

# SHELLHARBOUR CITY COUNCIL

## Joint Regional Planning Panel (Southern Region)

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<b>JRPP No.</b>	2014STH001
<b>DA No.</b>	DA 424/2013
<b>Proposal</b>	Twenty Four (24) Two Storey Dwellings (Multi Dwelling Housing), Torrens Title Subdivision Incorporating a Public Road and Public Reserve and Community Title Subdivision
<b>Property</b>	Proposed Lot 1275 in an approved plan of subdivision being part of Lot 8422, DP 1169822 (previously Lot 9041, DP 1172320), Cnr Shallows Drive and Cove Boulevard, Shell Cove
<b>Applicant</b>	Australand Corporation (NSW) Pty Ltd
<b>LGA</b>	Shellharbour Local Government Area

## EXECUTIVE SUMMARY

### Reason for Consideration by Joint Regional Planning Panel

The development application has been referred to the Joint Regional Planning Panel (JRPP) pursuant to Clause 4 (b) of Schedule 4A of the *Environmental Planning & Assessment Act 1979* as Council is the owner of land on which the proposed development is to be carried out and the capital investment value exceeds \$5M.

### Proposal

The development application seeks approval for the development of twenty four (24) two storey dwellings incorporating Torrens Title and Community Title subdivision.

### Permissibility

The site is zoned R2 Low Density Residential, pursuant to *Shellharbour Local Environmental Plan 2013* (SLEP 2013). The proposal is legally defined and characterised as 'multi dwelling housing' being a type of 'residential accommodation' and is permissible, with development consent, under clause 2.3 of the SLEP. The development will provide for the housing needs of the community which is consistent with the objectives of the zone.

### Consultation

The application was notified in accordance with Council's *Shellharbour Development Control Plan*. No submissions were received.

## RECOMMENDATION

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It is recommended that DA No. 424/2013 be approved subject to the conditions contained in Attachment 4.

## Context

In 1994, a Preliminary Structure Plan for Shell Cove was developed to provide a general direction for the development of the Shell Cove residential estate and assist in the assessment of development applications. A revised Shell Cove Structure Plan was adopted on 12 August 2003. The Plan, in broad terms, illustrates the envisaged layout of the residential estate known as 'Shell Cove', with the focus being a boat harbour.

The Structure Plan is at Attachment 1.

This development application (DA No. 424/2013) for residential housing, known as Stage 10D3, is located adjacent to the proposed boat harbour precinct.

Stage 10D3 was nominated as proposed super lot 1275 in an earlier subdivision for Stage 10D comprising 71 residential lots and 4 super lots (DA 28/2010) that was considered by the JRPP on 3 February 2011 with Development Consent for that subdivision issuing on 3 February 2011.

Stage 10D3 is being reported to the JRPP as the proposed development exceeds the capital investment value of \$5M with Council having an interest in the proposal as landowner.

## Site Description

The site is located in a master planned residential estate located about 17km south of Wollongong. The estate is located directly south of the existing Shellharbour Village and is bounded by South Shellharbour Beach, Killalea State Park, Bass Point Quarry and Shellharbour Road.

Stage 10D3 comprises approximately 1.06 ha of land in the east of the Shell Cove Estate. The site forms part of Lot 8422 in Deposited Plan (DP) 1169822. This DP was registered on 23/12/2013 subsequent to the lodgement of the Development Application and now supersedes DP 1172320.

Refer to Attachment 2. This attachment (plan) shows the site relative to the Shell Cove estate.

The land was formerly farmland in part and in part a golf course. The golf course has been closed and replaced with a new course in the west of the Shell Cove estate. The land slopes towards the east.

## The Proposal

The proposal is to concurrently construct 24 two storey dwellings and subdivide the land utilising a combination of torrens title and community title in the following manner:

Stage 1 – subdivision of proposed Lot 1275 (part Lot 8422, DP 1169822) to create 15 torrens title lots, 1 residue lot for subsequent community title development, construction of road Nos. 1 & 2 and a public reserve. Provided Council requirements are met, commencement of dwellings with common walls to enable release of the plan of subdivision prior to completion of all dwellings.

Stage 2 – subdivision of the residue lot in Stage 1 to create 9 community title lots and 1 private access (car) lot. Provided Council requirements are met, commencement of dwellings with common walls to enable release of the plan of subdivision prior to completion of all dwellings.

An intended construction programme is as follows:

- Commence all stage 1 and stage 2 civil works together,
- When civil works sufficiently advanced to allow access, commence stage 2 housing and housing to stage 1 lots 1601, 1602, 1608 and 1609,
- Complete civil works to stage 1,
- Commence balance stage 1 housing and complete all stage 1 adjoining walls where dwellings attached,
- Create and register stage 1 plan of subdivision including community residue,
- Create and register stage 2 plan of subdivision provided adjoining walls between attached dwellings are well advanced, and
- Complete stages 1 and 2 housing and receive construction certificates to enable sale of completed product.

Attachment 3 is a site plan of the proposed development.

The application was supported by a Statement of Environmental Effects prepared by Cardno (NSW/ACT) Pty Ltd with assistance from several consultancies which provided specialist reports addressing a range of issues including:

- Basix
- traffic and transport
- acoustics
- bushfire

The applicant for the proposal is Australand Corporation (NSW) Pty Limited.

### ***Environmental Planning and Assessment Act 1979 (EP&A Act 1979)***

In determining a development application, the consent authority must take into consideration matters referred to in section 79C (1) of the EP&A Act 1979 as relevant to the proposal. The following table summarises salient points under section 79C (1) with issues discussed in the body of this report.

<b>Section 79C(1) of the <i>Environmental Planning &amp; Assessment Act 1979</i></b>	
(a)(i)	any environmental planning instrument
	<u>State Environmental Planning Policies</u> <ul style="list-style-type: none"> <li>• SEPP 71 - Coastal Protection</li> <li>• SEPP 55 - Remediation of Land</li> <li>• SEPP (Basix) 2004</li> </ul> <u>Local Environmental Planning Policies</u> <ul style="list-style-type: none"> <li>• Shellharbour Local Environmental Plan 2013</li> </ul>
(a)(ii)	any draft environmental planning instrument that has been placed on public exhibition and details of which have been notified by the consent authority
	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
(a)(iii)	any development control plan

**Section 79C(1) of the *Environmental Planning & Assessment Act 1979***

- Shellharbour Development Control Plan

(a)(iia) any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F

- None applicable

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

- NSW Coastal Policy 1997 applies

**Section 79C(1) of the *Environmental Planning & Assessment Act 1979***

(b) the likely impacts of development

Context and Setting

- The proposal is to take place on appropriately zoned land, which has been specifically identified for residential development via a master planning process.

Access, Transport and Traffic

- The existing road networks have sufficient capacity to cater for anticipated traffic volumes from the proposed development with or without the development of the boat harbour and new road link (continuation of Wattle Road and new 'Harbour Boulevard'.

Utilities

- All services will be provided to the new residential lots, at expense to the developer.

Soil, Water Air and Microclimate

- The impacts on soil, water and air are expected to primarily associate with the subdivision construction phase of the development. In this regard, the subdivision design, implementation of management plans and conditions of consent for both subdivision and dwellings, should assist in mitigating impacts. Stormwater and sewerage can be managed by the provision of appropriate infrastructure.

Flora and Fauna

- Stage 10 has been previously cleared and used for grazing purposes and more recently a golf course. Accordingly, the development is unlikely to impact on any threatened species, populations or ecological communities.

Waste

- The application has detailed 'waste' likely to be generated and submitted a Site Waste Minimisation and Management Plan. The Plan notes that the subdivision will include earthworks and waste associated with the development will be superfluous earth, concrete and green waste. A condition of consent is required to require compliance with this Plan.

Noise and Vibration

- There are construction impacts that must be managed and are issues which can be addressed via conditions of consent and are covered by other legislation. Noise associated with Cove Boulevard extension can be mitigated with the inclusion of acoustic fencing (as done elsewhere in the estate) and dwelling design.

Natural Hazards

- The site is mapped as bushfire prone. The Rural Fire Service has issued a Bushfire

### Section 79C(1) of the *Environmental Planning & Assessment Act 1979*

Authority and recommended conditions of consent.

- Whilst Council's records have suggested the presence of acid sulphate soils, Council's mapping does not show the presence of any soils in the vicinity of the developable land. Geotechnical investigations undertaken in the area have not highlighted this as an issue.

#### Social Impacts

- The creation of new lots and dwellings will provide additional housing choice opportunities within the LGA. The additional population will provide additional demands on urban infrastructure, services and facilities. Section 94 contributions will assist in supplying some services/facilities provided by Council.

#### Economic Impacts

- The new subdivision and dwelling construction will have an economic impact by providing employment opportunities.

#### (c) the suitability of the site for development

- The proposal is appropriate for the site and meets the objectives of the zone.

#### (d) any submissions made in accordance with this Act or the regulations

- The application was notified in accordance with Chapter 2 of Council's *Shellharbour Development Control Plan*. No submissions were received.

