the road reserve and an application fee in accordance with Council's *Fees and Charges* will apply.

### **C3 General Terms of Approval – NSW Office of Water**

#### **Plans, Standards & Guidelines**

C3.1 These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to Development Application No. 251/2009 and provided by Council:

- i. Site plan, map and/or surveys
- ii. Works Schedule
- iii. Stormwater Management Strategy Plans.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified, the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

C3.2 Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the *Water Management Act 2000* from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

C3.2 The consent holder must prepare or commission the preparation of:

- i. Soil and Water Management Plan.

C3.4 All plans must be prepared by a suitably qualified person and submitted to the NSW Officer of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at [www.dwe.nsw.gov.au/water\\_trade/rights\\_controlled.shtml](http://www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml)

- i. Vegetation Management Plans
- ii. Laying Pipes and cables in watercourses
- iii. Riparian Corridors

- 
- iv. In-stream works
  - v. Outlet structures
  - vi. Watercourse crossings.

C3.5 The consent holder must

- i. carry out any controlled activity in accordance with approved plans and
- ii. construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and
- iii. when required, provide a certificate of completion to the NSW Office of Water.

**Disposal**

C3.6 The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

**Drainage & Stormwater**

C3.7 The consent holder is to ensure that all drainage works

- i. capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water, and
- ii. do not obstruct flow other than in accordance with a plan approved by the NSW Office of Water.

C3.8 The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.

**Erosion Control**

C3.9 The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

**Excavation**

C3.10 The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

**C4 Public Liability**

Prior to works commencing, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$10M in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy must note Council as an interested party.

---

## **PART D – DURING DEMOLITION / CONSTRUCTION WORKS**

### **D1 Site Documentation**

A full set of approved documents (Development Consent, Construction Certificate Drawings and associated documentation) must be maintained on site for the duration of the construction works.

### **D2 Hours of Work**

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

- 7am to 5pm 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.

### **D3 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.

### **D4 Imported 'Waste Derived' Fill Material**

The only waste derived fill material that may be received at the development site is:

- a. virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*)
- b. any other waste derived material the subject of a resource recovery exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Any waste derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

The intent of this requirement is to ensure that imported fill is of an acceptable standard for environmental protection purposes.

### **D5 Tree Removal**

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

### **D6 Service Conduits**

Service 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.

---

**D7 Road Construction**

Insitu density tests must be performed by a NATA registered laboratory on the subgrade, sub-base and base as directed by Council.

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 AUSTROADS "A guide to the Structural Design of Road Pavements".

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.

**D8 Installation of Stormwater Pipes**

All 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'.

**D9 Lots & Site Filling**

All lot and site filling must be performed under level 1 Geotechnical supervision in accordance with AS 3798-1996 or subsequent amendments.

**D10 Geotechnical Testing**

Geotechnical testing to verify that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill must be performed at the rate of one test per 50m of pipeline with not less than two tests in any section of pipe exceeding 25m in length.

**D11 Allotments Construction Level**

All developable allotments must be constructed at or above the 1 in 100 year flood level plus 500mm freeboard. All allotments within 500mm of the 1 in 100 year level must have a restriction as to user placed on the 88B Instrument specifying a minimum floor level of 500mm above the 1 in 100 year flood level for all lots. All levels must be related to Australian Height Datum.

**PART E – PRIOR TO OCCUPATION**

Not Applicable

**PART F – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE****F1 Final Plan**

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. 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

- c. fees in accordance with Council's *Fees and Charges* must be paid at the time of submission of the application.

## **F2 Sydney Water Section 73 Certificate**

A Section 73 compliance certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

## **F3 Verification of Waste Management**

Documentation, such as receipts / photos, verifying that all waste streams were managed in accordance with the approved Waste Management Plan must be provided to the Certifying Authority prior to the issue of a Subdivision Certificate.

## **F4 Section 94 Contributions**

A contribution must be paid to Council towards the provision of community facilities and services prior to the issue of the Subdivision Certificate for each stage\*, as follows:

Stage 1 - \$331,395.62

Stage 2 - \$125,193.90

Stage 3 - \$147,286.94

- \* The number of lots created at each stage may vary with Council's written approval, without the need to lodge a modification to the development consent, where any change to the subdivision staging does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans.

This amount has been calculated in accordance with Council's *Section 94 Contributions Plan 2005* (Amendment 1) dated 28 September 2005. The *Section 94 Contributions Plan 2005* may be inspected or a copy purchased at the Customer Services Counter at Council's offices, or downloaded from [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au)

**Note:** The contribution amounts quoted are the base rate indexed to the date the consent is issued. Where the Subdivision Certificate is issued at a time later than the Development Consent, the above contribution amount may be adjusted in accordance with the indexing methods detailed in the Plan. Amended rates are available from Council.