#### (e) the public interest

- In the absence of submissions and balanced against the wider community, social and economic benefits, the proposal is considered to be in the public interest.

### State Environmental Planning Policy No. 71 - Coastal Protection

The proposal falls within the Coastal Zone as defined by the SEPP and the relevant matters for consideration are:

- Part 1 - clause 2, aims
- Part 2 - clause 8, various heads of consideration, and
- Part 4 - development controls.

Part 5 of the SEPP does not apply. This Part requires the preparation of a masterplan. Shell Cove benefits from an existing plan. A waiver has been granted in accordance with clause 18(1)(a) of the SEPP. The letter is dated 23 March 2007 and grants a waiver for stages 8, 9 and 10 of the Shell Cove estate.

In broad terms, the aims of the SEPP seek to protect and manage the unique attributes of the NSW coast by encouraging sensitive and appropriate development. The SEPP is a means of implementing the State's *Coastal Policy*.

The proposed subdivision is not considered inconsistent with the aims of the SEPP as the heads of consideration listed in clause 8 and part 4 are capable of being addressed. In short:

- Public access to the coast will not be compromised by the development.
- The proposed development is considered suitable having regard to adjoining similar development. The proposal will tie in with that development being consistent in

character and appearance with the overall predominantly low residential density character of the estate.

- The proposed dwellings will not result in any adverse overshadowing or loss of view corridors and opportunities. Views to the coast will be retained from key public vantage points beyond the estate enjoyed by the broader community.
- Flora and fauna habitats will not be compromised. The establishment of Riparian corridors elsewhere in the estate will enhance opportunities for wildlife in the locality.
- The site is low lying and within the Coastal Zone. The issue of flooding and climate change has been considered. With reference to potential sea level rise and rainfall intensity, it is envisaged that the proposal will not be adversely affected.
- The site is located in an area identified for residential development. It adjoins similar development and as such there are no inherent land use conflicts or potential conflicts envisaged with land uses nearby or proposed water uses.
- There are no (European) heritage issues.
- Aboriginal heritage was considered (see later in this report).
- The proposal will have cumulative impacts in that it introduces additional residential dwelling supply and therefore social, economic and physical impacts. Appropriate conditions of consent will ensure that the impacts are managed and are acceptable to the broader community within the context of urban residential development.
- All urban services will be made available to the estate.
- Stormwater and effluent will be captured via systems purposely designed for the estate.

#### **State Environmental Planning Policy (Basix) 2004**

The aim of this Policy is:

1. *Regulations under the Act have established a scheme to encourage sustainable residential development ("the BASIX scheme") under which:*
  - (a) *an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and*
  - (b) *the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.*
2. *The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.*
3. *This Policy achieves its aims by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.*

A Multi Dwelling BASIX Certificate accompanied the development application that demonstrated that all dwellings either met or exceeded the Targets for Water, Thermal Comfort and Energy. A condition of consent is recommended to require compliance with this Certificate.

## **State Environmental Planning Policy No. 55 - Remediation of Land**

The object of this Policy is:

1. *To provide for a Statewide planning approach to the remediation of contaminated land.*
2. *In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*
  - (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
  - (b) *specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out remediation work in particular, and*
  - (c) *by requiring that a remediation work meet certain standards and notification requirements.*

At Clause 7 of the Policy:

1. *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The applicant has advised that no Contamination Assessment Reports exist over the 10D3 site and further that previous Assessment Investigations carried out in the surrounding area show no contaminants have been observed.

Contamination was not raised as an issue during the assessment process (and determination by the JRPP) for DA 28/2010 being the development application for Stage 10 in which the subject lot was created. A condition is, however, recommended requiring the submission of a Phase 1 Contamination Assessment Report prior to the issue of a Construction Certificate for civil works and that any recommendations are complied with.

### **Shellharbour Local Environmental Plan 2013 (SLEP 2013)**

The site is zoned R2 Low Density Residential under the SLEP 2013. Under clause 2.3 and 2.6 of the SLEP 2013, development consent is required for the residential component and subdivision.

Under clause 2.3(2) of the SLEP 2013, the consent authority must have regard to the objectives for development in the zone. The Land Use Table for the R2 zone states:

#### **Objectives of zone**

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is not inconsistent with the objectives of the zone.

The SLEP 2013 at Part 4 sets out Principal development standards that the consent authority must have regard to. The relevant matters are:

**Clause 4.1A Minimum lot size for dual occupancies, multi dwelling housing and residential flat buildings**

- (1) *The objective of this clause is to achieve planned residential density in certain zones.*
- (2) *Despite clause 4.1, development consent may be granted for development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose shown in Column 3 of the Table.*

Column 1	Column 2	Column 3
Multi Dwelling housing	Zone R2 Low Density Residential	600 square metres

**Clause 4.1B Exceptions to minimum lot sizes for certain residential development**

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *.....*
- (3) *Despite clause 4.1, development consent may be granted to a single development application for both of the following:*
  - (a) *the subdivision of land into 2 or more lots, if the size of each lot is at least 200 square metres,*
  - (b) *development for the purposes of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.*

The proposed development satisfies the above clause as the application is for both subdivision and a dwelling on each lot and each lot exceeds 200 square metres.

**Clause 4.3 Height of buildings**

- (1) *The objectives of this clause are as follows:*
  - (a) *to ensure the height of buildings complements the streetscape, rural or natural scenic character of the area in which the buildings are located,*
  - (b) *to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views,*
  - (c) *to protect areas of scenic or visual importance.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map establishes a maximum height of 9 metres. All dwellings comply with this development standard.

#### **Clause 4.4      Floor space ratio**

(1) *The objectives of this clause are as follows:*

*(a) to ensure the bulk and scale of development does not have an adverse impact on the streetscape and character of the area in which the development is located.*

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The Floor Space Ratio Map establishes a maximum floor space ratio of 0.5:1.

The floor space ratio for the development has been determined, in accordance with the provisions of clause 4.5 Calculation of floor space ratio and site area, to be 0.38:1 and therefore complies with the development standard.

The SLEP 2013 at Part 5 sets out Miscellaneous provisions. The relevant provisions are:

#### **Clause 5.5      Development within the coastal zone**

The objectives and heads of consideration contained in this clause mirror those set out in SEPP 71 – Coastal Protection addressed earlier in this report. The proposed development is not considered inconsistent with the aims of the SEPP or the SLEP 2013.

#### **Clause 5.6      Architectural roof features**

(1) *The objectives of this clause are as follows:*

*(a) to encourage variety in roof form and shape,*

*(b) to ensure the design elements of the roof features complement the design of the building,*

*(c) to ensure buildings enhance neighbourhood amenity and character.*

All dwellings display a variety of roof form and satisfy the objectives of the clause.

The SLEP 2013 at Part 6 sets out Additional local provisions. The relevant provision is:

#### **Clause 6.9      Essential services**

*Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required.*

*(a) the supply of water,*

*(b) the supply of electricity,*

*(c) the disposal and management of sewage,*

*(d) stormwater drainage or on-site conservation,*

*(e) suitable vehicular access.*

Conditions of consent are recommended to ensure all lots/dwellings are fully serviced and satisfactory vehicular access is available.

### **Shellharbour Development Control Plan (DCP)**

The proposal generally satisfies the various objectives and relevant advices of the DCP outlined in the following:

#### **Chapter 3 – Residential Development**

The development satisfies the various objectives and advices with the exception of minor encroachments of first floor balconies into the primary building line (clause 3.2) for Dwelling Nos. 1614 to 1619 and 1603 to 1607. The encroachment of up to 500mm is supported given no impact on privacy to adjoining properties, building articulation and no impact on the streetscape.

Clause 3.14 advice suggests developers should consider applying the feature of adaptable housing in a multi dwelling housing complex. Although the developer has opted not to address AS4299-1995 Adaptable Housing, Council's Community Planner notes that there are some clear encouraging aspects of this development. The development encourages active transportation and affordability and diversity of housing options in the LGA which in turn contributes to a healthy, socially and economically vibrant community as well as allowing people to remain tied to their community throughout different life stages.

#### **Chapter 4 – Subdivision – Infill and Greenfield**

The development satisfies the objectives and advices set out in this chapter.

#### **Chapter 13 – Parking, Traffic and Transport**

The development satisfies the objectives and advices set out in this chapter.

#### **Chapter 15 – Waste Minimisation and Management**

The development satisfies the objectives and advices set out in this chapter. Discussions have been held with Council's Waste Management Section with regard to domestic waste collection options. The collection will be generally kerb side with the exception of Dwelling Nos. 1610 to 1613 (Community Title precinct) where bins will need to be relocated by residents to Shallows Drive.

#### **Chapter 17 – Crime Prevention through Environmental Design (CPTED)**

Council's Crime Prevention Co-ordinator has provided comment in relation to surveillance, building orientation, parking, landscaping and graffiti issues.

The streetscape design was driven by Cove Boulevard being an access denied road and for dwellings to address Cove Boulevard, wetlands and the public reserve. To address these issues Dwelling No. 1619 has been designed to provide visual surveillance towards the wetlands and landscaping has taken into account RFS BAL requirements.

The applicant has advised that if graffiti becomes an issue on the project, anti-graffiti paint and coating can be applied.

#### **Chapter 20 – Landscaping**

The development satisfies the objectives and advices set out in this chapter together with RFS requirements.

## Chapter 25 – Stormwater Management

The development satisfies the objectives and advices set out in this chapter.

## Chapter 26 – Bushfire Hazard

Referred and response received from the Rural Fire Service with recommended conditions incorporated into the draft conditions.

## Chapter 27 – Aboriginal Heritage

Response and recommendations have been provided by Council's Aboriginal Community Liaison Officer as detailed later in this report.

## Chapter 29 – Social Impact Assessment

The proposed development will have a positive social impact in the locality through the provision of a range of housing choice and employment opportunities and for future residents as the site will benefit from existing services associated with social, cultural, retail and recreational facilities. These services will be readily accessible by both private and public transport modes.

## Chapter 31 – Acoustic Protection for Noise Sensitive Uses such as Child Care Centres and Residential Development

Some of the proposed lots abut Cove Boulevard extension. The development proposes a 1.8m high fence in Cove Boulevard along the side boundaries of Lots 1601 and 1613 together with restrictions on title requiring specific façade treatments to ameliorate traffic noise impacts for Lots 1601 and 1613 to 1619 inclusive. The fence extension will be constructed from solid imperforate sheeting having inherent acoustic properties. Like fencing has been provided along Cove Boulevard in association with earlier stages of the Shell Cove Estate.

The proposed treatments follow on from recommendations contained in Acoustic Advice prepared by Acoustic Logic Consultancy Pty Ltd dated 22/10/2013 and 18/3/2014.

## **Consultation**

### **Internal (Council)**

### **Development Engineer**

The proposed lot layout, road design, drainage and dwelling servicing are deemed acceptable subject to suitable conditions of consent being imposed on the development.

These include, but are not limited to the following matters:

- road standards and pavement design,
- soil sediment and water management,
- service authority requirements,
- drainage design, and
- site management.

DA 28/2010 for Stage 10D, which incorporates proposed Lot 1275 (the site), was supported by flood studies prepared by Worley Parsons.

These combined documents satisfactorily addressed the issue of flood management to ensure the estate was designed appropriately with lots constructed to the appropriate levels and provision of safe egress whilst taking into account the issue of sea level rise.

Recommended conditions are included in the attached conditions. Refer to Attachment 4.

### **Landscape Technical Officer (LTO)**

The submitted landscape plans for the development and adjoining APZ have been reviewed by Council's LTO and approval recommended.

Recommended conditions are included in the attached conditions. Refer to Attachment 4.

### **Section 94 Accountant**

A total of \$261,896.88 is payable for the residential lots for the provision of community services and facilities.

### **Aboriginal Community Liaison Officer (ACLO)**

Council's ACLO notes that the Statement of Environmental Effects states that there is no Aboriginal Heritage that needs to be taken into consideration and requests Council to ensure the proposed development does not fall within the requirements of OEH Consent/Permit #2534 and that no specific conditions apply to the site.

In the Background section of the Consent and Permit to Collect (No. 2534), it states that under the Act, a permit is given "to disturb and move Aboriginal objects for the purpose of salvage and also a consent pursuant to section 90 of the Act to destroy, damage or deface Aboriginal objects in the course of development activities associated with the Shell Cove Boatharbour/Marina Project" (which includes the subject land).

Although no Aboriginal site or place, and no cultural heritage of State significance in terms of the *Heritage Act 1977*, is known to occur within proposed Stage 10D3, it is recommended that conditions be imposed requiring compliance with the terms of the Consent and Permit to Collect (No. 2534), that persons involved in the construction of the subdivision are suitably informed about the terms and conditions of the Consent and Permit to Collect and that a meeting be held with Council's ACLO be held prior to works commencing.

Recommended conditions are included in the attached conditions. Refer to Attachment 4.

### **Environmental Officer**

Conditions have been recommended to ensure appropriate soil, water and site management.

### **External**

#### **NSW Office of Water**

Works are proposed within 40m of a watercourse and as such the development is classed as Nominated Integrated under section 91 of the *Environmental Planning and Assessment Act 1979* warranting approval under the *Water Management Act 2000*.

The Office of Water granted its General Terms of Approval via letter dated 20 December 2013. The conditions of that approval are included in the attached recommended conditions of consent. Refer to Part L in Attachment 4.

## **NSW Rural Fire Service (RFS)**

The land is mapped as bushfire prone. Therefore the proposal is classed as Integrated Development under section 91 of the *Environmental Planning and Assessment Act 1979*, therefore warranting approval under section 100B of the *Rural Fires Act 1997*.

The RFS Issued it's Bushfire Safety Authority on 5 May 2014 subject to several conditions. These are included in Part L of the consent conditions attached to this report. Refer to Part L in Attachment 4.

## **Procedural Audit – TCG Planning**

In instances where Council has an interest in an application, Council obtains a procedural audit via a consultancy service. The audit is designed to ensure that due process is observed with respect to matters such as acknowledgement letters, notification processes and payment of fees. It is not a planning assessment.

With regard to this application, no procedural oversights or administrative concerns have been identified.

To add a further level of transparency to the assessment process, the matter is being considered and determined by a JRPP, which is independent to Council.

## **Public Exhibition of the Development**

The proposal was notified in accordance with Council's *Shellharbour Development Control Plan*. No submissions were received.

## **Likely Impacts of Development**

The subdivision layout and design integrates with adjoining residential development and future development envisaged for the boat harbour precinct. The size and shape of allotments is consistent with existing development and is commensurate with community expectations for conventional Torrens titled residential lots in the Local Government Area.

The subdivision will provide housing opportunities in the Shellharbour Local Government Area and provide employment via development/construction of housing.

The construction phase of the development will have physical impacts that need to be properly managed, including soil, water, noise and dust.

Soil and water management plans, their implementation and compliance therewith should assist with effective site management. Further, through conditions of consent waste and dust are also considered capable of being managed and are not reasons which would warrant refusal of the application.

## **Suitability of the Site**

The site does not appear to have any physical impediments to prevent development. The site has previously been cleared for grazing and recreational uses and is zoned appropriately having also been the subject to a master planning process.

## **Public/Social Impact**

The new dwellings will provide a range of additional housing choice in the Local Government Area and employment opportunities during the construction phases.

The increased population in the area will increase demand on urban services and facilities. Payment of section 94 contributions will assist in the delivery of some of these services by local government. The developer will be responsible for the provision and delivery of infrastructure to the development.

#### **Political Donations/Disclosures**

None made.

#### **Conclusion**

The proposal is consistent with the masterplan for the estate which shows residential development for the site.

The proposal satisfies the statutory requirements that apply to the site and development type.

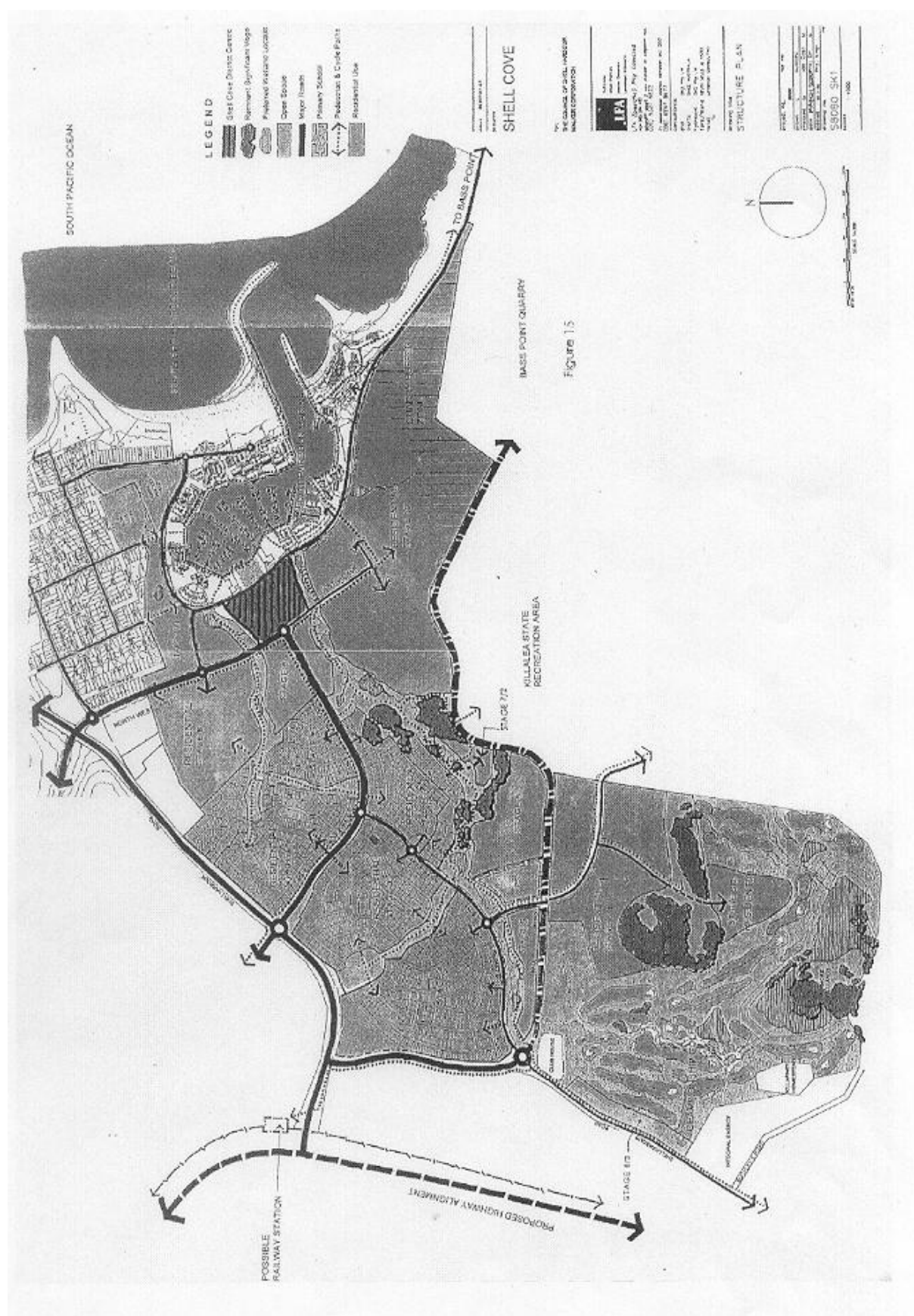
The imposition of conditions of consent on the development should ensure that a satisfactory development is established and that adverse impacts are ameliorated.