## **F5 Street/Public Reserve Names**

Proposed street names for all new roads and/or public reserve names must be submitted for Council's consideration. The submission must include the:

- a. reasons for/or background/history to the names and estate theme
- b. an A4 size plan of the street/reserve layout with proposed names and road numbers if applicable
- c. fees in accordance with Council's *Fees and Charges*.

Street names and public reserve names must be finalised prior to release of the Subdivision Certificate.

---

**F6 Street Lighting**

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 Subdivision Certificate. All costs associated with the installation of street lighting must be borne by the developer.

**F7 Geotechnical Report**

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. the classification of the proposed lot in accordance with the Australian Standard 2870-Residential Slabs and Footings or subsequent amendments,
- b. the classification of the lot in relation to risk of slope instability, and
- c. the required site preparation and construction constraints within the building envelope of the lot appropriate to the assessed risk of slope instability.

**F8 Services & 88B Instrument**

Lots affected by new or existing services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority, Sydney Water and Integral Energy.

**F9 Padmount Substations**

Where a padmount substation/s is incorporated into an allotment, a restricted building zone must be created in accordance with Integral Energy's requirements. A restriction as to user must be placed on the 88B Instrument limiting structures within this zone to only those that satisfy the requirements of Integral Energy.

**F10 Utilities – Electricity, Gas & Telephone**

- a. Electricity must be provided to all proposed lots. In this regard, the developer must submit written advice to the Principal Certifying Authority from Integral Energy that all requirements for the supply of electricity to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.
- b. Telephone services must be provided to all proposed lots. In this regard, the developer must submit written advice to the Principal Certifying Authority from Telstra Australia that all requirements for the supply of telephone services to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.
- c. The developer must submit written advice to the Principal Certifying Authority from the Natural Gas Company that all requirements for the supply of gas services to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.

---

**F11 Works As Executed – Subdivision**

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. certification from a registered surveyor that all stormwater pipes and other services are wholly within an appropriate easement.

**F12 Stormwater Pipes Inspection**

All stormwater 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 the Principal Certifying Authority prior to the release of the Subdivision Certificate or placement of final seal on roads, whichever occurs earlier. Damaged pipes must either be replaced or repaired to the Principal Certifying Authority's satisfaction prior to the issuing of a Subdivision Certificate.

**F13 Subdivision – Completion of Landscape Works**

Landscaping must be completed for each stage, in accordance with the approved Landscape Plan, to Council's written satisfaction prior to the issue of the Subdivision Certificate.

**F14 Dedication to Council**

All intended reserves, roads, pathways and drainage easements must be dedicated to Council.

**F15 Release of Certificate**

The Subdivision Certificate for each stage must not be released until all works required for each stage of the development, subject of this consent, have been completed.

**PART G – AFTER ISSUE OF SUBDIVISION CERTIFICATE****G1 Maintenance of Road & Drainage Works**

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.

**G2 Future Development**

No consent is given or implied for any future development on the subject land. Any future development, not part of this consent, requires separate development approval.

**G3 Subdivision – Landscape/Street Tree Maintenance Period**

The landscape must be maintained for a minimum period of 12 months commencing from the date of the issue of the Subdivision Certificate unless otherwise agreed to in writing by Council. The developer must ensure that any defective landscaping shall be rectified and/or replaced during the maintenance period in accordance with the approved landscape plan. All costs

---

arising during the maintenance period must be borne by the developer. The developer must notify Council for a re-inspection at the end of the maintenance period.

**G4 Public Reserve Dedication**

All areas to be dedicated as public reserve must be cleared of both environmental weeds and noxious weeds prior to dedication.

***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.

Approved for the Joint Regional Planning  
Panel's consideration:



---

**Attachments**

1. Proposed Stage 8B Subdivision in context of Shell Cove masterplan
2. Locality Plan
3. Subdivision Plan

[illegible]

## Attachment 2 - Locality Plan

DA 251/2009 - Lots 8100 & 8118 DP 1082981 Sloop & Galleon Avenues, Lot 9004 DP1117743  
Shallows Drive, Lot 1 DP 584291 Addison Street, Shell Cove



Attachment 3 - Subdivision Plan

DA 251/2009 - Lots 8100 & 8118 DP 1082981 Sloop & Galleon Avenues, Lot 9004 DP1117743 Shallows Drive, Lot 1 DP 584291 Addison Street, Shell Cove