The proposal is considered acceptable and in this regard conditional approval is recommended for this Integrated development.

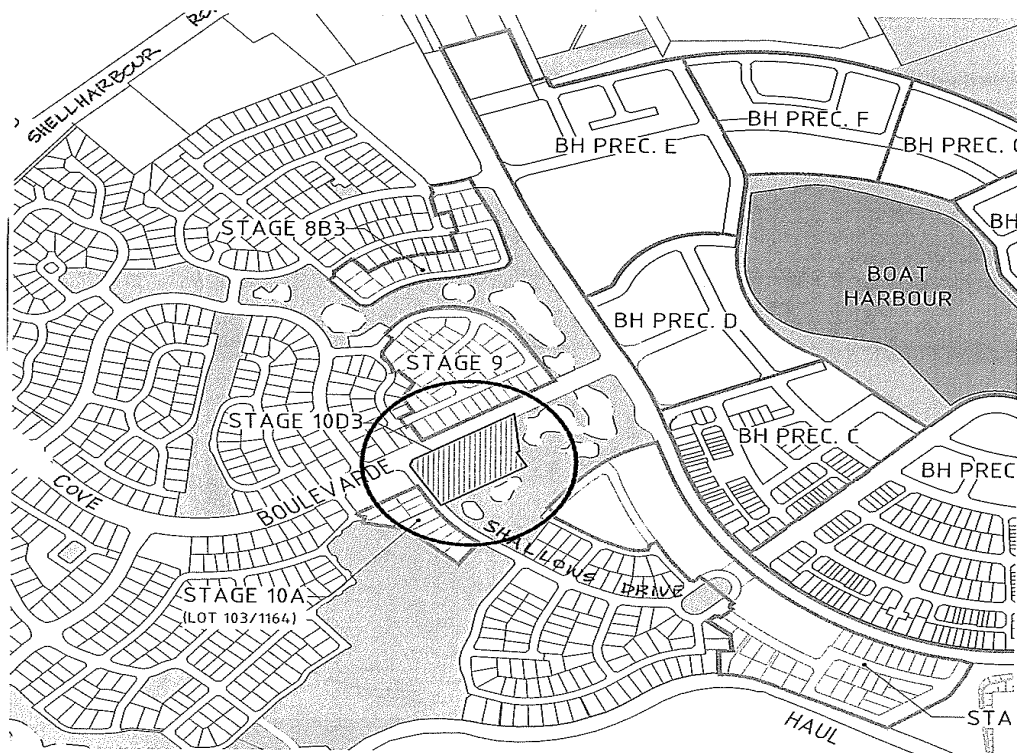


Grant Meredith  
**Group Manager City Development**

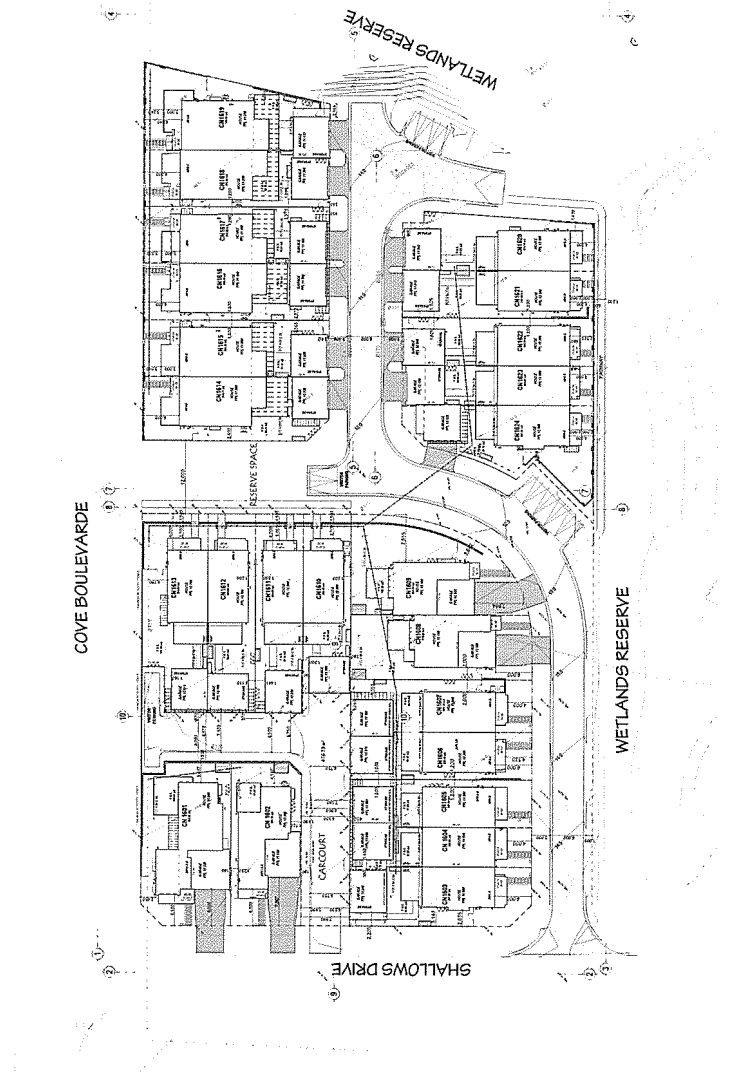
## Attachment 1 - Structure Plan



## Attachment 2 - Location of Site



### Attachment 3 - Proposed Site Layout



## Attachment 4 - Recommended Conditions of Consent

### PART A - ADMINISTRATIVE CONDITIONS

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

**Before any subdivision infrastructure works are commenced**, the person having the benefit of the development consent must for each Stage:

- a. obtain a Construction Certificate 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 Construction Certificate (Building) & 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 for each Stage:

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

#### **A3 Prescribed Conditions**

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

#### **A4 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/Document No./Revision</b>	<b>Drawing/Document Date</b>
Site Plan	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Dwg. 1.1 Version B	21/1/2014
Floor Plans & Elevations CN1601	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.1/B	15/11/2013
Floor Plans & Elevations CN1602	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.2/B	15/11/2013
Floor Plans & Elevations CN1603 - 1605	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.3/B	21/1/2014
Floor Plans & Elevations CN1606 - 1607	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.4/B	21/1/2014
Floor Plans & Elevations CN1608 - 1609	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.5/B	15/11/2013
Floor Plans & Elevations CN1610 - 1611	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.6/B	21/1/2014

<b>Name of Plan</b>	<b>Prepared By</b>	<b>Drawing/Document No./Revision</b>	<b>Drawing/Document Date</b>
Floor Plans & Elevations CN1612 - 1613	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.7/B	21/1/2014
Floor Plans & Elevations CN1614 - 1615	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.8/B	21/1/2014
Floor Plans & Elevations CN1616 - 1617	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.9/B	15/11/2013
Floor Plans & Elevations CN1618 - 1619	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.10/B	15/11/2013
Floor Plans & Elevations CN1620 - 1621	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.11/B	15/11/2013
Floor Plans & Elevations CN1622 - 1624	Australand Property Group Pty Ltd	Stage 10D3 Lot 1275 Sheet No. 5.12/B	15/11/2013
BASIX*	Victor Lin & Associates Pty Ltd	Certificate No. 515518M	15/11/2013
Subdivision Plan	Cardno	Dwg. FR112021-010 SK04 Rev. 8	23/1/2014
Waste Management Plan	Australand Property Group Pty Ltd	Waste Management Plan Construction Phase	Stamped DA 424/2013
Landscape Plans	TaylorBrammer Landscape Architects Pty Ltd	13-077W Dwg. Nos. L00 – L03 Revision B	12/2/2014
Colour/ Material Schedule	Arkee Creative	1654A Revision A	14/11/2013
Concept Drainage Plan	Cardno	Dwg. FR112021-010 SK04 Rev. 8	23/1/2014
Acoustic Reports	Acoustic Logic	20131050.1/2210A 20131050.2/1803A	22/10/2013 18/3/2014
Bushfire Report	Eco Logical Australia Pty Ltd	13SGBBUS-0065	25/10/2013
Statement of Environmental Effects	Cardno	112-021-11/Report 001 Ver 2	November 2013

\* 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.

## **A5 Compliance with Notations on Drawings**

Works must comply with any notations highlighted in red on the approved plans.

## **A6 Easements**

Structures must not encroach onto any existing or proposed easement.

## **A7 Consent & Permit 2534**

The terms of the CONSENT TO CARRY OUT THE DESTRUCTION OF AN ABORIGINAL OBJECT/PLACE AND PERMIT TO COLLECT AND/OR EXCAVATE FOR THE PURPOSE OF SALVAGE must be complied with at all times.

## **A8 Aboriginal Archaeology**

The applicant must ensure that construction/project supervisors are fully informed and briefed with respect to the Consent and Permit No. 2534. Details of measures taken to ensure compliance with this condition must be submitted to Council prior to the commencement of works but no later than the meetings referred to in Condition A9.

## **A9 Meeting with Council**

A site meeting must be held with Council's Senior Subdivision Engineer (or delegate) and Council's Aboriginal Community Liaison Officer, prior to the commencement of works for each Stage. The meeting must be held at least seven days before work commences.

## **A10 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 web site [www.water.nsw.gov.au](http://www.water.nsw.gov.au).

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

## **A11 Bush Fire Authority - (NSW Rural Fire Service)**

The NSW Rural Fire Service has issued a Bush Fire Authority pursuant to section 100B of the Rural Fires Act 1997. It is issued conditionally as detailed in part L of this Consent.

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

### **B1 Long Service Levy**

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

**Note:** This is a levy imposed by the NSW Government and administered by the Long Service Payments Corporation for the purpose of long service payments to building and construction workers.

### **B2 Landscape Works**

The landscaping plans, including the 22m wide APZ on adjoining land, and the civil design plans must be designed and assessed concurrently and neither will be approved in isolation.

### **B3 Bond - Existing Street Trees (3 x *Cupaniosis anacardioides*) & New Street Trees**

A deposit of \$7,500.00 must be lodged with Council prior to the issue of the Construction Certificate to ensure that new street trees following completion of works and the existing street trees are maintained in the same condition as found before the start of any demolition/building work on the site. A bank guarantee can be lodged with Council where the bond is \$2,000 or more.

#### **B4 Street Tree Inspection Fee**

The developer must lodge with Council an inspection fee of \$80.00 in accordance with Council's *Fees and Charges* for:

- street tree inspection prior to occupation of the development
- street tree inspection following completion of the maintenance period

prior to the issue of the Construction Certificate.

#### **B5 Protection of Street Trees**

With the exception of the 2 trees located at the intersection of Road No. 1 and Shallows Drive and at the driveway location for Lot 1602, all other existing street trees must be enclosed with temporary protective fencing to prevent any activities, storage or the disposal of materials within the fenced area. Details of the design and location of the vegetation protective fencing must be shown on the construction plans and must be approved by the accredited certifier prior to the issue of the Construction Certificate.

The protective fence must:

- a. be located a minimum of 1.5m from the base of the tree,
- b. have a minimum height of 1.5m, and
- c. be clearly marked at all times with the use of high visibility plastic hazard tape.

Any street tree that is damaged or removed during works must be replaced as per Council's specifications with the exception of the existing tree located at the intersection of Road No. 1 and Shallows Drive.

The existing street tree at the driveway location for Lot 1602 must be replaced with a like specie of similar maturity.

#### **B6 Initial Geotechnical Report**

A geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

The report must cover, but not be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins,
- b. recommended Geotechnical testing requirements,
- c. level of geotechnical supervision for each part of the works as defined under *AS 3798 - Guidelines on Earthworks for Commercial and Residential Developments*,
- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent structures/buildings, high risk areas must be identified on a plan and/or the relevant engineering plans listed in Condition No. A4 must be amended to indicate that no vibratory rollers shall be used within that zone,

- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation,
- f. the recommended treatment of any unstable areas within privately owned allotments,
- g. requirement for subsurface drainage lines, and
- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

#### **B7 Temporary Erosion Control Measures**

Suitable erosion controls must be provided at the eastern outlet of all stormwater drains. These controls may be temporary depending on the future for development of the adjacent park/wetland. Details are to be submitted with the application for the Subdivision Construction Certificate.

#### **B8 Construction Environmental Management Plan (CEMP)**

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Construction Environmental Management Plan (CEMP) prepared by a suitability qualified Environmental Scientist/Engineer.

- The CEMP must be prepared in accordance with any relevant industry guidelines or standards that apply to relevant areas of management.
- The CEMP must clearly detail how all environmental management procedures and safeguards will be implemented.
- The CEMP must contain a monitoring and management plan which details how all environmental safeguards will be monitored for adequacy and maintained for the duration of the construction.

#### **B9 Soil and Water Management Plan (SWMP)**

(See also Part L of this consent for the requirements of the Office of Water)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan and Statement. The SWMP may form part of the CEMP referred to in the preceding condition of consent. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures. In addition rehabilitation techniques that are necessary to deal with such activities should be referred to.

The SWMP must take into account the requirements of Landcom's publication *Managing Urban Stormwater - Soils and Construction (2004)* also known as the *Blue Book*, (and must be compatible with the construction management plan required by this consent - only if such a plan is required) thus ensuring the following objectives are achieved, namely:

- a. minimize the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,

- e. control surface water flows through the development construction site on a manner that:
  - i. diverts clean run-off around disturbed areas,
  - ii. minimises slope gradient and flow distance within disturbed areas,
  - iii. ensures surface run-off occurs at non-erodible velocities, and
  - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilized (includes landscaping),
- g. specifies measures to control dust generated as a result of construction activities on site,
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal,
- i. design scour protection for the 100 year ARI event at all inlet and outlet structures, and
- j. including measures to prevent the tracking of sediment off the site.

#### **B10 Soil and Water Management Plan (SWMP) Bond**

The developer must lodge a bond to the amount of \$200 per lot to ensure compliance with erosion and sediment control measures incorporated in the approved Soil and Water Management Plan (SWMP). This bond must be in the form of an irrevocable bank guarantee made out in favour of Council, and must operate as follows:

- a. the bond must be submitted to Council prior to the release of the engineering plans for the subdivision,
- b. the bond must be held by Council until the expiration of the defects liability period for the subdivision, which commences at the completion of all engineering works, including placement of the final seal on all new roads, and
- c. if Council is to advise the developer that maintenance work is required on the erosion and sediment control measures, remedial work must be substantially commenced within forty eight (48) hours from the time of advice. Failure to comply with this direction will give Council the right to employ an appropriate contractor, (which could include the Soil Conservation Service) to undertake such measures as deemed necessary and fund these works from the bond guarantee.

#### **B11 Road Design**

The road design must comply with the following:

- a. the grading and layout of all roads and lots must not allow for trapped low points and in addition ensure that overland flow is passed safely over public land,
- b. all vertical and horizontal alignment of all streets and all street intersections within the development must have adequate sight distance provided in accordance with *AUSTROADS* requirements,

- c. the geometric design of all roads, traffic facilities, intersection treatments, mid-block devices and entry features must be such as to permit a 12.5 m rigid vehicle to manoeuvre in order to enter and leave each road travelling in a forward direction and without leaving the carriageway. In this respect, road geometry must generally be in accordance with the proposed subdivision plan by Cardno Dwg. FR112021-010 SK4 Revision 8, and
- d. the relevant drawings must be annotated and properly referenced showing compliance with this condition. The drawings must be submitted with application for a Construction Certificate for approval by the Certifying Authority.

## **B12 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 Proposed Drainage and Subdivision Plan FR112021-010 SK4 Revision 8 dated 23/1/2014,
- b. drain to the natural watercourse,
- c. include a drainage inlet pit between Shallows Drive and Pit 1/L,
- d. 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,
- e. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event for lot drainage,
- f. be designed to cater for a 1 in 5 year Average Recurrence Interval storm event for road drainage,
- g. indicate where overflow drainage paths are to be provided and that they are designed to cater for 1 in 100 year Average Recurrence Interval storm event, and
- h. be to the satisfaction of the Certifying Authority.

## **B13 Pit Grates**

All pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected.

## **B14 Structural Design of Deep Pits**

All pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with AS3600-2009. Pits deeper than 1.2 metres must have Galvanised Steel or Stainless Steel step irons (plastic coated black steel step irons will not be accepted) and pits deeper than 1.8 metres are to be reinforced concrete. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

## **B15 Stormwater Discharge to Natural Watercourse**

Stormwater discharge point to the natural watercourse must be protected against erosion.

Details are to be submitted and be to the satisfaction to the certifying authority prior to the release of the construction certificate.

#### **B16 Road Drainage Plans**

Road and drainage plans, must be prepared by a suitably qualified Engineer, in accordance with Council's Standards (*Subdivision Design Code*). The plans must be submitted to the 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.

All stormwater pipes within the 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 - Design for Installation of Buried Concrete Pipe*.

#### **B17 Easement Restriction**

No encroachments from any structure, including footings and eave overhangs (driveways and paved areas are excluded from this condition) are permitted over any easement. Construction Certificate drawings must make reference to any (existing) easements.

#### **B18 Traffic Committee - Signposting and Line Marking Plan**

Prior to the issue of a Construction Certificate, a Signposting and Line Marking Plan must be lodged with the City of Shellharbour Traffic Committee for written approval. This plan must detail all facilities, signage and line-marking required within and surrounding the development.

The plan must include a No Stopping zone on all sections of the turning head required to be kept clear to allow a 12.5m rigid vehicle to enter and exit the site in a forwards direction.

#### **B19 Interallotment Drainage**

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

#### **B20 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 for dual box culverts 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 2mm for the design discharge,
- c. not permit trapped matter to be washed out or re-suspended during stormwater discharges greater than the design discharge, and
- d. be easily accessed, maintained and cleaned using plant and equipment commonly in use by Shellharbour City Council.

The proposed litter interception measures for interallotment and road drainage must comprise trash racks installed at the final pits of the system and be easily accessed,

maintained and cleaned using plant and equipment commonly in use by Shellharbour City Council.

## **B21 Public Liability**

Before the issue of the Construction Certificate, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20M 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.

## **PART C - PRIOR TO COMMENCEMENT OF WORKS (SUBDIVISION)**

### **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.

**See also Part A of this consent, in particular Condition A9.**

### **C2 Soil and Water Management Plan Implementation (SWMP)**

The measures required in the Construction Environmental Management Plan and Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.

### **C3 Road Pavement Design**

The road pavement must be designed with one layer of asphalt having a minimum thickness of 40 mm AC 14. The pavement design for the proposed roads must be carried out by a qualified Geotechnical/Civil engineer in accordance with *AUSTROADS Guide to Pavement Technology*.

A copy of the pavement design report must be submitted to Shellharbour City Council prior to commencement of pavement construction.

### **C4 Subdivision Design Code Compliance**

All works to be dedicated as a Council asset must be installed/constructed in accordance with Council's *Subdivision Design Code*.

### **C5 Dilapidation Report**

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

### **C6 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. 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
- 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.

#### **C7 Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)**

Prior to any physical works within Council's road reserve such as (but not limited to) installing a driveway or connecting stormwater facilities you will need to apply for approval under Section 138 of the *Roads Act*. There is no additional cost as this is paid for at the time of development application.

To lodge your application you may need to submit the following information:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. traffic management plan,
- c. provision of public risk insurance, and
- d. details of timing and length of works.

#### **C8 Protection Fencing**

Street trees protection fencing must be installed prior to works commencing.

#### **C9 Phase 1 Contamination Report**

A Phase 1 Contamination Report must be undertaken by a suitably qualified professional with due regard to the provisions of *State Environmental Planning Policy No. 55 – Remediation of Land*, relevant legislation and the requirements of the relevant NSW Government's State Agency (Environmental Protection Agency). The report must be submitted to the Certifying Authority prior to the commencement of work. The recommendations of that report must be complied with.

### **PART D – DURING CONSTRUCTION WORKS (SUBDIVISION)**

#### **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 Road Construction and Road Drainage Construction**

The site manager must arrange for a satisfactory inspection by Shellharbour City Council of the following works:

- a. all road drainage works prior to backfilling of the work, and

- b. all road construction inspections as per Council's *Subdivision Design Code*.

### **D3 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.

### **D4 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.

**Note:** 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.

### **D5 Waste Management**

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

### **D6 Imported Fill Material**

The only 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*), and
- 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.

### **D7 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.

### **D8 Road Construction**

In situ 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.

#### **D9 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'.

#### **D10 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.

#### **D11 Geotechnical Testing**

Geotechnical testing must be carried out and results submitted to the Certifying Authority to verify that the pipe trench bedding and backfill complies with the requirements outlined in Australian Standard AS 3725 - *Design for Installation of Buried Concrete Pipe*. Geotechnical testing must 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.

#### **D12 Maintenance of Soil and Water Management Plan (SWMP)**

The soil and water management controls must be maintained at all times during each stage of the development 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, and
- b. drains, gutters and roads are maintained clear of sediment at all times.

Note: 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.

#### **D13 Protection Fencing**

The street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

#### **D14 Pathway Construction**

The pathway on the southern side behind Lots 1620 to 1624 encroaches on existing vegetation fringing the wetland. The siting of the pathway and landscaping must be generally

in accordance with approved the Landscape Plans and in particular Dwg. No. L01 Revision B.

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

### **E1 Partial Completion of Building Works Required**

The Subdivision Certificate for the Torrens Title Subdivision must not be released until the common walls of dwelling Nos. 1608 to 1609 and 1614 to 1624 have been constructed to a minimum height of 1.0m. Evidence that this requirement has been satisfied must be provided in the form of a Registered Surveyor's Identification Survey Report. The survey report must show all allotment boundaries and the position of the building/s in relation to the boundaries.

### **E2 Community Title Subdivision**

Prior to the issue of the Subdivision Certificate, a Community Plan must be produced in accordance with the *Community Land Development Act 1989* and submitted to the Certifying Authority for approval. The plan must also accompany a Community Management Statement which complies with Schedule 3 of the above Act and also include the following matters:

- a. an easement on all lots for support, access and maintenance 900mm wide adjacent to the "zero" lot line walls,
- b. easements for drainage, including requirements of support, access and maintenance, and
- c. a requirement that lots 1610 - 1613 are to present all bins along Shallows Drive and not within the private road.

### **E3 Partial Completion of Building Works Required**

The Subdivision Certificate for the Community Title Subdivision must not be released until the common walls of dwelling Nos. 1603 to 1607 and 1610 to 1613 have been constructed to a minimum height of 1.0m and the requirements of the preceding condition have been satisfied. Evidence that the requirement regarding wall heights has been satisfied must be provided in the form of a Registered Surveyor's Identification Survey Report. The survey report must show all allotment boundaries and the position of the building/s in relation to the boundaries.

### **E4 Final Plan**

Prior to the release of the final plans 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. 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.

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 can be submitted in DXF, DWG, DGN or MapInfo TAB format. This requirement is dependent on the complexity of the Subdivision and is at the discretion of the Subdivision & Development Officer or the Manager Land & Geographic Information Systems, Shellharbour City Council, and

- c. fees appropriate at the time of submission of the application.

## **E5 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 to the *Building Development* section of the website [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.

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

## **E6 Utilities - Electricity, Gas & Telephone**

- a. Electricity must be provided to all proposed lots. The developer must submit written advice to the Principal Certifying Authority from the relevant electricity provider 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 a Communications Provider's accredited contractor 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 a natural gas accredited contractor 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.

## **E7 Verification of Waste Management**

Written documentation, such as receipts, 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 a Subdivision Certificate.

## **E8 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 & Charges*.

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

## **E9 Street Lighting**

The developer must submit a Public Lighting Design Brief to Council for approval for the provision of street lighting on all new public roads dedicated to Council. A street lighting design plan must be prepared by an accredited service provider for contestable works in NSW and submitted to the Energy provider for approval prior to construction. All street lighting must comply with the electricity service provider Street Lighting Policy and illumination requirements. All costs associated with the installation of street lighting must be borne by the developer.

## **E10 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 and the relevant electricity provider.

## **E11 Easements on Title**

Easements covering the following aspects of the development must be identified on the final plan of subdivision and included in the 88B Instrument:

- Maintenance and repair to wall, eaves and gutter
- drainage/inter-allotment drainage
- bushfire protection management
- waste management
- substation

## **E12 Padmount Substations**

If padmount substations are required and are to be incorporated into an allotment, a restricted building zone must be created in accordance with relevant electricity provider 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 electricity provider.

## **E13 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, unless otherwise agreed to by Council in writing.

## **E14 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, and

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

#### **E15 Final Geotechnical Report**

A final geotechnical report prepared by a suitably qualified and experienced geotechnical consultant must be submitted to the Certifying Authority prior to the issue of the Occupation Certificate. The report must include, but is not necessarily limited to:

- a. all earthwork operations,
- b. a fill plan showing extent and depth of fill,
- c. certification that all earthworks within the site have complied with the Subdivision Design Code. This must include appropriate test results, and test location diagram and date of testing,
- d. certification that all recommendations contained in geotechnical reports lodged in support of this development have been satisfied,
- e. the exact extent of any restricted building zones or any other restrictions affecting any of the allotments. Particular attention must be paid to the location of drainage lines, which must be burdened with a title restriction in the Section 88B Instrument,
- f. identification of all land affected by landslip or instability constraints (if applicable), and
- g. verification that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill.

#### **E16 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.

#### **E17 Construction Compliance Certificate**

A Construction Compliance Certificate must be submitted to the Principal Certifying Authority with the Subdivision Certificate application. The Construction Compliance Certificate can be obtained upon satisfactory completion of works approved by the Construction Certificate, unless otherwise agreed to by Council in writing.

#### **E18 Dedication to Council**

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

## **E19 Asset Protection Zone (APZ) Maintenance Levy**

A one off payment of \$72,000.00 must be made to Council for the on-going maintenance, for a 30 year period, of the APZ required by this consent. The whole of the amount must be paid prior to the release of the Torrens Title Subdivision Certificate.

## **E20 Subdivision Fees**

Subdivision Certificate fees must be paid by the applicant prior to the release of the final plan of subdivision. The fee payable must be that applicable at the time of final plan release.

## **E21 Release of Certificates**

The Subdivision Certificates for the Torrens Title and Community Title subdivisions must not be released until the requirements of Parts A, B, C, D, and E, subject of this consent, have been completed to the satisfaction of the Principal Certifying Authority, unless otherwise agreed to by Council in writing.

## **PART F - AFTER ISSUE OF TORRENS TITLE SUBDIVISION CERTIFICATE (Stage 1)**

### **F1 Maintenance of Road & Drainage Works**

All road and drainage works 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 works shall be rectified and/or replaced during the maintenance period in accordance with the approved construction certificate plans. All costs arising during the maintenance period must be borne by the developer. All Road and drainage works must be maintained in its original construction condition for this liability period. The developer must notify Council for a re-inspection at the end of the maintenance period.

### **F2 Street Tree Bond Refund**

The street tree bond will be returned following a six month maintenance period commencing from the date of the issue of the Subdivision Certificate, provided the street trees remain in a satisfactory condition. In the event that any street trees are found damaged, dying or removed, other than those identified in Condition No. B6, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street trees.

## **PART G PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (BUILDING) - (STAGES 1 & 2)**

### **G1 Section 94 Contributions**

A contribution, 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 amounts for the two stages approved in this consent are as follows:

- Stage 1 (Torrens Title) - \$163,685.55
- Stage 2 (Community Title) - \$98,211.33

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

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

## **G2 Long Service Levy**

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

**Note:** This is a levy imposed by the NSW Government and administered by the Long Service Payments Corporation for the purpose of long service payments to building and construction workers.

## **G3 Acoustic Requirements – Cove Boulevard**

A 1.8m high solid imperforate fence must be constructed along the north western boundaries of lot 1601 and lot 1613 as detailed on Overall Site Plan Dwg. 1.1 Version B dated 21/1/2014 prepared by Australand Property Group Pty Ltd. Full details of the fence are to be submitted with the application for the Construction Certificate.

## **G4 Acoustic Attenuation**

Dwelling Nos. 1601 and 1613 to 1619 must be designed and constructed to comply with the acoustic reports prepared by Acoustic Logic 20131050.1/2210A dated 22/10/2013 and 20131050.2/1803A dated 18/3/2014.

The design and construction requirements must be detailed on the Construction Certificate drawings and/or specifications accompanying the construction drawings and approved by the Certifying Authority prior to the release of the Construction Certificate.

## **G5 Waste & Recycling Interim Storage Facilities**

Sufficient space within the kitchen, or other suitable location, for the interim storage of waste and recyclables must be provided. Details are to be shown on the Construction Certificate plans.

## **G6 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 Proposed Drainage and Subdivision Plan FR112021-010 SK4 revised by Cardno on 23.01.2014,
- b. 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,
- c. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event for lot drainage,
- d. comply with Council's *Shellharbour Development Control Plan* and *AS/NZS 3500.3:2003 Plumbing and Drainage - Stormwater Drainage* unless variation is specifically noted and approved on DA concept drainage plan,

- e. include the rainwater tank, dimensions and point of discharge of overflow from the rainwater tank and details of any pump required to provide water to the toilets, clothes washer and/or any other fixture identified in the BASIX certificate,
- f. be in accordance with *Part 3.1.2 of the Building Code of Australia* for roof water drainage system, and
- g. be to the satisfaction of the Certifying Authority.

#### **G7 Grated Drain**

A grated stormwater drain must be constructed across the driveway adjacent to the garage doors for lots which have driveways that slope towards the garage.

#### **G8 Pit Grates**

All pits must have flush fitting grates. All pits larger than 600mm x 600mm are to be grated galvanised steel grid hinged and be heavy duty type where traffic loading is expected.

#### **G9 Pit at Property Boundary**

All stormwater drainage from residential lots to go to pit just within and adjacent to property boundary prior to discharge. This pit shall have a debris screen installed. The debris screen is to be maintained by the property owner. In this respect, general compliance with Cardno Dwg. FR112021-010 SK04 Revision 8 will be acceptable.

#### **G10 Stormwater Conduit in Road Reserve and Connection with Kerb**

Where a stormwater connection to the kerb and gutter is required 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 per allotment.

#### **G11 Easement Restriction**

All drainage easements must:

- a. have no encroachment from any structure, including footings and eave overhangs (driveways and paved areas are excluded from this condition).

#### **G12 Drainage Easement & 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 a minimum 300mm below pipe invert level, or alternatively founded on sound rock. Details must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

#### **G13 Car Parking Spaces - Number**

Onsite parking spaces must be provided, as follows:

- a. 48 residential parking spaces.

## **G14 Retaining Walls**

Retaining walls that exceed 600mm in height must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

## **G15 Driveway Finishes**

The visual impact of the driveway within the property must be minimised by the use of paving materials or coloured concrete. The use of uncoloured concrete as the dominant paving material is unacceptable. Details of these materials and colours are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

## **G16 Public Liability**

Before the issue of the Construction Certificate, the owner or contractor must provide evidence to Council of a Public Risk Insurance Policy with a minimum cover of \$20M 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.

## **G17 Site Facilities - Australia Post**

- a. Location points for mail delivery must satisfy the requirements of Australia Post.
- b. Street numbers must be obtained from Council's GIS Department during normal office hours, prior to the issue of a Construction Certificate. The allocated street numbers must be clearly shown on the Construction Certificate drawing.

## **G18 Utilities - Electricity Supply**

Consent for this development is conditional upon satisfactory arrangements being made with from the relevant electricity provider for the provision of electricity supply to the development. Written confirmation from the relevant electricity provider must be submitted to the Certifying Authority prior to the release of the Construction Certificate for the development.

**Note:** The electricity provider may require a capital contribution to be paid towards making electricity supply available to the development.

# **PART H - PRIOR TO COMMENCEMENT OF WORKS (BUILDING)**

## **H1 Erosion & Runoff Controls**

Before work starts, 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 must be in accordance with the Sediment Control Plan and 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 demolition, excavation or construction works.

## **H2 Dilapidation Report**

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

## **H3 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. 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
- 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.

## **H4 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.

## **H5 Engineer Designed Pavement**

All vehicular manoeuvring areas must be paved and drained. The pavement must be designed by a qualified civil engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. Australian Standard 'Guide to Residential Pavements' (AS 3727-1993 or subsequent amendments) can be used as the design guideline for the pavement design.

A copy of the pavement design report must be provided to Council prior to commencement of pavement construction.

## **H6 Protection Fencing**

Street trees protection fencing must be installed prior to works commencing.

## **H7 Open or Occupy a Roadway or Footpath (Section 138 Roads Act 1993)**

Prior to any physical works within Council's road reserve such as (but not limited to) installing a driveway or connecting stormwater facilities you will need to apply for approval under Section 138 of the *Roads Act*. There is no additional cost as this is paid for at the time of development application.

To lodge your application you may need to submit the following information:

- a. detailed engineering drawings of the proposed works in the road and footpath area,
- b. traffic management plan,
- c. provision of public risk insurance, and
- d. details of timing and length of works.

## **PART I - DURING CONSTRUCTION WORKS (BUILDING)**

### **I1 Hours of Work during Building Work**

Noise generating activities, including excavation, construction 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.

### **I2 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, and
- 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.

### **I3 Waste Management**

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

#### **I4 Storage of Materials**

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

#### **I5 Protection Fencing**

The street tree protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

#### **I6 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.

Australian Height Datum must be used.

#### **I7 Building Height**

The building must not exceed the height shown on the approved plans.

#### **I8 Cut/Fill**

Any cut and fill areas must:

- a. be suitably retained,
- b. be in accordance with the approved plans,
- 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, and
- d. not exceed 1m in depth outside the external walls of a building, unless otherwise approved in writing by Council.

#### **I9 Retaining Walls**

Where a retaining wall exceeds 600mm in height, the wall must be designed by a practising structural engineer and a Construction Certificate must be obtained prior to the commencement of work on the retaining wall.

Any retaining wall must be located wholly within the property, including footings and agricultural drainage lines.

#### **I10 Survey Certification - Drainage & Pavement**

Certification of pits and stormwater pipelines must be submitted to the Certifying Authority **prior to backfilling**. Certification of paved areas must be submitted to the Certifying

Authority after the formwork for the driveway has been completed and **prior to the concreted being poured**. All levels must relate to Australian Height Datum.

#### **I11 Driveway and Layback from Kerb to Property Boundary**

A standard residential vehicular concrete driveway and layback, with a minimum width of 2.7m and a maximum width of 6m, must be constructed between the kerb and the property boundary for each lot. The driveway must maintain a perpendicular alignment from the kerb to the property boundary line and must be finished with a slip resistant coating.

Vehicular access must not interfere with the existing public utility infrastructure or existing street trees except where otherwise noted in Condition No. B6. The driveway must be 500mm clear of all drainage structures, 2m from street trees and a minimum of 6m from the kerb tangent point for corner allotments. The driveways must provide minimum sight distances as per Australian Standards.

Driveway construction works must be carried out by Council, or a Council approved contractor, at the developer's expense, including all alterations of public infrastructure where necessary.

Where there is conflict between the location of the proposed driveway and the assets of a service utility, such as Telstra pits/manholes, the relevant service provider must be contacted **prior to any driveway works commencing**. It is an offence to modify or tamper with the assets of a service provider.

#### **I12 Connection to Council Pit and/or Pipe**

Any connection to a Council pit and/or pipe must:

- a. be made at the pipe obvert (pipe only),
- b. be through a hole that is neatly made by cutting or drilling with any reinforcement encountered cut away,
- c. not protrude past the inner surface of the pit and/or pipe,
- d. have all junctions finished with 2:1 cement mortar,
- e. have a minimum pipe size of 150mm in diameter and either sewer grade PVC or concrete, and
- f. when the diameter of the connection is more than 1/3 the diameter of the Council pipe, connection is to be made by construction of a standard pit.

The Certifying Authority must arrange for a satisfactory inspection by Shellharbour City Council prior to backfilling. At least one working day's notice is required for the inspection and is to be arranged through Council's Customer Services.

An inspection fee will apply in accordance with Council's Fees & Charges. An application under section 138 of the *Roads Act* is required prior to works commencing along with an application fee in accordance with Council's Fees & Charges.

#### **I13 Protection Fencing**

Street trees protection fencing must be maintained intact at all times throughout the period of building work on the site. Machinery, structures, storage/disposal of any building materials and the like, must not be located within the fenced area at any time.

## **I14 Approved External Materials & Colours**

The external treatment/appearance of the development must be in accordance with the approved Shell Cove Exterior Colour Schemes prepared by Arkee Creative Project No. 1654A dated 14/11/2013.

## **I15 Works**

All of the works required to be carried out under the conditions of this consent must be maintained at all times in good order and repair.

## **PART J - PRIOR TO OCCUPATION (BUILDINGS)**

### **J1 Occupation Certificate**

All conditions in Parts A, G, H, I & J 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 building must not be used until the Principal Certifying Authority issues an Occupation Certificate.

### **J2 BASIX**

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

### **J3 Works As Executed - Stormwater Drainage**

Prior to the issue of an Occupation Certificate, Works As Executed Plans must be submitted to 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.

### **J4 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 dockets or photographic evidence, must be retained by the Principal Certifying Authority.

### **J5 Site Facilities - Waste Bins & Clothes Drying Lines**

Prior to the issue of an Occupation Certificate,

- a. individual areas that are accessible to the road must be provided for the storage of waste bins for each dwelling. Each individual area must be located and screened so as not to be visible from a public road or adjacent dwelling, and
- b. clothes hoists or clothes lines must be provided at the rate of 20 linear metres per dwelling. Drying areas must not be visible from the street or adjoining public places. In this regard, clothes drying areas must be screened to a minimum height of 1.8m from the street and adjoining public places in accordance with the approved plans.

## **J6 Site Facilities - Private Open Space Dimensions & Gradient**

Prior to the issue of an Occupation Certificate,

- a. the open space area of each dwelling must include a private open space area with minimum dimensions of 4m x 5m and this private open space area must exclude all encroachments such as steps, pergola/verandah posts, retaining walls, clothes drying facilities, landscaping, and the like, and
- b. the private open space areas of each dwelling must, when the development is completed, have a maximum gradient of 1 in 20.

## **J7 Completion of Landscape Works**

All landscaping, including street trees, footpath areas, the public reserve and the 22m wide APZ on adjoining land, with the exception of the paving, must be landscaped in accordance with the approved landscape plan prior to the issue of Occupation Certificates. 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.

## **J8 Verification of Bushfire Protection**

Written verification that the development complies with *Planning for Bushfire Protection 2006* and has been constructed in accordance with the requirements of the Rural Fire Service's requirements contained in Part L of this consent, "Design & Construction" requirements, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

## **J9 Street Tree Pre-Occupation Inspection**

The street trees must be inspected by Council prior to the occupation of the development. It is the responsibility of the developer to notify Council for the street tree inspection.

## **J10 Repairs to Public Infrastructure**

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

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

### **K1 BASIX Commitments**

All commitments listed in the BASIX Certificate/s for the development must be maintained for the life of the development.

## **PART L - INTEGRATED DEVELOPMENT (APPROVALS FROM OTHER AGENCIES)**

### **OFFICE OF WATER**

#### **L1 Plans, Standards & Guidelines**

- a. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to Development Application No. 424/2013 and provided by Council:
  - i. Site plan, map and/or surveys
  - iii. Statement of Environmental Effects.

Any amendments or modifications to the proposed controlled activities may render these GTA's 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's will be required.
- b. 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* from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40m of the top of the bank or shore of the river identified.
- c. The consent holder must prepare or commission the preparation of:
  - i. Detailed Management Plans
  - ii. Soil and Water Management Plan
  - iii. Bulk Earth Works Plans.
- d. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at [www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx](http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx).
  - i. Vegetation Management Plans
  - ii. Laying pipes and cables in watercourses
  - iii. Riparian Corridors
  - iv. In-stream works
  - v. Outlet structures
  - vi. Watercourse crossings.
- e. 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.

#### **L2 Rehabilitation and Maintenance**

The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

#### **L3 Disposal**

The consent holder must ensure that no materials or cleared vegetation that may:

- i. obstruct flow

- ii. wash into the body of water, or
- iii. cause damage to river banks

are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

#### **L4 Drainage and Stormwater**

- a. 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 the flow of water other than in accordance with a plan approved by the NSW Office of Water.
- b. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.

#### **L5 Erosion Control**

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.

#### **L6 Excavation**

- a. 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.
- b. The consent holder must ensure that any excavation does not result in:
  - i. diversion of any river
  - ii. bed or bank instability, or
  - iii. damage to native vegetation within the area where a controlled activity has been authorised

other than in accordance with a plan approved by the NSW Office of Water.

### **NSW RURAL FIRE SERVICE –Bushfire Safety Authority**

#### **L7 Asset Protection Zones (APZ's)**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- a. At the issue of subdivision certificate and in perpetuity, the entire property must be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.
- b. This approval is subject to the proposed easement being registered pursuant to section 88B of the 'Conveyancing Act 1919' on the adjoining land for part of the asset protection zone (APZ) as detailed in the 'Bushfire Protection Assessment' Prepared by Ecological Australia, dated 25/10/13. The distance required is 22 metres within the wetland areas on the eastern, south eastern and southern boundaries of the proposed

subdivision. APZ's associated with the development shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.

## **L8 Water & Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- a. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

## **L9 Access**

The intent of measure for public roads is to provide safer operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- a. Public road access shall comply with the following requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
  - i. Road(s) shall be two wheel drive, all weather roads.
  - ii. All roads should be through roads. Dead end roads are not recommended, but if unavoidable, dead end roads are not more than 200 metres in length, and incorporate a turning area sufficient for a fire fighting vehicle to turn around. The road must be clearly signposted as dead end and direct traffic away from the hazard.
  - iii. Parking shall be restricted to the marked parking bays. Outside these bays, no parking signs shall be erected to allow for traffic access/egress during an emergency event.

## **L10 Design & Construction**

The intent of the measures below is to ensure that buildings are designed and constructed to withstand the potential impacts of bushfire attack. To achieve this, the following conditions shall apply:

- a. New construction on Lots 2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 24 shall comply with Section 3 and 5 (BAL 12.5) Australian Standard AS 3959-2009 'Construction of buildings in bushfire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'.
- b. New construction of Lots 18,19, 20, 21, 22 and 23 shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS 3959-2009 'Construction of buildings in bushfire-prone areas' in section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

## **L11 Landscaping**

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bushfire Protection 2006'.

### ***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.